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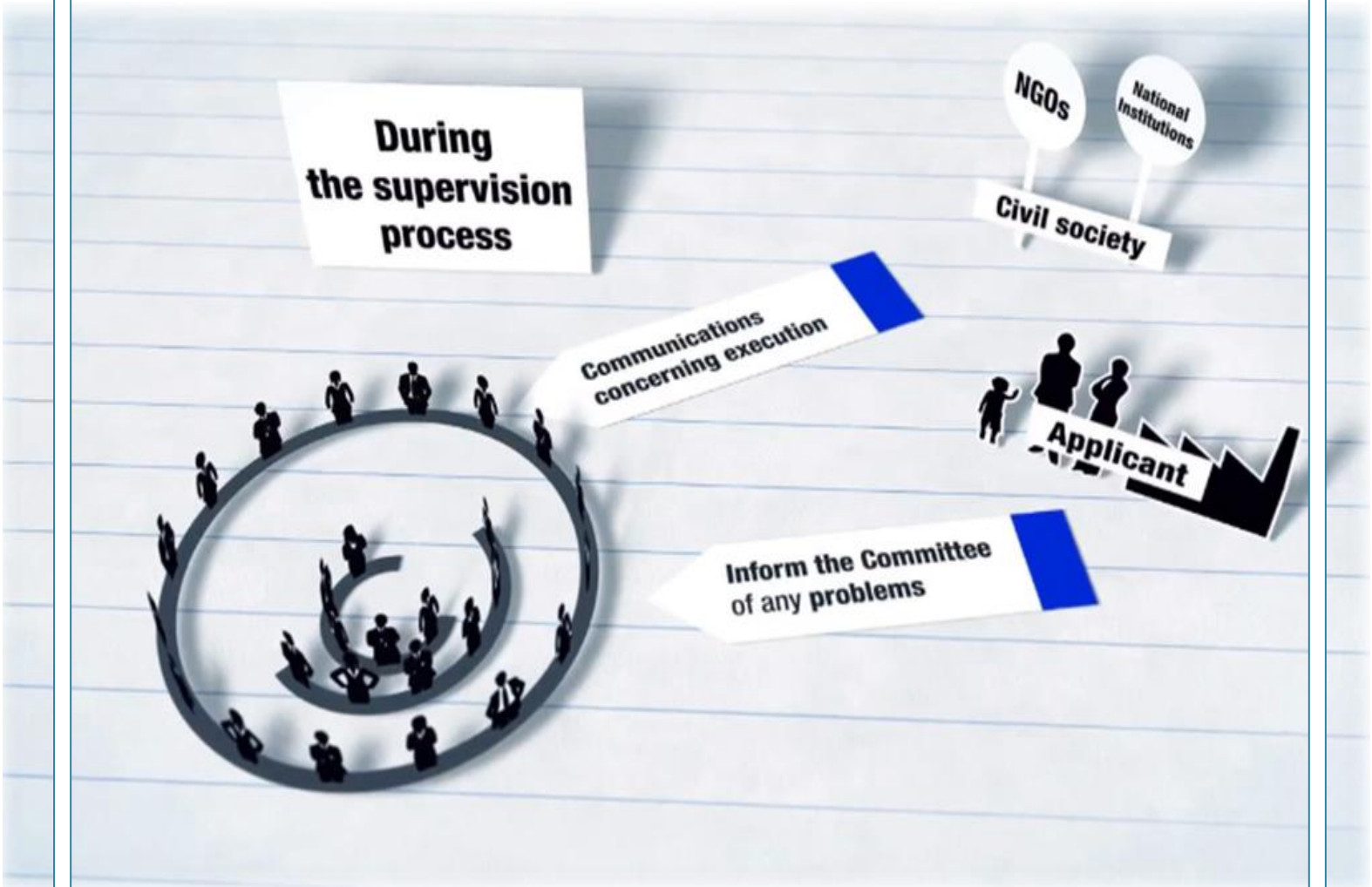
SIGRID RAUSING TRUST

Situation of Execution of European Court of Human Rights Judgments by Republic of Armenia

Study
(2007-2015)



Vanadzor
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The Report may be helpful for NGO representatives, lawyers, attorneys and applicants to the European Court of Human Rights.

Contents

List of Abbreviations

CoE - Council of Europe

RA – Republic of Armenia

ECHR - European Convention on Human Rights

ECtHR - European Court of Human Rights

NCTR - National Commission on Television and Radio

Introduction

On January 2, 2001, the Republic of Armenia ratified the European Convention for the Protection of Human Rights and Freedoms. On April 26, 2002, the Convention became effective and individuals, including RA nationals, got the opportunity to apply to the European Court of Human Rights to protect their rights allegedly violated by the Republic of Armenia.

The European Court of Human Rights made its first judgment on the Republic of Armenia under Mkrtchyan v. Armenia on January 11, 2007 (the appeal was submitted on November 25, 2002), which became effective on April 11, 2007. The CoE Committee of Ministers closed the supervision proceedings over the execution of the said judgment on March 27, 2008. This judgment ranges among the judgments on Armenia with issues raised under them resolved before the ECtHR made its judgments.

However, as for the general issues identified under numerous other judgments, they have not been resolved yet, and no effective mechanisms for rights protection have been developed, which leads to continuous violations of rights.

As a result of the above, individuals have to apply to the European Court of Human Rights again and again to protect the same rights.

The system of protection of the fundamental rights and freedoms guaranteed under the European Convention on Human Rights (hereinafter referred to as Convention) is based on the principle of subsidiarity, according to which ensuring the application of the Convention is the obligation of the State, and the European Court of Human Rights intervenes only when the States fail to fulfill their duties.[1]

The rapidly growing number of the applications brought before the European Court of Human Rights (as of 2012, the number of applications has doubled since 2004[2]) in its turn undermines the

[1] ECtHR Practical Guide on Admissibility Criteria,
http://www.moj.am/storage/uploads/Admissibility_Criteria.pdf
[2] High Level Conference on the Future of the European Court of Human Rights, Brighton declaration
https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680593071

effectiveness of the Convention and poses a threat to the quality and consistency of the case-law and authority of the Court.[3]

The issue of maintaining the long-term effectiveness of the Convention for the Protection of Human Rights and Freedoms and the European Court received a most special and scrupulous attention at the Interlaken Conference in 2010. Under the Interlaken Declaration[4] resulting from the Conference, an Action Plan was adopted to provide political guidance for the process aimed at long-term effectiveness of the Convention system. The relevant Declarations adopted later at Izmir Conference[5] of 2011 and Brighton Conference[6] of 2012 stipulated most specific measures and directions to resolve the issues above. In 2010, Protocol № 14 to the Convention became effective and laid down additional conditions for application to the European Court of Human Rights. The year of 2013 marked drafting of Protocol №15, which stipulates prescribing the principle of subsidiarity in the Preamble to the Convention.

In addition to the above, the Brussels Declaration adopted at the Brussels[7] Conference of 2015 stipulated the need to ensure the full execution of the European Court of Human Rights judgments as an important tool to enhance the quality and authority of the Court. The Brighton Declaration of 2012 urged the States to develop domestic mechanisms to ensure rapid execution of the ECtHR judgments and make the action plans of judgment execution as widely accessible as possible, including where possible through their publication in national languages. The Brighton Declaration also urged the States to facilitate the important role of national parliaments in scrutinizing the effectiveness of implementation of the measures towards execution of the European Court judgments.

The introduced changes resulted in a most transparent and participatory scrutiny by the Council of Europe Committee of Ministers over the execution of the ECtHR judgments and declassification of a number of procedural documents.

The reduction of the violations found in the ECtHR judgments through the state entities of the legislative, executive and judicial authorities will turn the State into a primary link in ensuring and

[3] Interlaken Declaration (թարգմանությունը՝ ՀՔԱՎ)
https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680593073
[4] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680593073
[5] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680593074
[6] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680593071
[7] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680593072

protecting the rights stipulated under the European Convention on Human Rights, which will secure the ECHR principle of subsidiarity.

In recent years, Armenia also has taken a number of measures to strengthen the national mechanisms for execution of ECtHR judgments. However, the mechanisms for effective execution of such judgments are not well-developed in Armenia yet.

The study under this Report aimed to provide summary information on the mechanisms for execution of ECtHR judgments in Armenia and the situation of execution of European Court judgments on RA in the period of 2007-December 31, 2015 through identifying both the mechanisms for execution of judgments and the issue of systematic solution, and the general measures required for execution of individual judgments, so that relevant proposals for their resolution might be submitted. The study targeted 55 ECtHR judgments on RA, one of which had not become effective as of the time of the study yet. The violations identified in such judgments and the progress in their execution are summed up in the Reference on Summary Information on European Court of Human Rights Judgments against Republic of Armenia and their Execution.[8]

The Report provides no details on the situation of individual measures and payment of just satisfaction, but rather covers their systemic picture.

The Report is based on the information of official sources, as well as civil society studies and other research.

I. International Supervisory Mechanisms for Execution of ECtHR Judgments

Supervision by CoE Committee of Ministers over Execution of ECtHR Judgments

The supervision over the execution of the European Court of Human Rights (hereinafter also referred to as ECtHR or Court) judgments is carried out by the Council of Europe Committee of Ministers[9] (hereinafter also referred to as CoE CM) under relevant procedures. The above power of the Committee of Ministers is stipulated by Article 46, European Convention on Human Rights and Freedoms (hereinafter also referred to as ECHR or Convention).

[8] http://hcav.am/publications/21-03-2016-04/
[9] http://www.coe.int/execution

Under Article 46 of the ECHR:

1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.

2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.

Under Article 39(3-4) of the Convention, 3. If a friendly settlement is effected, the Court shall strike the case out of its list by means of a decision which shall be confined to a brief statement of the facts and of the solution reached. 4. This decision shall be transmitted to the Committee of Ministers, which shall supervise the execution of the terms of the friendly settlement as set out in the decision.

Hence, the States are under obligation to comply with the requirements of the judgments where the ECtHR found violations, and the terms of friendly settlement. The CoE Committee of Ministers supervises the execution of the ECtHR judgments and rulings on the cases solved through friendly settlement.

The procedure and terms for the supervision by the Committee of Ministers of the execution of ECtHR judgments and rulings on cases solved through friendly settlement are regulated by relevant Rules of the Committee of Ministers.[10]

According to the Rules, when supervising the execution of a judgment, the Committee of Ministers shall examine:
a) whether any just satisfaction awarded by the Court has been paid by the Contracting Party, including as the case may be, default interest; and
b) if required, and taking into account the discretion of the High Contracting Party concerned to choose the means necessary to comply with the judgment, whether:

i) individual measures have been taken to ensure that the violation has ceased and that the injured party is put, as far as possible, in the same situation as that party enjoyed prior to the violation of the Convention;

ii) general measures have been adopted, preventing new violations similar to that or those found or putting an end to continuing violations.

[10] https://wcd.coe.int/ViewDoc.jsp?id=999329#RelatedDocuments

The Committee of Ministers' supervision shall take place at special human rights meetings, the agenda of which is public.

In the course of its supervision, the Committee of Ministers may adopt interim resolutions, notably in order to provide information on the progress of the execution or, where appropriate, to express concern and/or to make proposals with respect to the execution. After having established that the High Contracting Party concerned has taken all the necessary measures to abide by the judgment or decision, the Committee of Ministers shall adopt a Final Resolution concluding that its functions under the case in question and its investigation have been exercised.

The Committee of Ministers exercises supervision through its deliberation based on the information submitted by the entities below:

- Member States;
- Applicant under the case, Applicant's representative;
- Non-governmental organizations;
- National institutions for the promotion and protection of human rights.

Throughout the execution of the judgments, the CoE Committee of Ministers and Contracting Parties receive advice and support from the Division[11] for the Execution of Judgments of the European Court of Human Rights of the Directorate General of Human Rights and Rule of Law.

Information Submitted by Member States

Member States submit information in form of Action Plans or Action Reports.

In Action Plan, the State sets out the measures it intends to take to implement a judgment, including their timetable, and in Action Report, it sets out the measures taken to implement the judgment.[12] Also, the State may set out the measures taken and measures to be taken in the same Action Report. The requirement and procedure for submitting Action Plans and Action Reports are laid down in

[11] http://www.coe.int/t/dghl/monitoring/execution/Source/Documents/Docs_a_propos/Mandat_en.pdf
[12] https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH(2009)29&Language=lanEnglish&Ver=rev

Information Document on Action Plans – Action Reports: Definitions and Objectives[13] prepared in 2009 by the Department for the Execution of Judgments of the European Court of Human Rights of the Directorate General of Human Rights and Rule of Law. The Document highlights submission by the State of Action Plans and/or Action Reports to ensure the effective execution of judgments in shortest terms possible. The document also highlights the importance of submitting Action Plan or Action Report within six months after the judgment takes effect.

On July 16, 2015, the Committee of Ministers published the Guide for the drafting of action plans and reports for the execution of judgments of the European Court of Human Rights.[14] The document details on the requirements to Action Plans and Action Reports and submission of the required information and offers certain advice on the coordination of the procedure for drafting such Action Plans and Action Reports at the national level. The Document may serve as a guide for both the States and the other parties concerned: Applicant under the case, non-governmental organizations and human rights organizations. The Document also refers to a number of the most important CoE recommendations.

Action Plans and Action Reports are the main Documents making measurable the results of the actions aimed at execution of judgments and enabling the State to develop a series of pre-designed steps towards the execution of the judgment.

As of December 31, 2015, there are 55 cases with final judgments on the RA to be executed. The 6-month deadline for submitting information under one of the cases above, namely Shamoyan v. Armenia, expires on April 7, 2016, and therefore, the case was not covered in the Report. As of January 31, 2015, the RA Government submitted a total of 16 Action Reports on 8 cases[15] and 21 Action Plans on 11 cases[16]. Moreover, the RA Government submitted the Action Plans and Reports above in violation of the 6-month deadline after the execution of relevant judgments. No document was submitted within the terms prescribed.

[13] https://wcd.coe.int/ViewDoc.jsp?Ref=CM/Inf/DH(2009)29&Language=lanEnglish&Ver=rev

[14] http://www.coe.int/t/dghl/monitoring/execution/Source/Publications/Vade-mecum/Guide%20for%20the%20drafting%20of%20action%20plans%20and%20reports_06.07.2015_EN.pdf

[15] Antonyan v. Armenia, Sefilyan v. Armenia, Mamikonyan v. Armenia, Khachatryan v. Armenia, Stepanyan v. Armenia, Minasyan and Semerjyan v. Armenia, Mkhitaryan v. Armenia, Tadevosyan v. Armenia, Kirakosyan v. Armenia, Galstyan v. Armenia.

[16] Tunyan and Others v. Armenia, Virabyan v. Armenia, Antonyan v. Armenia, Sholokhov v. Armenia and Moldova, Grigoryan v. Armenia, Poghosyan And Baghdasaryan v. Armenia, Gabrielyan v. Armenia, Poghosyan v. Armenia, Bayatyan v. Armenia, Ashot Harutyunyan v. Armenia, Khachatryan v. Armenia,

The chronology of submission of Action Plans and Action Reports by the RA Government shows that the activities in this regard intensified in 2013-2015. In this period, the RA Government submitted with delay documents on numerous cases (See Table 1).

Table 1. Chronology of submission of Action Plans and Action Reports by RA Government													
	2015		2014		2013		2012		2011		2010		Total
	Document	Case	Document	Case	Document	Case	Document	Case	Document	Case	Document	Case	Document
Action Plan	4	5	6	11	7	7	0	0	4	4	0	0	21
Action Report	6	21	8	9	1	4	0	0	0	0	1	3	16
Total	10	26	14	20	8	11	0	0	4	4	1	3	

The intensified activities of the RA Government contributed to closing by the CoE Committee of Ministers of the supervision over the execution of judgments against RA under numerous cases. Hence, only in 2015, the CoE Committee of Ministers adopted 7 Final resolutions under which 17 cases were closed, including the cases examined for a long time by the CoE CM (for instance, the execution of the judgment under Tadevosyan v. Armenia[17] had been under examination from 2009) (See Table 2).

Table 2. Chronology of Adopting Final Resolutions by CoE CM										
	2015		2014		2013		2011		2008	
	Document	Case	Document	Case	Document	Case	Document	Case	Document	Case
Final Resolution	7	17	3	5	4	4	4	4	1	1

The RA Government submitted no Action Plans or Action Reports on 11 cases[18] and a Final Resolution was already passed on 7[19] of them. This means that the RA Governments should submit Action Plans and Action Reports on the 4 cases below:

[17] http://hudoc.echr.coe.int/eng?i=001-89969

[18] Helsinki Committee of Armenia v. Armenia, Nalbandyan v. Armenia, Davtyan v. Armenia, Minasyan v. Armenia, Melikyan v. Armenia, Meltex Ltd and Movsesyan v. Armenia, Sarukhanyan v. Armenia, Paykar Yev Haghtanak Ltd v. Armenia, Nikoghosyan and Melkonyan v. Armenia, Harutyunyan v. Armenia, Mkrtchyan v. Armenia

Table 3. Judgments on which RA submitted no Action Report or Action Plan		
	The 6-month deadline expired.	Type of supervision
Helsinki Committee v. Armenia	December 30, 2015	Standard procedure
Nalbandyan v. Armenia	December 30, 2015	Strict procedure
Davtyan v. Armenia	December 20, 2015	Strict procedure
Minasyan v. Armenia	January 8, 2015	Standard procedure

Table 3 does not include the cases the Action Plans or Action Reports under which fail to completely cover measures to reduce all the violations found in relevant judgments.

Information Submitted by Applicants or Applicants' Representative

The applicant under the case or applicant's representatives may submit information on any issue with regard to delayed payment of just satisfaction or implementation of individual measures (Rules, Rule 9(1)).

Under the judgments against the RA, overall the applicants submitted 4 communications (3 in 2013, and 1 in 2014) under 2 cases[20] (Table, rows 18, 19, 20, 33).

Table 4. Number of Communications submitted by Applicants or Applicants' Representatives								
	2015	2014		2013		2012	2011	2010
		Document	Case	Document	Case			
Communications submitted by Applicants or Applicants' Representatives	0	1	1	3	2	0	0	0

[19] Melikyan v. Armenia, Meltex Ltd and Movsesyan v. Armenia, Sarukhanyan v. Armenia, Paykar Yev Haghtanak Ltd v. Armenia, Nikoghosyan and Melkonyan v. Armenia, Harutyunyan v. Armenia, Mkrtchyan v. Armenia.
[20] Tunyan and Others v. Armenia, Grigoryan v. Armenia.

3 of the communications above were submitted under Tunyan v. Armenia[21] and concerned delay in payment of just satisfaction under the case. In the communication, the Applicant's representative also stated that the judgment had not been translated into Armenian.

In Grigoryan v. Armenia,[22] the Applicant informed the CoE CM by the communication[23] of the continuing criminal proceedings lasting for over 8 years with the involvement of the Applicant and initiated against the Applicant and of failure of the law enforcement agencies to take any effective measures towards the criminal proceedings.

It is noteworthy that all the communications on behalf of the Applicant on the execution of the judgments against the RA were submitted by the same person, attorney Vahe Grigoryan as Applicant under one case and as Applicant's Representative under another case.

Information Submitted by NGOs or National Institutions for Promotion and Protection of Human Rights

Non-governmental organizations or national institutions for the promotion and protection of human rights may submit written communications with regard to the execution of ECtHR judgments (Rules, Rule 9(2)). Particularly, non-governmental organizations or national institutions for the promotion and protection of human rights may submit information on the implementation of general measures.

Communications by NGOs are of utmost importance for assessment of the efficiency and impact of the measures taken by the Government. As a rule, communications should have a certain structure and format (For details see Guide: the Role of Civil Society in the Execution of ECtHR Judgments [24]).

Within the judgments against Armenia, 9 communications were submitted under 5 cases.[25] 7 of the communications were submitted by NGOs, and 2 – by the RA Chamber of Advocates. The NGOs that

[21] http://hudoc.echr.coe.int/eng?i=001-113754
[22] http://hudoc.echr.coe.int/eng?i=001-112103
[23] https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2322664&SecMode=1&DocId=2028102&Usage=2https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2322664&SecMode=1&DocId=2028102&Usage=2
[24] http://hcav.am/publications/քաղաքացիական-հասարակության-դերը-միե/

submitted communications include as follows: Helsinki Citizens' Assembly-Vanadzor, Rule of Law, European Association of Jehovah's Christian Witnesses, and Spitak Helsinki Group.

The RA Government in its turn submitted responses to the communications of NGOs. Overall, the RA Government submitted 7 responses to the Communication of NGOs. The only communications that received no response from the Government are the 2 communications submitted by the European Association of Jehovah's Christian Witnesses.

Table 5. Summary of Communications on Execution of ECtHR Judgments Submitted by Non-Governmental Organizations or National Institutions for Promotion and Protection of Human Rights

	2015	2014		2013		2012		2011	2010
		Document	Case	Document	Case	Document	Case		
Information submitted by non-governmental organizations	0	2	2	6		1		0	0
RA Chamber of Advocates	0	0		2[26]		0		0	0

II. National Supervisory Mechanisms for Execution of ECtHR Judgments

Brief Outline

The requirement for the execution of the European Court of Human Rights judgments arises from the principle of fulfillment by States of their international obligations, as stipulated as well under Article 1 and Article 46, European Convention on Human Rights.

At the same time, States enjoy a large margin of appreciation in choosing the means necessary to comply with the judgment.

[25] Antonyan v. Armenia, Sefilyan v. Armenia, Mamikonyan v. Armenia, Khachatryan v. Armenia, Minasyan and Semerjyan v. Armenia, Kirakosyan v. Armenia, Galstyan v. Armenia.
[26] Information submitted by the RA Chamber of Advocates.

Given the heavy workload of the European Court of Human Rights, and particularly the growing number of repeated cases, the application of the principle of subsidiarity has been encouraged to a greater extent in the recent years. The application of the ECtHR principle of subsidiarity is promoted by fulfillment of Convention requirements at the level of domestic law and practices, based on the positions of the ECtHR.

In this respect, the national mechanisms for the execution of ECtHR judgments and their efficiency have the most crucial role.

The Republic of Armenia is characterized as a country with a monistic legal system. On the one hand, according to the RA Constitution (as amended in 2005), ratification shall be the condition for international treaties to become effective (Article 6(4), RA Constitution), and on the other, it established the priority of the international law principles and regulations in terms of protection of fundamental human and civil rights and freedoms (Article 3(2), RA Constitution).

The RA Constitutional Amendments of 2015 came up as a certain regress in the application of international law principles and regulations in the national legal system of the RA.

Hence, the RA Constitutional Amendments of December 6, 2015 stipulate as follows:

- In case there are contradictions between the norms of international treaties ratified by the Republic of Armenia and those of domestic laws, the norms of the international treaty shall be applied (Article 5(3)).
- The practice of bodies operating on the basis of international human rights treaties, which have been ratified by the Republic of Armenia, shall be taken into account when interpreting the constitutional provisions on fundamental rights and freedoms.
- Restrictions of fundamental rights and freedoms may not exceed the restrictions prescribed by the international treaties of the Republic of Armenia (Article 81(1)).

The provisions listed above significantly reduce the role and significance of the international law sources in the context of national law development; particularly, the principles of the international law were conferred no status. As for the meaning of "shall be taken into account" phrase in the legal practice, it will become clear from the future experience. Another unclear issue is whether the practices of bodies operating on the basis of international human rights treaties equally cover the

regulations and interpretations of both the soft and hard law, i.e. consulting documents, recommendations, or only the compelling documents, i.e. decisions, judgments.

Hence, along with reducing the role of the international law, the RA Constitutional Amendments of 2015 stipulated the obligation to take into account the requirements of the soft law regulations adopted by the intergovernmental bodies.

By ratifying the ECHR, the RA recognizes the fulfillment of the Convention requirements in the RA. The European Court judgments are binding upon the RA domestic legal system. As mentioned above, the effective application of the Convention and Court judgments ranges among the most crucial conditions to ensure the principle of subsidiarity of the Court activities. In these terms, it is essential that the exercise of individual human rights within the domestic system complies with the positions of the ECtHR, regardless of the State on which the Court expressed such positions. On the other hand, the RA is under obligation to take urgent efforts towards effective resolution of the issues identified in the judgments against the RA.

Hence, the execution of a Court judgment against the RA should at least result in efficient protection of the violated right and reduced substantial violations of the right in question.

The execution of the European Court of Human Rights judgments entails 2 types of measures:

1. Individual measures: restoration of the rights of the person in question, stopping continuous violation of the right and actions aimed at just satisfaction (individual measures);
2. General measures: changes in the legislation and legal practices leading to the violation in question.

The implementation of all of the measures above calls for relevant domestic mechanisms ensuring all the measures aimed at full execution of the judgment. The mechanisms above lay down the powers and responsibilities of competent national agencies by setting accountability and transparency of such agencies throughout the activities as an indispensable condition.

In Resolution 1823 (2011)[27] National parliaments: guarantors of human rights in Europe, the PACE noted as follows, "The Parliamentary Assembly recalls that Council of Europe member states are responsible for the effective implementation of international human rights norms they have signed

[27] http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=18011&lang=en

up to, in particular those of the European Convention on Human Rights. This obligation concerns all state organs, whether executive, judicial or legislative."

Below we will explore the role of the RA executive, legislative and judicial authorities in the RA legal system in terms of execution of ECtHR judgments against the RA.

The Role of RA Executive Authorities in Execution of ECtHR Judgments

On December 4, 2003, the RA Government approved Decree N 1751-N[28] on RA Government Representative to the European Court of Human Rights. Accordingly, a position of RA Government Representative before the ECtHR and Department of Relations with the European Court of Human Rights was set up within the RA Ministry of Justice.

The RA Government Representative fulfils the objectives below:

a) protect the interests of the RA Government before the European Court of Human Rights; and
b) supervise the execution of the European Court of Human Rights decisions binding on the RA Government.[29]

The Department fulfils the objective below: secure the activities of the RA Government Representative before the ECtHR in regard to adopting, presenting and defending before the European Court of Human Rights of the RA Government position on the appeals under the European Convention on the Protection of Human Rights and Fundamental Freedoms and its Protocols. [30]

In 2014, a new division, i.e. the Division for Execution of Judgments and Securing Conventional Requirements, was set up under the Department of Relations with the European Court of Human Rights of the RA Ministry of Justice. Below are the key objectives of the Division above:
1) ensure compliance with the requirements of the European Court judgments and decisions on the RA;
2) ensure introduction of the international and European human rights standards (particularly, in regard to the European Convention for the Protection of Human Rights and Fundamental Freedoms,

[28] http://www.arlis.am/DocumentView.aspx?docid=38207
[29] http://www.arlis.am/DocumentView.aspx?docid=38207
[30] http://moj.am/structures/view/structure/2

the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and other international human rights instruments) in the RA legal system.[31]

In September, 2015, the official website of the RA Government Representation before the European Court of Human Rights http://agent.echr.am/ was launched. According to official communication, the website is created with a goal to make the execution of the European Court of Human Rights judgments more efficient, in line with the new principles adopted by the Council of Europe Committee of Ministers based on the Brussels Declaration.[32] The website aims to ensure the accessibility of the international documents on human rights protection and the mechanisms for legal protection provided by those documents. It also aims to raise public awareness and promote effective functioning of human rights protection mechanisms.

However, the main information, i.e. the communications submitted to the Committee of Ministers, the guidelines, etc. posted on the website is in English. In other words, the website has not fully achieved its initial objectives yet.*[33]

The Role of RA Legislative Authorities in Execution of ECtHR Judgments

In Resolution 1823 (2011)42 on Role of Parliaments in Execution of Judgments,[34] PACE:

- encourages parliamentarians to monitor the determination and enforcement of human rights standards by the domestic judicial and administrative authorities and
- establishes the basic principles for parliamentary supervision of international human rights standards.

The national legislative authorities should develop mechanisms for establishment and application of human rights standards to ensure careful monitoring of application of the international human rights provisions by the executive authority. The development of relevant parliamentary mechanisms by the national legislative authorities should also aim to ensure supervision over fulfillment of international human rights commitments. The competent agencies responsible for such mechanisms may be human rights commissions or other similar agencies whose mandates should be determined and enshrined by law. Their scope of powers should cover, inter alia:

[31] http://moj.am/storage/uploads/Hashvetvutyun_2014.pdf
[32] http://agent.echr.am/events/website-launching.html
[33] http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=18011&lang=en
[34] http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=18011&lang=en

- regular verification of compliance of draft legislative acts with international human rights commitments;
- requiring that the Government submits regular reports on relevant ECtHR judgments and their execution;
- submitting proposals on legislative changes and amendments;
- summoning witnesses or requiring relevant documents within their powers (subpoena power).

Under the RA National Assembly, there are a number of committees[35], on the issues of human rights of specific groups or within specific areas. Also, there are Standing Committee on Protection of Human Rights and Public Affairs and Standing Committee on State and Legal Affairs which have a direct duty to address the issues of full exercise of human rights and ensuring the rule of law and lawfulness.

However, examination of the Regulations of the Standing Committees above[36] results in a conclusion that the Committees have no power and duty to supervise the situation of the fulfillment by the RA of its international human rights commitments.

Neither the RA Constitution, nor the RA Law on National Assembly Regulations lay down any obligation to supervise the systemic application of the human rights international standards.

The Background Memorandum PPSD (2014) 22 rev.[37] on The role of parliaments in implementing ECHR standards: overview of existing structures and mechanisms issued by PACE on September 8, 2015 also notes the lack of parliamentary supervision mechanisms in RA. The Memorandum reiterates the indispensable role of the parliament and provides the experience of CoE Member States which may be examined and introduced in RA as well.

[35] Standing Committee on Health, Maternity and Childhood.
[36] Regulations of the Standing Committee on State and Legal Affairs, http://www.parliament.am/committees.php?do=show&ID=111169&month=all&year=2016&showdoc=kanonakarg&lang=arm
Regulations of the Standing Committee on Protection of Human Rights and Public Affairs.
[37] http://website-pace.net/documents/10643/695436/20142110-PPSDNotefondstandardsCEDH-EN.pdf/113ad45b-7ffd-4ee7-b176-7fb79ad32f93

The Role of RA Judicial Authorities in Execution of ECtHR Judgments

The judiciary plays a special and essential role in execution of ECtHR judgments and application of the international human rights standards.

In terms of application of ECtHR case-law, the authorities above face 2 main scopes of issues: 1) application by domestic courts of ECtHR case law standards on human rights and freedoms, and 2) execution of ECtHR judgments against RA and application of relevant standards.

1. "From the point of view of principles, it is clear that the interpretations given by the European Court are inherently linked to the provisions of the ECHR, and therefore are as binding as these provisions themselves."[38] [38]At the same time, the application of the ECtHR case-law is also related to a number of risks and problems. The most common technical challenge covers the availability and accessibility of the ECtHR judgments to national judges and lawyers; this challenge consists in lack of knowledge of foreign languages on the one hand and a limited number of translated judgments, on the other. It is essential to develop relevant professional capacities to provide substantial interpretation of the ECtHR judgments. The non-compliance of the national legislation with the ECtHR case-law standards constitutes a systemic problem. Especially the problem of non-compliance of the legislation or an official policy with the ECtHR standards poses a big obstacle to the application of ECtHR standards by the national courts of law in judicial practice. Another challenge covers the lack of clarity of some of ECtHR judgments, the fact that the ECHR is a living instrument and application by the ECtHR of the principle of cultural features.[39]

The RA Judicial Code stipulates the binding nature of the rationale of the ECtHR judgments upon the domestic courts within examination of cases with identical factual background (Article 15, RA Judicial Code).

[38] Guidance by Supreme Courts to lower courts on the requirements of the European Convention on Human Rights. Paul Lemmens
http://www.coe.int/t/dghl/standardsetting/cddh/Proceedings/Belgrade_PROCEEDINGS&COVER.pdf
[38] Guidance by Supreme Courts to lower courts on the requirements of the European Convention on Human Rights. Paul Lemmens,
http://www.coe.int/t/dghl/standardsetting/cddh/Proceedings/Belgrade_PROCEEDINGS&COVER.pdf
[39] Evaluation of supposed obstacles to an effective implementation of the European Convention on Human Rights by national courts. Jeremy McBride
http://www.coe.int/t/dghl/standardsetting/cddh/Proceedings/Belgrade_PROCEEDINGS&COVER.pdf

Hence, based on the principle of obligation of adhering to international law treaties, on the one hand, and the RA domestic law regulations (Article 15, RA Judicial Code) on the other, the ECtHR case-law is binding upon the RA courts of law. Note that according to the principle of the supremacy of the international law, in case of any contradictions between the standards set in the ECtHR judgments and the domestic legislative regulations, the ECtHR standards shall apply.

It can be noted that while the ECtHR judgments on other countries of pilot and utmost importance are translated into Armenian, to ensure the full application of the ECtHR case-law in the RA, the RA judges, their assistants and lawyers should speak at least English or French and have the capacities to interpret the ECtHR judgments. Here, it is noteworthy to mention also the positive factor that subjects on ECtHR case-law examination are included in the curriculum and training programs of the RA Academy of Justice. Nevertheless, the RA courts find it most difficult to interpret the ECtHR case-law in terms of the principle of cultural features and the fact that the ECHR is a living instrument. The application of the ECtHR precedents may be affected by the dependence of the judiciary on the executive authority, and that of courts of first and second instances on the Court of Cassation, and the selective justice practices.

The practices and messages of the supreme court constitute a key indicator of application by national courts of ECtHR standards. Hence, our study shows that in about 30% of its rulings, the RA Cassation Court referred to the ECtHR case law, with the largest number making judgments against other countries.

By the way, the RA Council of Courts Chairmen (self-governing judiciary agency) has not addressed anyhow the issues of the ECtHR case law application.

2. The main challenge in execution by domestic courts of ECtHR judgments against RA is how the courts should apply the positions under such judgments before reduction of the systemic violations (legislative amendments) identified therein. Failure to take into account the ECtHR position in this respect may result in violation of a right and therefore incomplete execution of the judgment and lead to submission of new similar appeals to the ECtHR.

In this context, it should be noted that the courts of law in RA are guided by the requirements of the domestic law, and make no direct references to the ECtHR positions making part of the RA legal system, especially in cases where there are contradictions between the ECtHR positions and the

domestic law regulations (e.g. under Grigor Gevorgyan, Arman Sahakyan and Hovhannes Mkrtchyan v. Iravunk Media Ltd. Editorial Board Chairman Hayk Babukhanyan; Hovhannes Galajyan's case № ԵԿԴ/2146/02/14, the court refused to apply the evidential rules adopted by the ECtHR under discrimination cases and instead applied the rules laid down by the domestic civil law, which made it impossible to prove the act of discrimination under the case). Hence, the courts of law, especially the 1st and 2nd instance courts, show no initiative in applying the positions of the ECtHR.

In terms of execution of judgments against RA, it is essential to stop the continuous violation found under the case in question, restore the situation existing prior to the violation and the domestic procedural mechanisms for reopening the case. The RA Judicial Code provides for re-examination proceedings of criminal cases due to new circumstances.

Table 6. On Reference to ECtHR Judgments by RA Cassation Court

	2015				2014				2013			
	Total	ECtHR judgments	ECtHR judgments against RA	Total/ ECtHR judgments	Total	ECtHR judgments	ECtHR judgments against RA	Total/ ECtHR judgments	Total	ECtHR judgments	ECtHR judgments against RA	Total/ ECtHR judgments
Criminal cases	45	8	2	47%	57	17	3	30%	52	14	2	27%
Civil cases	78	41	4	51%	83	35	0	42%	84	49	0	58%
Administrative cases	25	18	0	72%	20	15	0	75%	29	17	0	59%

Hence, while the RA judiciary is proclaimed by the RA Constitution as an independent and autonomous branch of power, the ECtHR review of the Cassation Court rulings shows that the Cassation Court practices considerable restraint in application of the ECtHR positions, which is conditioned by the dependence of the judiciary on the executive authority. [40]

[40] See Reference on Summary Information on Reference to ECtHR Judgments in RA Cassation Court Rulings, hcav.am/publications/21-03-2016-05/

Situation of Execution of ECtHR Judgments Issued against RA in 2007-2015

Situation of Implementation of Individual Measures

As mentioned above, the execution of the European Court of Human Rights judgments first of all entails individual measures aimed at restoration of the rights of the injured party under the case. The individual measures should result in:

- putting an end to continuing violation of the rights of the injured party;
- restoration of the situation the aggrieved party enjoyed prior to the violation (restitution in integrum); and
- granting the aggrieved party just satisfaction for their violated right.

Putting an End to Continuing Violations

The requirement of putting an end to continuing violations arises from the fundamental requirement for respect to human rights and Article 46 of the ECHR, according to which the High Contracting Parties shall undertake to abide by the final judgments of the Court. The necessary measures to put an end to continuing violations shall be taken immediately after the Court makes relevant judgments and in some cases even before the Courts does so, if interim measures are taken under Rule 39 of the Rules of Court.[41]

Among the European Court judgments under cases against RA, the issue of putting an end to continuing violations under Grigoryan v. Armenia[42] is noteworthy. While in July of 2012, the Court found in this case violation of the "reasonable time" requirement under Article 6(1) of the Convention, the investigation against the applicant was terminated no sooner than on September 6, 2013 (DD(2013)1235). Moreover, the Applicant also informed the CoE Committee of Ministers of this issue by Communication DD(2013)695 on individual measures. Hence, the violation found under this case by the European Court judgment continued for over a year after the judgment.
A more concerning issue of the failure to put an end to continuing violation under the judgment not executed by RA was identified under Chirgov v. Armenia under which the violations of Article 1 of

[41] http://www.echr.coe.int/Documents/Rules_Court_ENG.pdf
[42] http://hudoc.echr.coe.int/eng?i=001-112103

Protocol 1, Article 8 and Article 13 of the Convention are related with the ongoing armed conflict in the region.

Restoration of the Situation as the Aggrieved Party Enjoyed prior to the Violation (Restitution in Integrum)

The requirement for restoration of the situation as the aggrieved party enjoyed prior to the violation (restitution in integrum) arises from Article 46(1) of the Convention.

This measure aims to ensure that the Applicant finds himself/herself in a situation that would exist if no violation occurred.[43]

However, this measure may be taken not under all judgments due to the nature of the right and its violation. In such cases, this measure is replaced with payment of just satisfaction, with the amount corresponding in theory to the hypothetical value of the restoration of the situation existing prior to the violation of the right. Hence, by stating that restitution in integrum was impossible under *Hovhannisyan and Shiroyan v. Armenia* and *Minasyan and Semerjyan v. Armenia* and taking into account that the apartment was destroyed, the Court ruled that the Applicant should be granted compensation for the material damage sustained.

The basic measure for restitution in integrum is re-opening and re-examination of the case.

The procedures for re-opening and re-examination of cases range among the most complicated and controversial procedures still at the stage of development. This is caused both by the fact that the emergence of the right to re-opening of a case usually takes too long time after violation of the right, and the intervention with the rights of the third parties due to re-opening and re-examination of the case, etc.[44]

The aforementioned also laid basis for adoption of the CoE Committee of Ministers Recommendation R(2000)2 on Re-examination or reopening of certain cases at domestic level following judgments of the European Court of Human Rights, which reiterated that provision of the possibility of re-examination or reopening is in some instances the only means to achieve restitutio in integrum.

[43] https://www.icl-journal.com/download/f1527ce403500a9ec58b8269a9a91471/ICL_Thesis_Vol_7_3_13.pdf
[44] The execution of judgments of the European Court of human rights, Elisabeth Lambert-Abdelgawad, p.15.

However, in Bochan v. Ukraine[45], having analyzed the issue of reopening of civil proceedings, the Court stated that "in sixteen of the thirty-eight Member States surveyed, review of civil cases on the basis of a finding of a violation of the Convention by the Court is currently not explicitly provided for by the existing domestic legal provisions (this is the case in Austria, Belgium, France, Greece, Hungary, Italy, Ireland, Liechtenstein, Luxembourg, Monaco, the Netherlands, Poland, Slovenia, Spain, Sweden and the United Kingdom (England and Wales))." At that same time, the Court stated that in some of those States it may still be open to applicants to seek re-examination in such a situation pursuant to the procedure of review in the light of new facts emerging or procedural errors having been committed (for example, France, the Netherlands and Poland).

In RA, the re-examination and re-opening procedures are regulated under the Civil, Criminal and Administrative Procedure Codes (Section 3, RA Civil Procedure Code; Section 12, RA Criminal Procedure Code; and Section 4, RA Administrative Procedure Code). If there is an ECtHR judgment on the case, it may be re-opened in the light of new facts.

At the same time, the Armenian specialists also raised the issue of defining the "obligation" rather than the "right" of the Prosecutor to submit a request of re-examination of the case, see Communication DD(2013)1116[46] submitted by Rule of Law NGO on October 8, 2013 on Ashughyan v. Armenia.

Payment of Just Satisfaction

According to Article 41 of the Convention, if the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.

Payment of just satisfaction is the simplest means of execution of Court judgments. At the same time, in a number of cases, the European Court considers finding a violation as such to constitute just satisfaction. The history of the activities of the Court and the CoE CM has revealed some issues

[45] http://hudoc.echr.coe.int/eng?i=001-152331, Para.
[46] https://wcd.coe.int/wcd/ViewDoc.jsp?Ref=DH-DD(2013)1116&Language=lanEnglish&Site=CM

related to currency devaluation due to delayed payment of the amount, the currency in which the payment should be paid, etc. The Committee of Ministers laid down its approaches to the measures applicable to the payment of just satisfaction in Information Document CM/Inf/DH(2008)7[47] Monitoring of the payment of sums awarded by way of just satisfaction: an overview of the Committee of Ministers' present practice. While according to the Document, in many cases, relevant information for payment of just satisfaction already appears in the Court's judgment, it is not always sufficient to resolve a number of questions as to arrangements for the payment of just satisfaction. This document therefore details on the persons who may be granted just satisfaction, place and currency of just satisfaction, delays in payment in violation of the deadline set by the Court, etc.

The RA pays just satisfaction from the Republic of Armenia Government Reserve Fund (under economic classification of budget expenditure item "Recovery of Damages or Injuries Caused through Activities of Government Agencies", through allocating funds to the RA Ministry of Justice by an RA Government decree.

As of December 31, 2015, under the judgments against the RA, the RA Government paid an amount of just satisfaction equal to 245,720 USD. This amount does not include friendly settlement compensations (See Table 7).

Table 7. Situation of Just Satisfaction Payment

Year	Amount under granted claims of just satisfaction	Size of compensated amounts and relevant Government decree		Date on which the judgment became final	Case title
2007	4000	4000	№ 1162A dated October 11, 2007	28/09/2007	Harutyunyan v. Armenia, № 36549/03
Total		4000			
2008	3000	3000	№ 363A dated April 17, 2008	15/02/2008	Galstyan v. Armenia, № 26986/03
	1225	1225	№ 1000A dated September 4, 2008	02/06/2008	Paykar Yev Haghtanak Ltd v. Armenia, № 21638/03
	30000	30000	№ 1276A dated November 6, 2008	17/09/2008	Meltex Ltd and Mesrop Movsesyan v. Armenia, №

[47] https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680592209

					32283/04
	4000	4000	№ 1341A dated November 20, 2008	27/08/2008	Sarukhanyan v. Armenia, № 38978/03
Total		38225			
2009	3000	31500	№ 748A dated July 9, 2009	13/01/2009	Sapelyan v. Armenia, № 35738/03,
	3000			13/04/2009	Amiryan v. Armenia, № 31553/03
	3000			13/04/2009	Gasparyan v. Armenia (N1), № 35944/03
	7500			04/05/2009	Mkhitaryan v. Armenia, № 22390/05
	7500			04/05/2009	Kirakosyan v. Armenia, № 31237/03
	7500			04/05/2009	Tadevosyan v. Armenia, № 41698/04
	5000	5000	№ 1398A dated December 3, 2009	16/09/2009	Gasparyan v. Armenia (№ 2)
Total		36500			
2010	2200	2200	№ 229A dated March 11, 2010	27/01/2010	Stepanyan v. Armenia, № 45081/04
	1745	1745	№ 232A dated March 11, 2010	01/03/2010	Khachatryan v. Armenia, № 31761/04
	7500	7500	№233A dated March 11, 2010	27/01/2010	Karapetyan v. Armenia, № 22387/05
	2500	2500	№ 960A dated August 5, 2010	09/05/2010	Asatryan v. Armenia, № 24173/06
	16000	16000	№ 1568A dated December 2, 2010	15/09/2010	Ashot Harutyunyan v. Armenia, № 34334/04
	1000	1000	№ 1604A dated December 2, 2010	04/10/2010	Mamikonyan v. Armenia, № 25083/05
Total		30945			
2011	20000	20000	№ 1081A dated August 4, 2011	07/07/2011	Bayatyan v. Armenia, № 23459/03
Total		20000			
2012	10000	30000	№ 721A dated June 7, 2012	20/03/2012	Poghosyan v. Armenia, № 44068/07
	10000			10/04/2012	Bukharatyan v. Armenia, № 37819/03
	10000			10/04/2012	Tsaturyan v. Armenia, №

					37821/03
	4100	32100	№ 1159A dated September 13, 2012	0/07/2012	Gabrielyan v. Armenia, № 8088/05
	28000			10/07/2012	Hakobyan and others v. Armenia, № 34320/04
	6227	49288	№ 1379A dated November 1, 2012	05/09/2012	Muradkhanyan v. Armenia, № 12895/06
	30500			12/09/2012	Poghosyan and Baghdasaryan v. Armenia, № 22999/06
	4543			26/09/2012	Malkhasyan v. Armenia, № 6729/07
	8018			26/09/2012	Piruzyan v. Armenia, № 33376/07
	5000	5000	№ 48A dated January 24, 2013	31/10/2012	Sholokhov v. Armenia and Moldova, № 40358/05
	2500	2500	№ 173A dated February 28, 2013	17/12/2012	Grigoryan v. Armenia, №3627/06
	18545	18545	№ 439A, dated April 5, 2012	20/10/2010	Hovhannisyan and Shiroyan v. Armenia, № 5065/06
	120,000, reduced AMD 10,327,606	120,000 reduced AMD 10,327,606			Yeranosyan v. Armenia, № 3309/06
	45,000	45,000			Poghosyan and others v. Armenia, № 3310/06
	29,520,000, reduced USD 12,870	29,520,000 reduced USD 12,870			Yedigaryan v. Armenia, № 10446/05
	EUR 75,000 reduced USD 32,371.52 and AMD 8,000,000	An amount in AMD equal to EUR 75,000 reduced by an amount in AMD equal to USD 32,371.52 and AMD 8,000,000	№ 1645A dated December 27, 2012		Vahanyan and others v. Armenia, № 220/06, 32289/06
Total		137433[48]			
2013	3000	42555-2500	№ 173A dated February 28, 2013	11/02/2013	Antonyan v. Armenia, № 3946/05

[48] This amount does not include the amounts paid within the friendly settlement under the cases below: Yeranosyan v. Armenia (№ 3309/06); Poghosyan and others v. Armenia (№ 3310/06); Yedigaryan v. Armenia (№10446/05); and Vahanyan and others v. Armenia (№ 220/06, 32289/06).

	6055			02/01/2013	Sefilyan v. Armenia, № 22491/08
	31000			11/02/2013	Virabyan v. Armenia, № 40094/05
	112000	112000	№ 480A dated May 8, 2013	27/02/2013	Khachatryan and others v. Armenia, № 23978/06
	3600	3600	№ 728A dated July 10, 2013	19/05/2013	Melikyan v. Armenia, № 9737/06
	95506				Danielyan and others v. Armenia, № 25825/05
	36030				Tunyan v. Armenia, № 22812/05
Total		155655[49]			
2014	6030	6030	№ 903A dated August 28, 2014	08/07/2014	Minasyan v. Armenia, № 44837/08
Total		6030			
2015	52000	160000	№ 490A dated May 14, 2015	13/02/2015	Gharibyan and others v. Armenia, № 19940/05
	44000			13/02/2015	Baghdasaryan and Zarikyants v. Armenia, № 43242/05
	64000			13/02/2015	Ghasabyan and others v. Armenia, № 23566/05
	62100	71160	№ 1041A dated September 10, 2015	30/06/2015	Nalbandyan v. Armenia (№ 9935/06 and № 23339/06)
	9060			30/06/2015	Davtyan v. Armenia, (№ 29736/06)
	3660	3660	№ 1440A dated December 10, 2015	07/10/2015	Shamoyan v. Armenia, (№ 18499/08)
	4900				Saghatelyan v. Armenia
	3000				Sahakyan v. Armenia
	3000				Amirkhanyan v. Armenia
Total		234820			

[49] This amount does not include the amount compensated under Tunyan v. Armenia since it was not transferred by the RA Government (See Action Report DD(2015)383).

Situation of Implementation of General Measures

The general measures arising from the ECtHR judgment aim to prevent similar violations in the future, ensure full compliance with the ECHR requirements and promote the ECtHR principle of subsidiarity. The requirement for general measures arises both from Article 1 of the ECHR and the binding requirement for executing ECtHR judgments as laid down in Article 46.

To fulfill the requirement for the implementation of general measures, the State must first of all examine the root cause of the violation, i.e. whether the violation resulted from legislative gaps or unlawful use of legislation. At the same time, regardless of the reason underlying the violation, the State may no longer carry on similar behavior starting from the moment the Court made a judgment. Hence, under Marckx v. Belgium,[50] the Court mentioned that the States might no longer apply the provision in violation of the Convention and should take interim measures before bringing their legislation into compliance with the Convention.

As a rule, in its judgments the Court expressly mentions the causes of the violation, i.e. relevant legislative gap or omission in application of legislation. However, filling the legislative gap, which is often the underlying reason of violations, does not result in amendment of the legal practices, and the violations continue to occur under other legislative regulations. However, based on the principle referred to by the Court, according to which the right should not be illusory[51] but rather practical, it may be noted that the execution of ECtHR judgments as well should not be illusory, and an end should be put to violations of rights at all levels, both legislative and legal practices.

The practices of executing judgments on Armenia shows that in some cases, the measures invoked by the Government to put an end to violations and eliminate its root causes failed to achieve their goal (See comments on execution of Hakobyan and others v. Armenia judgment[52] (Article 11, ECHR)). The CoE Committee of Ministers considered the supervision procedure over execution of judgments under some cases as closed, despite the fact that similar violations on the systemic level have not been reduced yet (see comments on execution of Minasyan and Semerjyan v. Armenia judgment[53] (Article 1 of Protocol № 1)).

Out of the 55 judgments examined, supervision procedure on 38 was closed, including within 11 judgments under Article 6; 9 judgments under Article 1 of Protocol № 1; and 8 judgments under Article 2 of Protocol № 7.

[50] http://hudoc.echr.coe.int/eng?i=001-57534
[51] See Artico v. Italy, 6694/74
http://hudoc.echr.coe.int/eng?i=001-57424
[52] http://hudoc.echr.coe.int/eng?i=001-110263
[53] http://hudoc.echr.coe.int/eng?i=001-93184

Under the 55 judgments above, 93 violations were identified, with the most of 24 violations under Article 6; 21 violations under Article 5; 12 violations under Article 1 of Protocol № 1; and 9 violations under Article 3. Out of the violations above, sufficient measures were taken under 36 violations (see Charts 1, 2, 3).

Along with the above, it should be mentioned that in some cases the practices and legislation that caused the violation had been amended even before the ECtHR made relevant judgments.

This Chapter covers a brief outline of the progress of execution of judgments under individual cases, by violated articles.

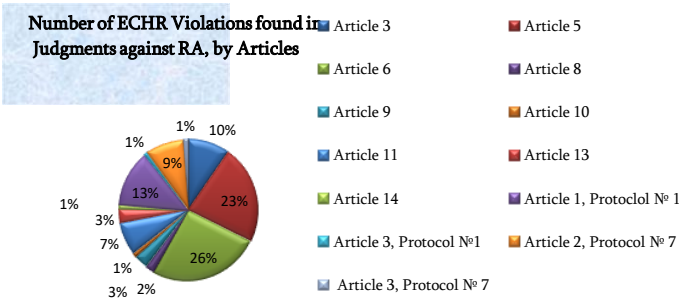

Chart 1

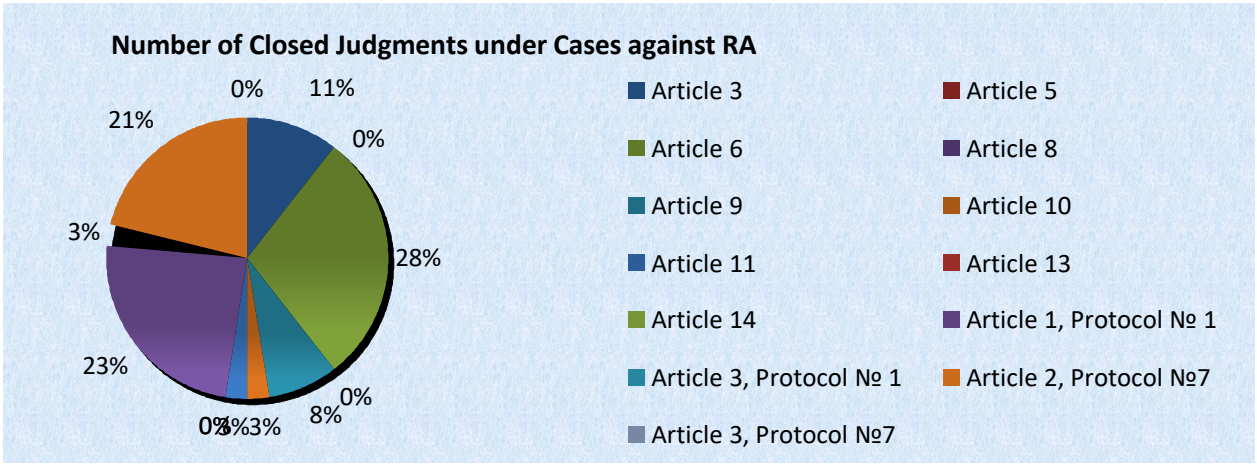

Chart 2

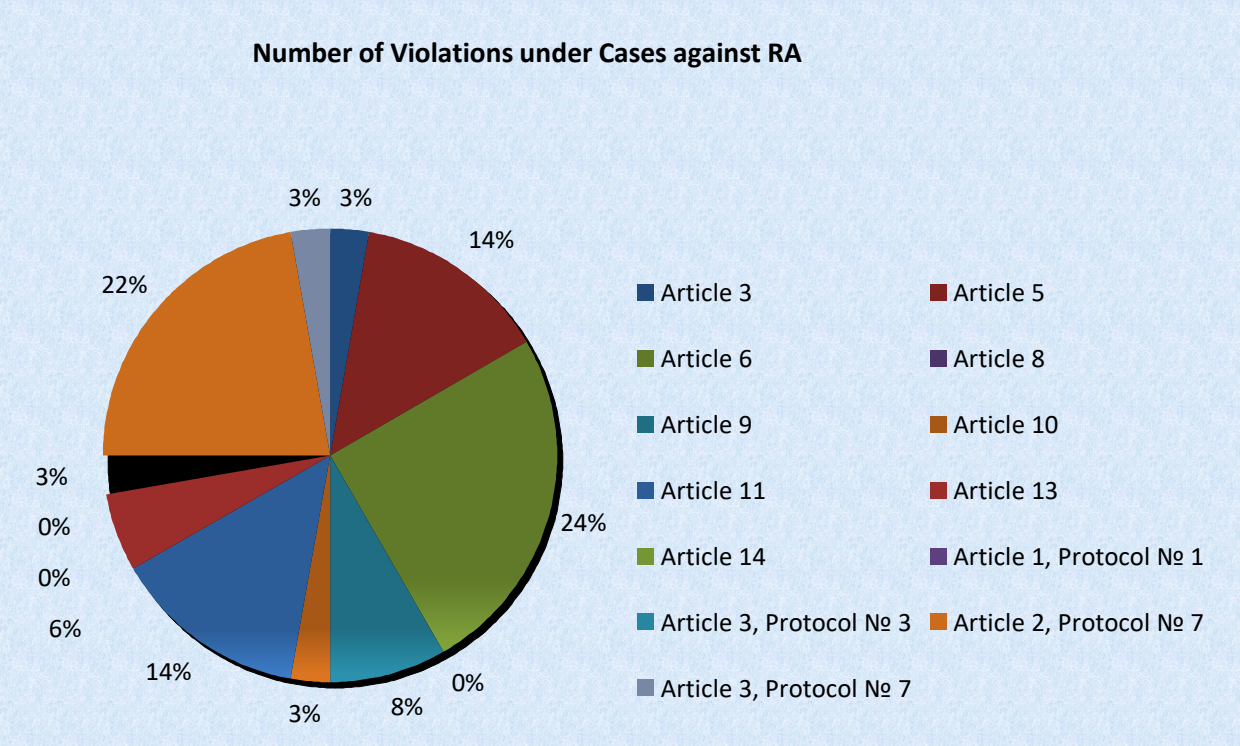

Chart 3

ECHR Article 2. Right to Life

1. Everyone's right to life shall be protected by law.
No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.
2. Deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary:
(a) in defense of any person from unlawful violence;
(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;
(c) in action lawfully taken for the purpose of quelling a riot or insurrection.

In its judgments against the RA in 2007-2015, the ECtHR found no violation of the right to life.

ECHR Article 3. Prohibition of Torture

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

As of December 31, 2015, in its judgments against the RA, the ECtHR found violations of Article 3 under 9 cases, which makes up 10% of the upheld cases. The cases are listed below:

Tadevosyan v. Armenia 41698/04
Kirakosyan v. Armenia 31237/03
Mkhitaryan v. Armenia 22390/05
Karapetyan v. Armenia 22387/05
Ashot Harutyunyan v. Armenia 34334/04[54]
Piruzyan v. Armenia 33376/07
Virabyan v. Armenia 40094/05
Davtyan v. Armenia 29736/06
Nalbandyan v. Armenia 9935/06; 23339/06

Under the cases above, the Court found as follows: defendants were kept in metal cages in courtrooms; provision of inadequate medical care in penitentiary facilities; degrading detention conditions at detention and penitentiary facilities; use of torture by the police; and ineffective and inadequate investigation into incidents of torture by the authorities.

Out of the issues above, only that related to placement of defendants in metal cages in courtrooms received final and full resolution, and those related to the conditions of detainees at penitentiary and detention facilities received a partial resolution.

[54] By clicking on the case title, you'll pass to the observations in the Report on the execution of the case judgment. By clicking on the case number, you'll pass to the ECtHR judgment on the case.

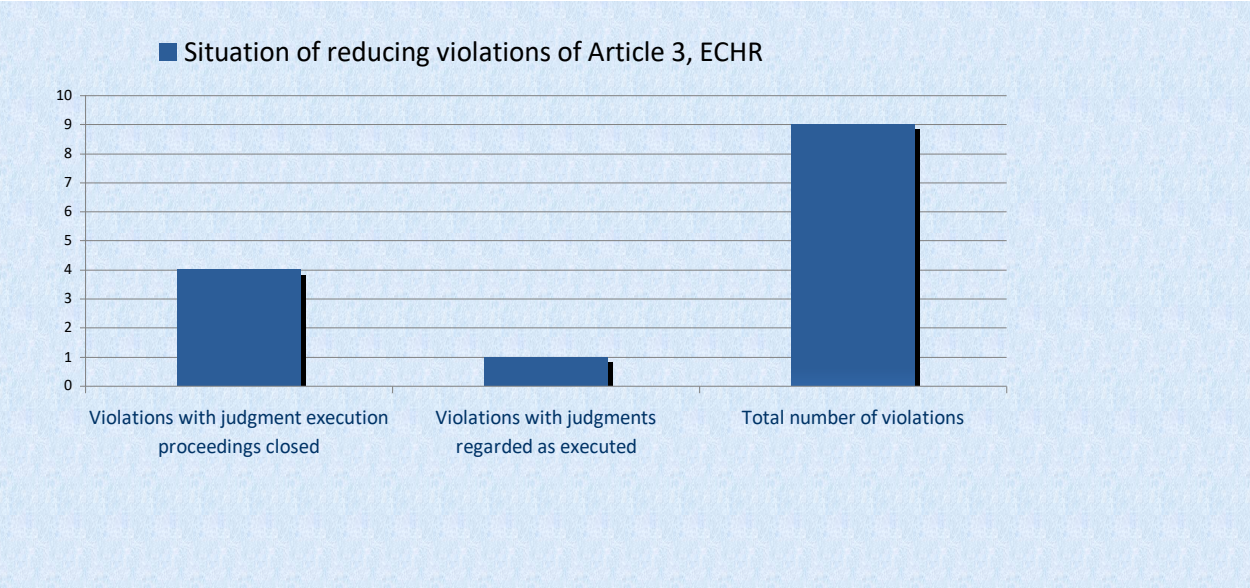

Chart 4

Study of Execution Status of Judgments under Individual Cases

Tadevosyan v. Armenia (41698/04)

Became final on	04/05/2009
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420) 09.04.2010 (Action report)
Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)
Execution status	Not executed

Under *Tadevosyan v. Armenia*, the Court found that during the applicant's detention, the detention conditions (detention in a cell of 10 square meters together with other 9 persons; lack of beds or bedding due to which detainees had to sleep on the floor; lack of unrestricted access to toilet and

drinking water) led to degrading treatment towards the person.

Under this case, the RA Government submitted 3 Action Plans and an Action report on April 9, 2010, November 18, 2014 № DD(2014)1420 and July 3, 2015 № DD(2015)738. And by Final Resolution № CM/ResDH(2015)169 of November 4, 2015, the proceedings on the execution of the case judgment were closed.

In its Action Plans, the RA Government described the implemented reforms based on the RA President's Order № NK-328-NG[55] of December 28, 2004, the national preventive mechanism and the involvement of NGOs and the activities of the observation missions throughout its activities.

While the judgment execution proceedings were closed and the systemic problems can be considered solved, there are still concerns over the unfavorable detention conditions at the detention and penitentiary facilities (for further details see: Report on Activities in 2014 of the Public Observers Group Monitoring the RA Police System Detention Facilities).

Kirakosyan v. Armenia (31237/03)

Became final on	04/05/2009
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420) 09.04.2010 (Action report)
Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)
Execution status	Not executed

See comment on execution of *Tadevosyan v. Armenia* judgment.

Mkhitaryan v. Armenia (22390/05)

[55]It was impossible to find the Order in the RA legal information system,

Became final on	04/05/2009
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420) 09.04.2010 (Action report)
Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)
Execution status	Not executed

See comment on execution of *Tadevosyan v. Armenia* judgment.

Karapetyan v. Armenia (22387/05)

Became final on	27/01/2010
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420)
Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)
Execution status	Not executed

See comment on execution of *Tadevosyan v. Armenia* judgment.

Ashot Harutyunyan v. Armenia (34334/04)

Became final on	15/09/2010
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)435)
Proceedings	Not closed
Execution status	Not executed

In its judgment on *Ashot Harutyunyan v. Armenia*, the Court stated that the Applicant was not provided with ongoing medical aid and proper surveillance, and his complaints on these issues either remained unanswered or received formal responses, and as a result the applicant suffered medical condition that went beyond the threshold of the unavoidable privation inherent to detention. Also, the Applicant suffered degrading treatment as throughout the trial examination, the Applicant was kept in a barred facilities for defendants looking like a metal cage and guarded by the special services whose officers wore black masks, whereas there was no risk that the Applicant might flee or resort to violence.

On April 16, 2016, the RA Government submitted Action Plan DD(2015)435 on this case and provided information on both legislative reforms and practical steps. In particular, the RA Government provided information on launching the Project on Strengthening the Health Care and Human Rights Protection in Prisons in Armenia, signing a Memorandum of Understanding among the RA Ministry of Justice, RA Ministry of Health and Yerevan State Medical University after M. Heratsi to improve the medical care and service at penitentiary facilities, and construction and operation of 'Armavir' penitentiary facilities. Under the legislative reforms, the Government referred to the RA Government Decree № 825-N of May 26, 2006 and the regulations as provided for under Draft RA Criminal Procedure Code, according to which arrested persons shall be entitled to undergo medical examination by their requirement (Article 110, draft RA Criminal Procedure Code) and the court shall reject the motion on imposing a preventive measure and on extending the terms of the imposed preventive measure if the arrested person has obvious injuries on his body and is not provided with the necessary medical aid or if the court was not provided with reasonable explanation on how such injuries were caused (Article 295).

As for the use of metal cages in courtrooms, the RA Government assured that after the reforms no metal cages are used in courts any more.[56]

Despite the information above, it should be noted that the quality of the medical services provided to convicts at penitentiary facilities still remains insufficient.[57] The information provided by the RA Government also shows that the issue has not been resolved yet despite the Government's statement on the steps towards their resolution.

Thus, while the problem with the use of metal cages is solved, that of provision of medical services at the penitentiary facilities still remains on the agenda.

Piruzyan v. Armenia (33376/07)

Became final on	26/09/2012
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)435) 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190)
Proceedings	Not closed
Execution status	Executed

See comments on execution of Ashot Harutyunyan v. Armenia judgment (on keeping the defendant in a metal cage at court hearings).

Virabyan v. Armenia (40094/05)

Became final on	11/02/2013

[56] It is noteworthy that now at the outgoing court hearings under the Avetisyan family murder case, accused V. Permyakov was kept in a glass cell.

[57] See Annual Action Report 2013 of the Public Observers Group Carrying out Public Monitoring at Penitentiary Facilities and Agencies of the RA Ministry of Justice, http://pmg.am/images/PMG_report_2013.pdf

Date of submitting Action Plan/Report	With delay 16.02.2015(DD(2015)206) 25.02.2014(DD(2014)328)
Proceedings	Not closed
Execution status	Not executed

In *Virabyan v. Armenia* judgment, the Court found that the Applicant was subjected to particularly cruel ill-treatment, which caused him severe physical and mental pain and suffering, whereas the domestic agencies and the Government based their explanations about the origin of the applicant's injuries solely on the testimonies of police officers, including the person who allegedly committed a crime. At the same time, the Court found that the investigation carried out by the law enforcement agencies following the applicant's allegations of ill-treatment was ineffective, inadequate and absolutely incomplete; the competent authorities did not show sufficient diligence and cannot be said to have intended to identify and punish the perpetrators.

The RA Government submitted 2 Action Plans on execution of the judgment under this case, namely Action Plan № DD(2015)206 of February 16, 2015 and Action Plan № DD(2014)328 of February 25, 2014. By the Action Plan above, the RA Government provided information to the legislative change in the RA Criminal Code introduced by Law № HO-69-N which defined the elements of crime of torture in compliance with the provisions of the UN Convention against Torture (Article 309.1) and under the procedural safeguards, the RA Government invoked Article 110 of the RA Criminal Procedure Code stipulating the minimum rights of an arrested person.

It is noteworthy that the RA Government provided rather incomplete and unsubstantiated information on the taken and intended steps to resolve the issue of protecting the right not to be subjected to torture in RA. In particular, the Government provided no statistical data on the investigation into crimes of torture by the RA Special Investigation Service. It can be noted that still no full and effective investigation is carried out into the allegations of the use of torture and at the same time, the investigative agencies and courts of law still continue basing their conclusions solely on the testimonies of the law enforcement officers who allegedly used violence. There are no legislative regulations (except for regulations on RA Investigation Committee officers) under which the powers of the law enforcement officers under criminal prosecution must be terminated. Also, the practices of processing a person's allegations on violence used against him/her during the preliminary investigation and trial examination and carrying out proper investigation remain of concern.

Thus, on this part the judgment cannot be considered executed.

Davtyan v. Armenia (29736/06)

Became final on	30/06/2015
Date of submitting Action Plan/Report	The 6-month term expired 30/12/2015
Proceedings	Not closed
Execution status	Not executed

In *Davtyan v. Armenia*, the Court found that the Applicant had not been provided with medical examinations and treatment for a long time and therefore the conditions of his detention passed beyond the inevitable threshold of causing suffering to detainees and were equivalent to inhuman and degrading treatment. Furthermore, the Court stated that at least the fact that the person was in need of medical aid or required medical aid but it was unavailable to him might already be sufficient to conclude that such treatment was degrading. Causing such a state of health or otherwise causing severe or long-lasting pains due to the failure to non-provision of necessary medical aid is not a necessary condition to identify degrading treatment.

The RA Government has not submitted an Action Plan on the execution of the judgment under this case so far.

For more information, please see the comments on execution of Ashot Harutyunyan v. Armenia judgment.

Nalbandyan v. Armenia (9935/06; 23339/06)

Became final on	30/06/2015
Date of submitting Action Plan/Report	The 6-month term expired 30/12/2015
Proceedings	Not closed
Execution status	Not executed

In its judgment on *Nalbandyan v. Armenia*, the Court found that the mother and daughter (second

and third Applicants) suffered ill-treatment, which can be qualified as torture, considering their injuries, police officers' obvious intent to show such treatment to extract confessions, the fact that they were mother and daughter and probably each of them suffered severely for the pain felt by the other, and the fact that the third Applicant was a minor. Also, the Court stated that the authorities failed to properly obtain and assess the significant medical and other evidence, and all the appeal attempts by the Applicant received formal responses, and therefore the investigation carried out by the authorities was ineffective and inappropriate.

The RA Government has not submitted any action plan or action report on this case.

ECHR Article 4: Prohibition of slavery and forced labor

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labor.
3. For the purpose of this Article, the term "forced or compulsory labor" shall not include:
(a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
(b) any service of a military character or, in case of conscientious objectors in countries where they are recognized, service exacted instead of compulsory military service;
(c) any service exacted in case of an emergency or calamity threatening the life or wellbeing of the community;
(d) any work or service which forms part of normal civic obligations.

In its judgments against the RA in 2007-2015, the ECtHR found no violation of the right to be free from slavery and forced labor.

ECHR Article 5: Right to liberty and security

1. Everyone has the right to liberty and security of person.
No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:
(a) the lawful detention of a person after conviction by a competent court;

(b) the lawful arrest or detention of a person for noncompliance with the lawful order of a court or in order to secure the fulfillment of any obligation prescribed by law;
(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
(d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
(e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
(f) the lawful arrest or detention of a person to prevent his effecting an unauthorized entry into the country or of a person against whom action is being taken with a view to deportation or extradition.
2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
3. Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.
4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.
5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.

As of December 2015, in its judgments against RA, the ECtHR found violations of Article 5 under 10 cases, which makes up 23% of the upheld cases. The cases are listed below:

- Asatryan v. Armenia (24173/06)
- Poghosyan v. Armenia (44068/07)
- Hakobyan and Others v. Armenia (34320/04)[58]
- Muradkhanyan v. Armenia (12895/06)
- Piruzyan v. Armenia (33376/07)
- Malkhasyan v. Armenia (6729/07)

[58] By clicking on the case title, you'll pass to the observations in the Report on the execution of the case judgment. By clicking on the case number, you'll pass to the ECtHR judgment on the case.

- Sefilyan v. Armenia (22491/08)
- Khachatryan and Others v. Armenia (23978/06)
- Minasyan v. Armenia (44837/08)
- Sahakyan v. Armenia (66256/11)

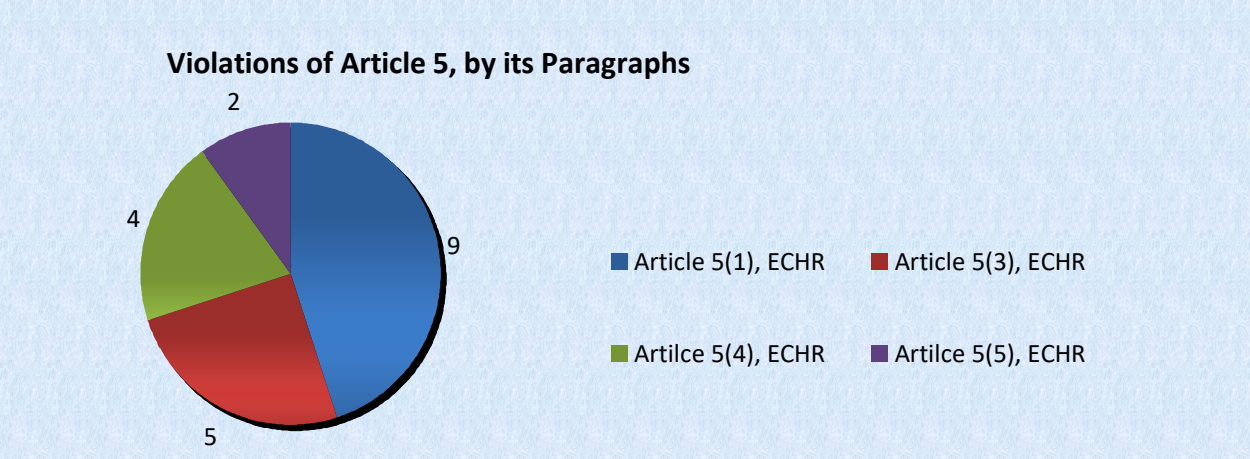

Chart 5

The Court found violations of Article 5(1) (9 cases), Article 5(3) (5 cases), Article 5(4) (4 cases) and Article 5(5) (2 cases).

Under the violations of the Article above, both inadequate legislative regulations, and unlawful measures taken by law-enforcement agencies or courts throughout legal practices were considered as violations. It is noteworthy that before the ECtHR made judgments on some of the issues raised under the cases above, the RA Cassation Court also made a ruling, with observations aimed at putting an end to the violation in question.

At the same time, the precedents of ECtHR and Cassation Court did not contribute to resolving some of the issues, e.g.: ensuring standard for lawfulness of detention; requirement for "reasonable time" of continued detention; availability of "well-grounded and adequate" evidence for extending the terms of detention; equality of the parties throughout examination of motions on detention, including investigation into criminal cases within reasonable terms, and full factual and legal rationale for court rulings on detention.

This area has also seen a number of legislative reforms; and a number of issues are intended to be resolved under the RA Draft Code of Criminal Procedure. Within the legislative reforms, it is essential to establish under the RA Civil Code the institute of compensation for non-pecuniary damages, which became most compliant with the law after the amendments of December 21, 2015.

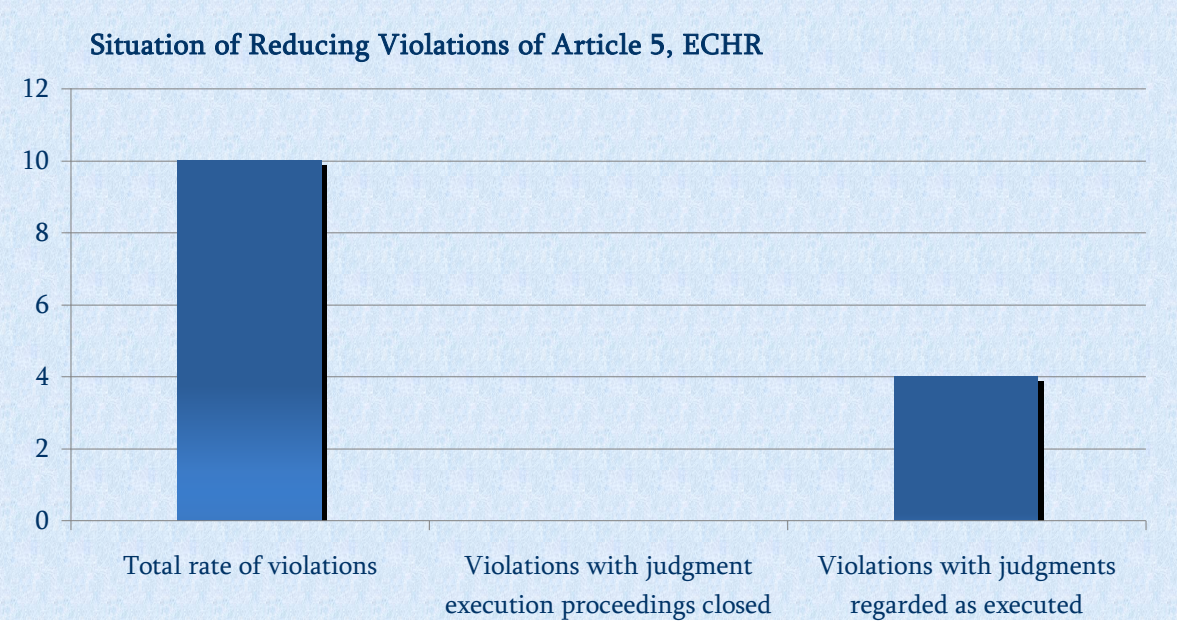

Chart 6

Study of Execution Status of Judgments under Individual Cases

Violations of Article 5(1), ECHR

Hakobyan and Others v. Armenia (34320/04)

Became final on	10/07/2012
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Not executed

In *Hakobyan and Others v. Armenia*, the Court referred to the legality condition of a person's detention and the issues of arbitrary detention. In particular, the Court stated that negligent conduct was shown in checking the factual and legal grounds for detaining the Applicants when making a decision on their detention. The Court also found that the goal of the Applicant's detention had nothing to do with the official rationale justifying the deprivation of liberty and was merely conditioned by the unfair conduct of police officers.

The judgment on this case became final on July 10, 2012. The RA Government submitted its Action Report on its execution no sooner than in April 2015 under *Galstyan v. Armenia* group of cases № DD(2015)434. The RA Government provided no information on prevention of further violations of Article 5 as found in this judgment. At the same time, the RA Government provided information on holding training for RA Police officers, developing relevant guides and translation of the judgment. However, it can be stated that these measures were not effective in eliminating the unlawful practices of arbitrary and illegal detentions of assembly participants in Armenia.[59] Therefore, in this part the judgment cannot be considered executed.

Muradkhanyan v. Armenia (12895/06)

Became final on	05/09/2012
Date of submitting Action Plan/Report	With delay 04.02.2014 (DD(2014)190) 25.02.2014 (DD(2014)326)
Proceedings	Not closed
Execution status	Executed

In *Muradkhanyan v. Armenia*, the Court stated that the detention of the person in a certain period was illegal in nature "due to the lack of clear regulations on detention procedure at the time the first instance court ruled on sending the case to further preliminary investigation."

The RA Government submitted 2 Action Plans on this case under the group of cases *Poghosyan v. Armenia,* on February 4, 2014 (DD(2014)190) and on February 25, 2014 (DD(2014)326), respectively.

[59] For further information see HCAV Communication on Execution of judgment on Galstyan v. Armenia, https://wcd.coe.int/ViewDoc.jsp?Ref=DH-DD(2016)185&Language=lanEnglish&Site=CM

In its Actions Plans, the RA Government provided no information on the issue above.

Meanwhile, by its Ruling № ՍԴՈ-710 of July 24, 2007, the RA Constitutional Court declared the relevant article of the RA Criminal Procedure Code, under which the case might be sent to further preliminary investigation, contradictory to the RA Constitution and invalid. Therefore, this issue is no longer actual. At the same time, the prosecutor's power to submit a motion on supplementing or changing the charges during the trial examination was preserved; according to the effective regulations, in such cases, the accused is entitled to file with the court a motion on postponing the trial examination. Based on the grounds provided for in the Code, the court postpones the court hearing by prosecutor's motion to carry out necessary investigative and other procedural actions and bring other charges. The hearing may be postponed for no longer than a month, except for the cases when the necessary investigative and other procedural actions reasonably require longer time.[60] Hence, this case still remains at the stage of trial examination and the issue of detention is also resolved in accordance with relevant regulations.

Poghosyan v. Armenia (44068/07)

Became final on	20/03/2012
Date of submitting Action Plan/Report	With delay 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190) 15.01.2013 (DD(2013)107)
Proceedings	Not closed
Execution status	Executed

In *Poghosyan v. Armenia*, the Court found that a person's detention (maximum 15 days) after the completion of the preliminary investigation under the criminal case and before the judge, who started proceedings on the criminal case, makes a ruling on assigning trial examination or any other ruling under Article 292 of the RA Criminal Procedure Code, if the detention period prescribed by the court ruling on imposing a preventive measure was expired, did not meet the "legality' criterion.

The RA Government submitted 3 Action Plans on this case on January 15, 2013 (DD(2013)107),

[60] Article 309[1], RA Criminal Procedure Code.

February 4, 2014 (DD(2014)190) and February 25, 2014 (DD(2014)326), respectively.

In the Action Plans above, the RA Government provided information on the RA Cassation Court ruling dated April 10, 2009 on criminal case № ՀՅՔԴ 3/0106/01/08 issued before the ECtHR judgment on *Poghosyan v. Armenia.* By this ruling, the Cassation Court stated that "in cases when there are less then 15 days left till the end of the 2-month detention period, i.e. less time than the period for making one of the rulings under Article 292 of the RA Criminal Procedure Code by the judge who admitted the criminal case, the agency responsible for preliminary investigation must, along with sending the case to the court, also resolve the issue of the person's detention, i.e. it must release the person if the grounds for keeping him/her in detention were eliminated, or submit a motion to the court on extending the detention period on the grounds under Article 135(1) of the RA Criminal Procedure Code."

At the same time, the RA Government provided information on stipulating relevant provisions in the RA Criminal Procedure Code.

In this part, the judgment above can be considered executed.

Malkhasyan v. Armenia (6729/07)

Became final on	26/09/2012
Date of submitting Action Plan/Report	With delay 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190)
Proceedings	Not closed
Execution status	Executed

See comment on execution of Poghosyan v. Armenia judgment.

Piruzyan v. Armenia (33376/07)

Became final on	26/09/2012
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)435) 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190)
Proceedings	Not closed
Execution status	Executed

See comment on execution of Poghosyan v. Armenia judgment.

Minasyan v. Armenia (44837/08)

Became final on	08/07/2014
Date of submitting Action Plan/Report	Not submitted[61]
Proceedings	Not closed
Execution status	Executed

See comment on execution Poghosyan v. Armenia judgment.

Sefilyan v. Armenia (22491/08)

Became final on	02/01/2013
Date of submitting Action Plan/Report	With delay 22.04.2014 (DD(2014)96) 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190)
Proceedings	Not closed
Execution status	Not executed

See comment on execution Poghosyan v. Armenia judgment.

[61] Anyway, this case was covered under *Poghosyan v. Armenia* group of cases; therefore, the action plans submitted under this case are also relevant to the execution of *Minasyan v. Armenia* judgment.

Violation of Article 5(1)(c), ECHR

Asatryan v. Armenia (24173/06)

Became final on	09/05/2010
Date of submitting Action Plan/Report	With delay 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190)
Proceedings	Not closed
Execution status	Not executed

In *Asatryan v. Armenia* case, the Court stated that the failure of releasing the person upon the expiry of his detention period led to violation of his right to liberty and security. The Court found that in specific cases a person may be released of detention with limited delays. Nevertheless, this applies to the cases where the detention period expired based on a court order rather than on the conditions prescribed by law. This may be conditioned by the operational expediency of the court activities or the necessity to secure administrative procedures and cannot exceed several hours.

The RA Government submitted 2 Action Plans on the execution of the judgment on this case under the action plans on *Poghosyan v. Armenia* group of cases on February 4, 2014 (DD(2014)190) and February 25, 2014 (DD(2014)326), respectively.

This violation is not conditioned by any legislative gaps or uncertainty, but rather by the violation of the RA domestic law. Nevertheless, the RA Government submit no information on any measures taken to prevent any further similar violations, as well as whether similar violations were identified in the RA legal practice and whether the right was restored through the application of domestic remedies.

At the same time, it was noted that the study of the judgment was covered in the training curricula of the RA Police Academy, School of Prosecutors, School of Judges and trainings for public servants and officers of detention facilities.

Khachatryan and Others v. Armenia (23978/06)

Became final on	27/02/2013
Date of submitting Action Plan/Report	With delay 12.08.2013 (DH-DD(2013)850)
Proceedings	Not closed
Execution status	Not executed

In *Khachatryan and Others v. Armenia*, the Court stated that in this case the detention of the persons was not based on any of the limited grounds provided under the Convention.

On August 12, 2013, the RA Government submitted an Action Report (DH-DD(2013)850) on this case. The violation is not conditioned by any legislative gaps or uncertainty, but rather by the violation of the RA domestic law. No information on any actions or measurable results (statistical data) regarding the violation was submitted. It is only noted that the study of the judgment was covered in the training curricula of the RA Police Academy, School of Prosecutors, School of Judges and trainings for public servants and officers of detention facilities.

Violation of Article 5(3), ECHR

Muradkhanyan v. Armenia (12895/06)

Became final on	05/09/2012
Date of submitting Action Plan/Report	With delay 04.02.2014 (DD(2014)190) 25.02.2014 (DD(2014)326)
Proceedings	Not closed
Execution status	Not executed

In *Muradkhanyan v. Armenia*, the Court stated that the Applicant had been kept in continuous detention in violation of "reasonable time" requirement. The applicant's detention was conditioned by the fact that the behavior of the authorities cased significant and unnecessary delays in the proceedings; the authorities did not show necessary diligence and as a result, the investigation into the case was delayed for one and a half year. Under this case, the Court also found that while the existence of a reasonable suspicion about commission of grave crimes charged to a person was a

relevant factor, it might not per se justify the long-term pretrial detention. At the same time, after the first court ruling the court referred to the risk that the Applicant might flee no sooner that 2 years after his arrest, i.e. the rationale on these grounds was provided with long intervals, which also does not meet the requirements of Article 5(3) of the Convention.

On this case, the RA Government provided information under the Action Plans on *Poghosyan v. Armenia* group of cases submitted on February 4, 2014 (DD(2014)190) and February 25, 2014 (DD(2014)326). The Government provided information on stipulating the prescribed requirement under Article 118(4) of the draft RA Criminal Procedure Code; accordingly, when extending the detention period, it also required to justify before the court the due diligence shown by the investigating agency to identify the circumstances significant for the proceedings as well as the necessity of carrying on criminal prosecution against the accused.

At the same time, it is noteworthy that the practice of failure by the law enforcement agencies to meet the reasonable deadlines and show due diligence still persists in RA.[62]

On the reasonability of the decision to apply detention, see the comment on execution of Malkhasyan v. Armenia judgment.

Malkhasyan v. Armenia (6729/07)

Became final on	26/09/2012
Date of submitting Action Plan/Report	With delay 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190)
Proceedings	Not closed
Execution status	Not executed

In *Malkhasyan v. Armenia,* the Court stated that the State failed to justify the existence of "reasonable and sufficient" evidence for continuous detention of the Applicant. In particular, it did

[62] See Report on RA Human Rights Defender's Activity and Violations of Human Rights and Fundamental Freedoms in RA in 2014,
http://www.ombuds.am/pages/downloadPdf/file_id/1748

not justify in any way the allegations on the risk that the Applicant might flee or the witnesses involved in the case might suffer pressure when referring to such allegations as grounds for detention.

On this case, the RA Government provided information within the action plans on *Poghosyan v. Armenia* group of cases on February 4, 2014 (DD(2014)190) and on February 25, 2014 (DD(2014)326), respectively. In particular the RA Government invoked the RA Cassation Court's Ruling[63] of December 21, 2006 by which the RA Cassation Court stated that in any case courts should justify both the factual and legal grounds of judgments. The RA Government also invoked RA Constitutional Court's Ruling № ՍԴՈ-896 of June 15, 2010 where the RA Constitutional Court stated as follows: "The legislation must in general exclude the existence of an unsubstantiated judicial act since such an act cannot comply with the fundamental principles of a legal state and cannot guarantee the effective judicial protection of human rights as well as ensure effective recovery of violated rights."

It is noteworthy that despite the binding precedent court rulings above, this issue in the RA legal practice has not been resolved so far.[64]

Poghosyan v. Armenia (44068/07)

Became final on	20/03/2012
Date of submitting Action Plan/Report	With delay 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190) 15.01.2013 (DD(2013)107)
Proceedings	Not closed
Execution status	Executed

In *Poghosyan v. Armenia*, the Court reiterated that no potential exception was intended from the requirement to bring a person immediately upon his/her arrest or detention before a court of law or a

[63] The Ruling is not posted in the RA legal informational system.

[64] See Report on RA Human Rights Defender's Activity and Violations of Human Rights and Fundamental Freedoms in RA in 2014,
http://www.ombuds.am/pages/downloadPdf/file_id/1748

competent official. In this case, the failure to take the wanted person, who was detected, to the judge led to violation of Article 5(3), ECHR.

The RA Government submitted 3 Action Plans on this case on January 15, 2013 (DD(2013)107), February 4, 2014 (DD(2014)190) and February 25, 2014 (DD(2014)326). The RA Government provided information on RA Cassation Court's Ruling № 0197/06/08 of December 26, 2008. By this ruling, the RA Cassation Court stated that "such regulation stipulated in penal and procedural law would contradict Article 5(3) of the Convention and violate blatantly a person's right to liberty, unless after detection, the wanted person is not immediately brought before a court of law."

A relevant provision was also included in the draft RA Criminal Procedure Code; according to its Article 297(1), if the decision on applying detention as a preventive measure was made in the absence of the accused, upon detaining the accused under the jurisdiction of the Republic of Armenia, the investigating body shall bring that person within 48 hours before the competent court of law to discuss again the issue of the detention imposed on him.

Therefore, in this part the judgment can be considered executed.

Sefilyan v. Armenia (22491/08)

Became final on	02/01/2013
Date of submitting Action Plan/Report	With delay 22.04.2014 (DD(2014)96) 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190)
Proceedings	Not closed
Execution status	Not executed

See comment on execution of Malkhasyan v. Armenia judgment.

Piruzyan v. Armenia (33376/07)

Became final on	26/09/2012

Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)435) 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190)
Proceedings	Not closed
Execution status	Not executed

In *Piruzyan v. Armenia*, the Court found that the State did not prove the existence of "reasonable and sufficient" evidence of the applicant's continued detention and the grounds for detaining a person, such as the necessity of taking further investigative actions, or the fact that the proceedings were not completed yet could not meet any acceptable grounds for keeping the person in pre-trial detention under Article 5(3). At the same time, the Court stated that the refusal of the motion on applying bail instead of detention without judicial review of the specific circumstances of the deprivation of person's liberty contradicted the principles of Article 5(3) of ECHR.

The RA Government provided information on this case under the action plans on *Poghosyan v. Armenai* group of cases on February 4, 2014 (DD(2014)190) and February 25, 2014 (DD(2014)326).

In terms of application of bail, the RA Government referred to the RA Cassation Court's Ruling on case № ՎԲ-115/07-Ի of July 13, 2007 in which the RA Cassation Court invoked a number of ECtHR rulings and stated that in them the European Court expressed a position that in conditions when the possibility to discuss a person's release by bail is prohibited by law from the very start under certain cases, such restriction of judicial review of resolution of the issue of pretrial detention violated Article 5(3) of the Convention.

The RA Government invoked Article 143 of the RA Criminal Procedure Code and as well as Article 125 of the draft RA Criminal Procedure Code, which did not prescribe the gravity of crime as a compulsory condition for applying bail but rather prescribed that the determination of the amount of the bail depended on the degree of gravity of the crime the accused is charged with and his/her property status.

Nevertheless, the issue above cannot be considered resolved in the RA legal practice.

For the requirement of "relevant and sufficient" grounds for detention, see the comment on execution of Malkhasyan v. Armenia judgment.

Violation of Article 5(4), ECHR

Poghosyan v. Armenia (44068/07)

Became final on	20/03/2012
Date of submitting Action Plan/Report	With delay 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190) 15.01.2013 (DD(2013)107)
Proceedings	Not closed
Execution status	Executed

In *Poghosyan v. Armenia*, the Court stated that the Contracting States were not compelled under Article 5(4) to set up a third instance to resolve the issue of release from detention. However, the states that create such a system shall in principle provide detainees with the same appeal guarantees as are provided by the court of first instance. In this case, the Court found that the refusal by the Court of Appeals to examine the appeal against the ruling on imposing detention on the grounds that the case was no longer at the stage of preliminary investigation violated Article 5(4) of the Convention.

The RA Government submitted 3 Action Plans on this case on January 15, 2013 (DD(2013)107), February 4, 2014 (DD(2014)190) and February 25, 2014 (DD(2014)326).

In its Action Plans, the RA Government invoked RA Cassation Court's Rulings № 0299/01/08 of November 28, 2008 and № 0235/06/08 of December 26, 2008 where the RA Cassation Court stated that the restriction of the right to appeal decisions on choosing, changing or stopping detention as a preventive measure, issued during the trial examination, under Article 376.1(4) on the pretext of completion of preliminary investigation was inacceptable and contradicted RA penal and procedural legislation.

The RA Government again invoked also Article 396(1)(2,3) of the draft RA Criminal Procedure Code: 1. The first instance court's judicial acts below shall be subject to special review by the Court of Appeals (...); 2) on refusal to initiate proceedings on imposing a preventive measure, on upholding or rejecting motions on imposing a preventive measure under pre-trial proceedings or extend the terms of the imposed preventive measure; 3) on upholding or rejecting motions on stopping detention under pre-trial proceedings or imposing an alternative preventive measure instead of detention.

Piruzyan v. Armenia (33376/07)

Became final on	26/09/2012
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)435) 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190)
Proceedings	Not closed
Execution status	Not executed

In *Piruzyan v. Armenia,* the Court stated that the manner in which the judge considered the investigator's motion was sufficient in itself for the Court to find that the Applicant was deprived of effective remedies to object to the motion (particularly, when leaving to the retiring room, the judge required that the investigator submitted all the materials of the criminal case which the Applicant had no opportunity to get familiar with). The Court also found that the refusal to examine the appeal against the decision on the detention on the grounds that the preliminary investigation stage of the case was over constituted a violation of Article 5(4) of the Convention.

The RA Government provided information on this case under the action plans submitted under *Poghosyan v. Armenia* group of cases on February 4, 2014 (DD(2014)190) and February 25, 2014 (DD(2014)326).

To ensure the condition of equality of the Parties, the RA Government provided information on ensuring guaranties under Article 21 of the draft RA Code of Criminal Procedure (Article 21.

Equality of Parties and Competition). At the same time, it is unclear what practical safeguards there are in place to prevent similar violations in the future.

On refusal to examine the appeal against a decision on detention, see comment on Poghosyan v. Armenia judgment.

Minasyan v. Armenia (44837/08)

Became final on	08/07/2014
Date of submitting Action Plan/Report	Not submitted[65]
Proceedings	Not closed
Execution status	Executed

On refusal to examine the appeal against a decision on detention, see comment on Poghosyan v. Armenia judgment.

Sefilyan v. Armenia (22491/08)

Became final on	02/01/2013
Date of submitting Action Plan/Report	With delay 22.04.2014 (DD(2014)96) 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190)
Proceedings	Not closed
Execution status	Executed

In *Sefilyan v. Armenia*, the Court found that the equality of the parties was not considered ensured if

[65] Anyway, this case was covered under *Poghosyan v. Armenia* group of cases; therefore, the action plans submitted under this case are also relevant to the execution of *Minasyan v. Armenia* judgment.

the defense counsel was denied the documents obtained during the preliminary investigation into the case and significant for effectively challenging the lawfulness of his client's detention.

On ensuring the equality of the parties, see the comment on execution of Piruzyan v. Armenia judgment.

Violation of Article 5(5), ECHR

Khachatryan and Others v. Armenia (23978/06)

Became final on	27/02/2013
Date of submitting Action Plan/Report	With delay 12.08.2013 (DH-DD(2013)850)
Proceedings	Not closed
Execution status	Executed

In *Khachatryan and Others v. Armenia*, the Court found that at the material time of the investigation into the case, the RA legislation did not prescribe the right to compensation for non-pecuniary damage, including damage caused in violation of any of the first 4 paragraphs of Article 5 of the Convention.

On August 12, 2013, the RA Government submitted Action Report № DH-DD(2013)850.

The RA Government provided information on draft RA Law on Changes and Amendments to RA Civil Code. This amendment was made with some omissions by Law № HO-21-N of May 19, 2014 and supplemented by Law № HO-184-N of December 21, 2015.

Thus, in this part, the judgment can be considered executed.

Sahakyan v. Armenia (66256/11)

Became final on	Did not become final

Date of submitting Action Plan/Report	Not submitted
Proceedings	Not closed
Execution status	Executed

See comment on execution of Khachatryan and Others v. Armenia judgment.

As of December 31, 2015, the judgment on this case did not become final, and therefore no action plan was submitted.

ECHR Article 6: Right to a fair trial

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.

3. Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and facilities for the preparation of his defense;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

As of December 2015, in its judgments against RA, the ECtHR found violations of Article 6 under 23 cases, which makes up 25% of the upheld cases. These cases are listed below:

- Harutyunyan v. Armenia (36549/03)
- Galstyan v. Armenia (26986/03)
- Nikoghosyan and Melkonyan v. Armenia (11724/04; 13350/04)
- Paykar Yev Haghtanak Ltd v. Armenia (21638/03)
- Ashughyan v. Armenia (33268/03)
- Kirakosyan v. Armenia (31237/03)
- Tadevosyan v. Armenia (41698/04)
- Mkhitaryan v. Armenia (22390/05)
- Gasparyan v. Armenia (No. 2) 22571/05
- Stepanyan v. Armenia (45081/04)
- Karapetyan v. Armenia (22387/05)
- Khachatryan v. Armenia (31761/04)
- Mamikonyan v. Armenia (25083/05)
- Gabrielyan v. Armenia (8088/05)
- Hakobyan and Others v. Armenia (34320/04)
- Grigoryan v. Armenia (3627/06)
- Sholokhov v. Armenia and Republic of Moldova (40358/05)
- Virabyan v. Armenia (40094/05)
- Melikyan v. Armenia (9737/06)
- Nalbandyan v. Armenia (9935/06; 23339/06)
- Shamoyan v. Armenia (18499/08)
- Saghatelyan v. Armenia (7984/06)
- Amirkhanyan v. Armenia (22343/08)

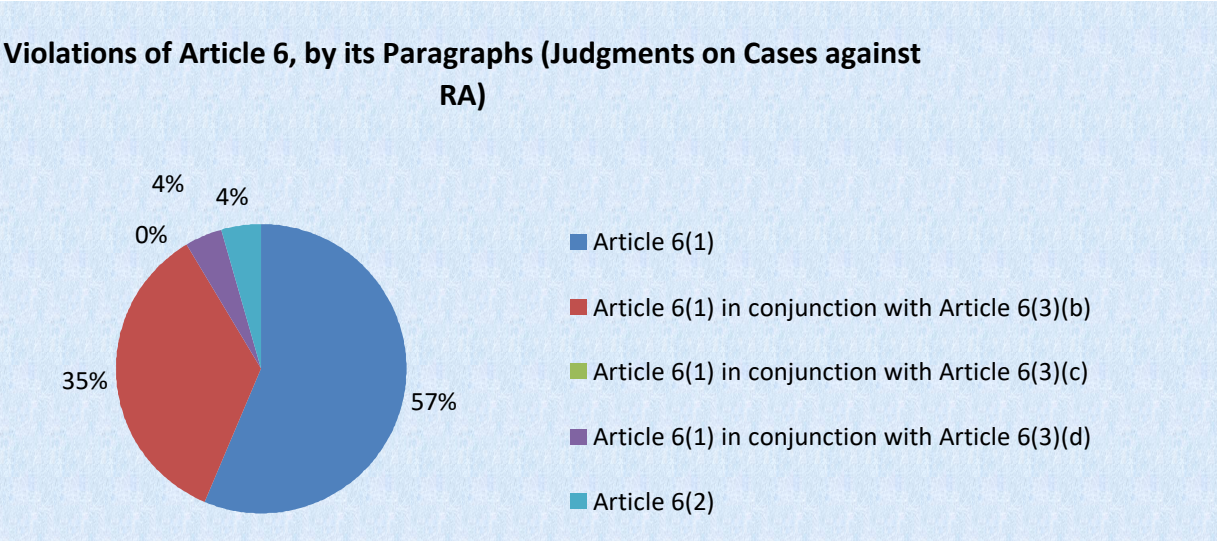

Chart 8

In the cases above, the Court identified both legislative issues and issues related to legal practices.

Particularly, the issues below were identified: violation of reasonable time limits for duration of criminal proceedings; failure to fulfill public hearing requirements by court of second instance, with the Court referring to both factual and legal circumstances; holding court hearings in the absence of applicants (with no attempt to find out whether the Applicants were duly notified of the hearing or not); using evidence obtained through torture; inadequate factual and legal reasoning of judgments; invoking lack of sufficient funds as an excuse for not executing a final judgment; requirement that appeals to the Cassation Court must be submitted by authorized attorneys; dismissal by the Cassation Court of appeals meeting formal requirements and submitted with due diligence; violation of res judicata principle as a result of admitting, examining and upholding the re-submitted appeal without any legal grounds; failure to ensure the safety of applicants and their attorneys and to create sufficient conditions for them to perform their functions properly; failure to take sufficient efforts to find out the whereabouts of crucial witnesses; and issues related to violation of the presumption of innocence of a person.

Out of these issues, the requirement to ensure reasonable time limits for duration of proceedings and to provide sufficient factual and legal reasoning for court judgments still call for most fundamental systemic solutions.

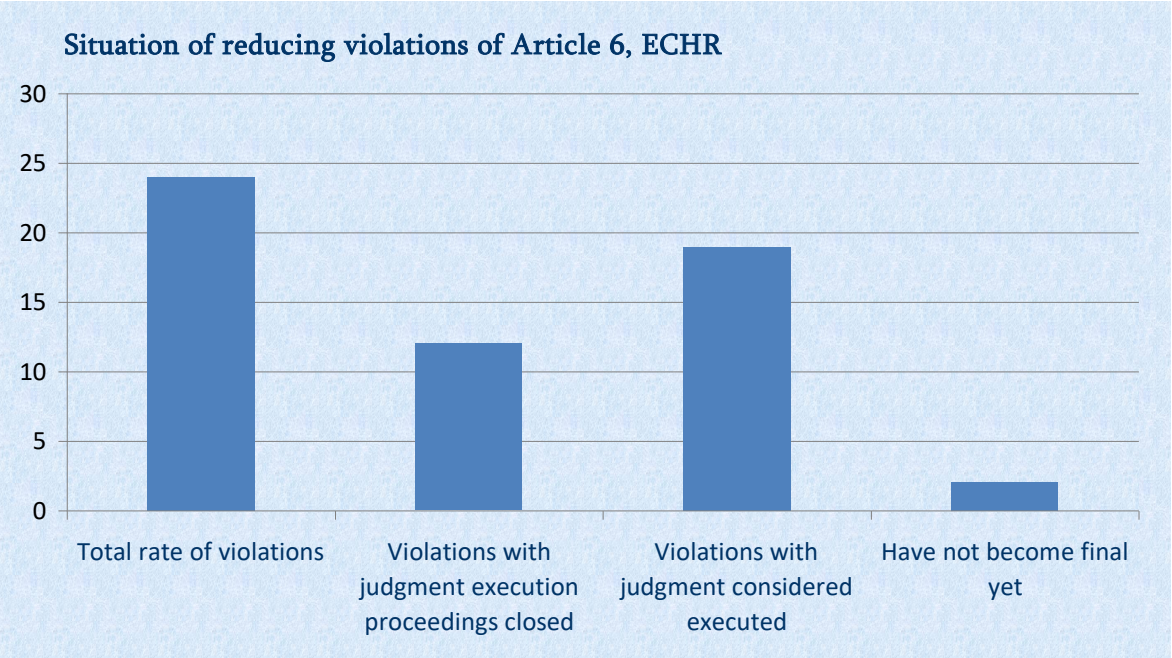

Chart 9

Study of Execution Status of Judgments under Individual Case

Violation of Article 6(1), ECHR

Grigoryan v. Armenia (3627/06)

Became final on	17/12/2012
Date of submitting Action Plan/Report	With delay 13.11.2013 (DD(2013)1235)
Proceedings	Not closed
Execution status	Not executed

In *Grigoryan v. Armenia*, the Court found that the duration of the criminal proceedings, under which the Applicant was first involved as a witness and then as a suspect, lasted too long and did not meet the requirement of "reasonable time".

On November 13, 2013, the RA Government submitted Action Plan № DD(2013)1235 on this case. In

particular, the RA Government provided information on the regulations prescribed under Articles 12 and 194 of the draft RA Criminal Procedure Code. Thus, apart from the fact that the updated RA Criminal Procedure Code has not been adopted and become effective yet, another unresolved issue in the RA legal practice is meeting the requirement of reasonable time of investigation into criminal cases.[66]

Stepanyan v. Armenia (45081/04)

Became final on	27/01/2010
Date of submitting Action Plan/Report	With delay 24.10.2014 (DD (2014)1324)
Proceedings	Closed 12.03.2015 (CM/ResDH(2015)38)
Execution status	Executed

In *Stepanyan v. Armenia,* the Court found that the failure to meet the requirement of public examination of the case at courts of second and third instances might be justified by the peculiarities of specific proceedings on condition that the trial examination held at the court of first instance was public. However, in this case, the court reviewing the judgment essentially referred to both the factual and legal circumstances of the case and at the same time based its ruling on the testimonies of the 2 police officers questioned by the first instance court. Therefore, the Applicant's guilt or innocence in terms of certain circumstances of the case might not be determined duly as an issue of a fair trial without a direct assessment of the testimonies provided in person by the Applicant and the 2 police officers.

On October 4, 2014, the RA Government submitted information on execution of the judgment under this case in its Action Plan № DD (2014)1324 . The RA Government provided information on the changes to administrative proceedings legislation as well as termination of the operation of the RA Court of Criminal and Military Appeals.

[66] See Report on RA Human Rights Defender's Activity and Violations of Human Rights and Fundamental Freedoms in RA in 2014,
http://www.ombuds.am/pages/downloadPdf/file_id/1748

The review by the CoE Committee of Ministers of the execution of the judgment on this case was closed by Final Resolution № CM/ResDH(2015)38 of March 15, 2015. The Committee of Ministers considered completed both the individual and general measures necessary for the full execution of the judgment.

Paykar ev Haghtanak Ltd v. Armenia (21638/03): Executed

Became final on	02/06/2008
Date of submitting Action Plan/Report	With delay 02.12.2011 (CM/ResDH(2011)185)
Proceedings	Closed 02.12.2011 (CM/ResDH(2011)185)
Execution status	Executed

In *Paykar and Haghtanak Ltd v. Armenia*, the Court found that the Cassation Court's refusal to examine the applicant company's motion on delaying payment of the state duty based on apparent application by analogy of Article 70 of the RA Civil Procedure Code, under which individual entrepreneurs and commercial organizations might not be exempted from the state duty, violated the applicant company's right to access to court. At the same time, the Economic Court and the Economic Court of Appeals took the opposite approach.

The review of the execution of the judgment on this case was closed on December 2, 2011 by Final Resolution № CM/ResDH(2011)185. The Action Plan of the Government is also submitted as an appendix to the Final Resolution. The review of the judgment execution was closed considering the removal of relevant articles from the RA Civil Procedure Code and (Article 70(3)) and Law on State Duty (Article 22(4)). Furthermore, by the Constitutional Amendments of November 27, 2005, the RA Constitution also prescribes that the fundamental human and civil rights and freedoms shall also apply to legal persons to the extent these fundamental rights and freedoms are applicable to them (Article 42.1). Thus, in this part the judgment can be considered executed.

Nikoghosyan and Melkonyan v. Armenia (11724/04; 13350/04)

Became final on	06/03/2008

Date of submitting Action Plan/Report	With delay 14.09.2011 (CM/ResDH(2011)89)
Proceedings	Closed 14.09.2011 (CM/ResDH(2011)89)
Execution status	Executed conventionally

In *Nikoghosyan and Melikyan v. Armenia*, before holding a hearing in the Applicants' absence, the domestic court failed to verify properly whether they were duly informed of the hearing. This mistake was not corrected by the Court of Cassation either, which might send the case back to the court of first instance for a re-examination.

The CoE Committee of Ministers considered the judgment on this case as executed and on September 14, 2011 adopted its Final Resolution № CM/ResDH(2011)89. The information on execution of the judgment submitted by the RA Government is also submitted as an appendix to the Resolution. While, this issue is merely the issue of legal practice, the RA Government did not provide either the statistical data that would prove that this issue was not common and of systematic nature.

Harutyunyan v. Armenia (36549/03)

Became final on	28/09/2007
Date of submitting Action Plan/Report	With delay 08.06.2011 (CM/ResDH(2011)40)
Proceedings	Closed 08.06.2011 (CM/ResDH(2011)40)
Execution status	Executed conditionally

In *Harutyunyan v. Armenia,* the Court stated that the use by the domestic court of evidence obtained through torture, regardless of the effect of this testimony (even if the acceptability of such evidence was not decisive for conviction), makes the entire proceedings unfair.

The CoE Committee of Ministers assessed the judgment on this case as executed and on June 8, 2011

adopted its Final Resolution № CM/ResDH(2011)40. The information on execution of the judgment submitted by the RA Government is also submitted as an appendix to the Resolution.

In its submission, the RA Government provided information on the regulations of Article 105 of the Criminal Code. Also, the RA Government emphasized that no other similar judgment was made by the RA domestic courts.

Despite the aforementioned, the RA courts still have controversial practice on the use of evidence obtained through ill-treatment. On the one hand, the allegations voiced by a person in a court of law that he/she suffered ill-treatment during provision of the testimonies do not make subject of proper investigation and on the other hand, even if it is identified that the testimonies were obtained through ill-treatment, they are not removed from the materials of the case but rather are left therein, which raises concerns about the extent to which that evidence impacts the internal conviction of the court.

The issue of the use by courts of confessions obtained through violence was also identified by the UN Committee against Torture in its Concluding Observations based on the monitoring of the situation in 2012 (CAT/C/ARM/CO/3).[67] In the List of Issues Prior to Submission of the Fourth Periodic Report of Armenia on the Situation of Complying with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment due in 2016 (CAT/C/ARM/QPR/4),[68] the Committee also covered questions on the measures taken by RA to make sure that the confession testimonies obtained through torture were not used as evidence and on the quantity of the cases the investigation into which was suspended due to the fact that during the trial examination it became necessary to examine complaints on using torture against a person involved in the case to obtain confession testimonies.

Thus, while the proceedings of execution of the judgment on this case were closed by the Committee of Ministers, it should be noted that the use by RA courts of evidence obtained through ill-treatment still raises concern.

[67] Concluding observations of the Committee against Torture. 6 July 2012
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fARM%2fCO%2f3&Lang=en
[68] List of issues prior to submission of the fourth periodic report of Armenia, due in 2016
https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/027/56/PDF/G1502756.pdf?OpenElement

Sholokhov v. Armenia and the Republic of Moldova (40358/05)

Became final on	31/07/2012
Date of submitting Action Plan/Report	With delay 17.09.2013 (DD(2013)1193) 03.07.2015 (DD(2015)739)
Proceedings	Closed 10.09.2015 (RES(2015)116)
Execution status	Executed conditionally

In *Sholokhov v. Armenia and the Republic of Moldova,* the Court referred to the rationale behind the Court of Appeals' ruling on the claim on recognizing and executing the judgment and stated that the conclusion of the judgment is not well-grounded, which contradicts the requirements of a fair trial. The issue was not resolved by the Court of Cassation either, which upheld the ruling of the Court of Appeals.

The RA Government submitted 2 Action Plans on the execution of the judgment on this case: Action Plan № DD(2013)1193 on September 17, 2013 and Action Plan № DD(2015)739 on July 3, 2015. The Final Resolution № CM/ResDH(2015) of September 15, 2015 closed the examination of the judgment execution. In its submitted information, the RA Government particularly invoked the precedent rulings of the RA Court of Cassation.

In particular, the RA Government invoked the Ruling of December 21, 2006 stating that in each case the courts must justify the factual and legal reasoning of judgments. Here, it is also noteworthy to mention that despite the fact that the RA Government invoked this Ruling of the RA Cassation Court, it is not published; the RA legal information system covers RA Cassation Court rulings only dated after 2007. Also, the RA Government invoked the RA Constitutional Court's Ruling № ՍԴՈ-690 of April 9, 2007 and № ՍԴՈ-896 of June 15, 2010, as well as RA Cassation Court Ruling of March 26, 2010 on criminal case № ԵԿԴ/0058/11/09 and the RA Cassation Court Ruling № ՍԴ3/0045/01/13 of March 28, 2014.

While the CoE Committee of Ministers considered the examination into the execution of the judgment on this case as completed, and the above rulings of the RA Cassation Court and the RA Constitutional Court interpret and stipulate the need to justify the rulings of courts of all instances,

including the Cassation Court's rulings on returning complaints, it should be still noted that the RA Cassation Court's requirement to justify the rulings on returning complaints is not fully fulfilled yet.

Mamikonyan v. Armenia (25083/05)

Became final on	4/10/2010
Date of submitting Action Plan/Report	With delay 22.04.2014 (DD(2014)551) 24.07.2015 (DD(2015)833rev)
Proceedings	Closed 24.09.2015 (CM/ResDH(2015)142)
Execution Status	Executed

In *Mamikonyan v. Armenia*, the Court stated that given the lack of clear-cut rules for submission of additional arguments, the RA Cassation Court's rejection of the additional arguments conditioned by the receipt of the judgment of the Court of Appeals and submitted by the Applicant as a supplement to the appeal (furthermore, the additional arguments were submitted a few days after the receipt of the Court of Appeals judgment, i.e. without undue delay) violated the Applicant's right to access to court.

The RA Government submitted 2 Action Plans on this case: Action Plan № DD(2014)551 of April 22, 2014 and Action Plan № DD(2015)833rev of July 24, 2015. The examination of the execution of the judgment was closed by Final Resolution № CM/ResDH(2015)142 of September 25, 2015. As regards the execution of the judgment, the RA Government provided information on regulations in Article 412 of the RA Criminal Procedure Code as well as stated that such issue would not arise if the court met the requirement of Article 402 of the RA Criminal Procedure Code and the judicial act of the Court of Appeals was sent to the trial participants no later than within 3 days upon its announcement.

It can be stated that presently the issue above does not persist in systemic terms.

Khachatryan v. Armenia (31761/04)

Became final on	01/03/2010
Date of submitting Action Plan/Report	With delay 18.11.2014 (DD(2014)1419) 16.02.2015 (DD(2015)207)
Proceedings	Closed 12.03.2015 (CM/ResDH(2015)37)
Execution Status	Not executed

In *Khachatryan v. Armenia*, the Court again stated that the authorities might not invoke the lack of sufficient funds as an excuse for not executing the final judgment.

The RA Government submitted 2 Action Plans on this case: Action Plan № DD(2014)1419 on November 18, 2014 and Action Plan № DD(2015)207 on February 16, 2015. And by its Final Resolution № CM/ResDH(2015)37 of March 12, 2015, the CoE Committed of Ministers closed the examination of the execution of the judgment. In its Action Plan, the RA Government provided information on the changes in the activities of the Judicial Acts Compulsory Enforcement Service, particularly introduction of an electronic system and increased finances allocated to the Service. While the judgment execution process is closed, it can be still stated that this issue is still actual.[69]

Shamoyan v. Armenia (18499/08)

Became final on	07/10/2015
Date of submitting Action Plan/Report	The 6-month term expires 07/04/2016
Proceedings	Not closed
Execution Status	Executed

[69] Armenia's ENP implementation in 2014
http://www.osf.am/wp-content/uploads/2015/05/OSF_POS_ENP_ARMENIA_2014.pdf

In *Shamoyan v. Armenia*, the Court referred to the compulsory condition for application to the Court of Cassation, namely submitting appeals to the Court of Cassation through authorized lawyers. Given that the Applicant had no opportunity to get free legal aid and that the right to apply to the Court of Cassation depended on his financial status, the lack of any opportunity to apply for legal aid due to the procedural requirement to be represented by attorneys authorized to act at the Court of Cassation, the Applicant's right to access to court was restricted disproportionately.

The RA Government has not submitted any action plan on the execution of this judgment so far. Nevertheless, it is noteworthy that the procedural requirement above is no longer effective since January 1, 2009. Furthermore, by its Ruling № ՍԴՈ 765 of October 8, 2008, the RA Constitutional Court declared Article 223(1)(1) of the RA Criminal Procedure Code and Article 29.1 of the RA Law on Advocateship as contradicting the RA Constitution and invalid. At the same time, under the RA Code of Administrative Proceedings (effective since January 7, 2014), RA Code Criminal Proceedings (with amendment № ՀՕ-48-Ն of June 10, 2014) and RA Civil Code (as amended by № ՀՕ-49-Ն of June 10, 2014), the RA legislator attempted to stipulate another procedural requirement to apply to the RA Court of Cassation: only attorneys can file appeals to the RA Court of Cassation on behalf of citizens. However, by its Ruling № ՍԴՈ-1196 of March 17, 2015, the RA Constitutional Court declared the relevant legal regulation of RA Criminal Procedure Code in terms of the trial participants who have no counsel and for whom the law guarantees no opportunity of free legal aid as contradictory to Article 14.1, Article 18 (1), Article 19(1) of the RA Constitution and invalid. By its Rulings № ՍԴՈ-1192 and № ՍԴՈ-1220, respectively, the RA Constitutional Court declared the relevant provisions of the RA Administrative Procedure Code and the RA Civil Procedure Code as contradictory to Article 14.1, Article 18(1) and Article 19(1) of the RA Constitution and invalid.

Nalbandyan v. Armenia (9935/06; 23339/06)

Became final on	30/06/2015
Date of submitting Action Plan/Report	The 6-month term expired 30/12/2015
Proceedings	Not closed

Execution Status	Not executed

In *Nalbandyan v. Armenia,* the Court referred to the issue of rejection by the RA Cassation Court of the Applicant's and his attorney's appeal, stating that by rejecting the appeal, the Cassation Court acted with excess formality and did not show due diligence, which led to violation of the Applicant's right to access to the Cassation Court.

The RA Government provided no information on execution of this judgment.

Melikyan v. Armenia (9737/06)

Became final on	19/05/2013
Date of submitting Action Plan/Report	Not submitted
Proceedings	Closed 06.04.2014 (CM/ResDH(2014)44)
Execution Status	Executed

In *Melikyan v. Armenia*, the Court stated that the rejection of examination on the merits of the Applicant's complaint by application of Article 160(1)(2) of the RA Civil Procedure Code violated the person's right to access to court.

The RA Government provided no action plan or report on this case. Nevertheless, by its Final Resolution № CM/ResDH(2014)44 of April 6, 2014, the CoE Committee of Ministers closed the proceedings of the examination of judgment execution. By its Ruling № ՍԴՈ - 665 of November 16, 2006, the RA Constitutional Court declared Article 160(1)(2) of the RA Civil Procedure Code causing the violation as contradictory to the RA Constitution and invalid. And by the legislative amendment № ՀՕ-277-Ն of November 28, 2007, this Article was considered void.

Amirkhanyan v. Armenia (22343/08)

Became final on	Has not become final yet.
Date of submitting Action Plan/Report	----
Proceedings	----
Execution Status	----

In *Amirkhanyan v. Armenia*, the Court stated that the admission, examination and granting without any legal grounds of the appeal resubmitted after having been once returned by the Cassation Court violated the res judicata principle enshrined in Article 6(1).

As of December 31, 2015, this ruling did not become final.

Saghatelyan v. Armenia (7984/06)

Became final on	Has not become final yet.
Date of submitting Action Plan/Report	----
Proceedings	----
Execution Status	----

In *Saghatelyan v. Armenia,* the Court found that the Applicant was deprived of the right to access to court given that the Council of Justice did not act as an independent judicial agency as it did not meet the minimum standards to be "independent", and the restriction imposed on this case under Article 160(1)(2) of the CCP (i.e., limited judicial review of the Presidential Decree on Applicant's dismissal) violates the very essence of the "right to access to court" (see also comments on Melikyan v.

Armenia).

Violation of ECHR Article 6(1) in conjunction with Article 6(3)(b)

Galstyan v. Armenia (26986/03)

Became final on	15/02/2008
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution Status	Executed conditionally

In *Galstyan v. Armenia*, the Court stated that the conditions in which the criminal proceedings against the Applicant were initiated, starting from the moment of his arrest till conviction, did not make it possible for him to get duly familiar and assess the charges brought against him and develop a viable legal strategy of his defense.

On April 16, 2015, the RA Government submitted Action Plan № DD(2015)434 on execution of the judgment on this case. In its Action Plan, the RA Government provided information on the reforms in the RA administrative procedure law, abolition of the institute of administrative detention and adoption of an updated RA Code of Administrative Offences which stipulated a number of safeguards guaranteeing in their turn the compliance of the administrative procedure to the general procedural procedures ensuring the fundamental procedural rights.

It is noteworthy that while the RA Code of Administrative Procedure introduced a number of changes, some issues still persist in practice in terms of the guarantees ensured during the administrative detention of a person.

Hakobyan and Others v. Armenia (34320/04)

Became final on	10/07/2012

Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Executed conditionally

See comment on execution of Galstyan v. Armenia judgment.

Kirakosyan v. Armenia (31237/03)

Became final on	04/05/2009
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420) 09.04.2010 (Action report)
Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)
Execution status	Executed conditionally

See comment on execution of Galstyan v. Armenia judgment.

Tadevosyan v. Armenia (41698/04)

Became final on	04/05/2009
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420) 09.04.2010 (Action report)

Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)
Execution status	Executed conditionally

See comment on execution of Galstyan v. Armenia judgment.

Karapetyan v. Armenia (22387/05)

Became final on	27/01/2010
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420)
Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)
Execution status	Executed conditionally

See comment on execution of Galstyan v. Armenia judgment.

Mkhitaryan v. Armenia (22390/05)

Became final on	04/05/2009
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420) 09.04.2010 (Action report)
Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)

Execution status	Executed conditionally

See comment on execution of Galstyan v. Armenia judgment.

Ashughyan v. Armenia (33268/03)

Became final on	01/12/2008
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Executed conditionally

See comment on execution of Galstyan v. Armenia judgment.

Gasparyan v. Armenia (No. 2) 22571/05

Became final on	16/09/2009
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Executed conditionally

See comment on execution of Galstyan v. Armenia judgment.

Violation of ECHR Article 6(1) in conjunction with Article 6(3)(c)

Nalbandyan v. Armenia (9935/06; 23339/06)

Became final on	30/06/2015
Date of submitting Action Plan/Report	The 6-month term expired 30/12/2015
Proceedings	Not closed
Execution status	Executed conditionally

By its judgment on *Nalbandyan v. Armenia*, the Court found that the courts and the Government took no particular action (did not mention any such action) to ensure the safety of the Applicants and their attorneys and adequate conditions for them to fulfill their functions properly at the trial examination at the courts of first and second instances which must clarify at public court hearings issues of facts and law.

The RA Government has not submitted any action plan or report on this case so far.

Violation of ECHR Article 6(1) in conjunction with Article 6(3)(d)

Gabrielyan v. Armenia (8088/05)

Became final on	10/07/2012
Date of submitting Action Plan/Report	With delay 24.04.2013 (DD(2013)493)
Proceedings	Not closed
Execution status	Not executed

In *Gabrielyan v. Armenia,* the Court found that the Applicant's right to question crucial witnesses was restricted without any grounds and the authorities did not exert enough efforts to find out the whereabouts of the witnesses above or to verify whether their absence was justified.

On April 24, 2013, the RA Government submitted Action Plan DD(2013)493 on this case where it provided information on the regulations prescribed by the draft RA Criminal Procedure Code.

In particular, the RA Government provided information on court deposition of testimonies (Chapter 42), questioning with application of telecommunications and technical means (Article 333, when it is impossible to ensure the presence of the person to be questioned in the court of law or when such presence may threaten his/her security or credibility of the testimonies) and prescription of the admissibility conditions for disclosing testimonies provided in pre-trial proceedings or in a court in line with the requirements of the Criminal Procedure Code (Article 336).

While the regulations below were covered in the draft RA Criminal Procedure Code, it has not been adopted yet and the judgment cannot be considered executed in this part.

Violation of Article 6(2), ECHR

Virabuan v. Armenia (40094/05)

Became final on	11/02/2013

Date of submitting Action Plan/Report	With delay 16.02.2015(DD(2015)206) 25.02.2014(DD(2014)328)
Proceedings	Not closed
Execution status	Executed

In its judgment on *Virabyan v. Armenia,* the Court found that the RA Prosecutor's decree on not initiating criminal prosecution based on Article 37(2)(2) of the RA Criminal Procedure Code (before the amendments of May 25, 2006), i.e. redemption of the guilt through means of penalties, restrictions of the rights and other restraints already suffered by the person in terms of the act he/she committed, violates the person's presumption of innocence.

The RA Government submitted 2 Action Plans on this case: Action Plan № DD(2014)328 of February 25, 2014 and Action Plan № DD(2015)206 of February 16, 2015. In its Action Plans, the RA Government stated that the relevant paragraph of the relevant article of the RA Criminal Procedure Code was declared void even before the ECtHR made this judgment and the draft RA Criminal Procedure Code did not prescribe criminal prosecution and discontinuation of the proceedings based on the grounds above.

On this part, the judgment can be considered executed.

ECHR Article 7: No punishment without law

1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national or international law at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the criminal offence was committed.
2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by civilized nations.

In its judgments against RA in 2007-2015, the ECtHR found no violation of the rule of no punishment without law.

ECHR Article 8: Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

As of December 2015, in its judgments against the RA, the ECtHR found violations of Article 8 under 2 cases, which makes up 2% of the upheld cases. The cases are listed below:

Chiragov and Others v. Armenia (13216/05)
Sefilyan v. Armenia (22491/08)

Out of the cases above, *Sefilyan v. Armenia* concerns the establishment of rule of law and actual and most controversial issues in the RA, i.e. wiretapping procedures by special intelligence services. In the judgment on this case, the Court has identified the key challenges facing the RA, which still remain unsolved and pose serious danger to privacy of a person. As for Chiragov v. Armenia, under this case the Court identified the issue of forcibly displaced persons after the armed conflict, and the settlement of the issue depends on political solutions.

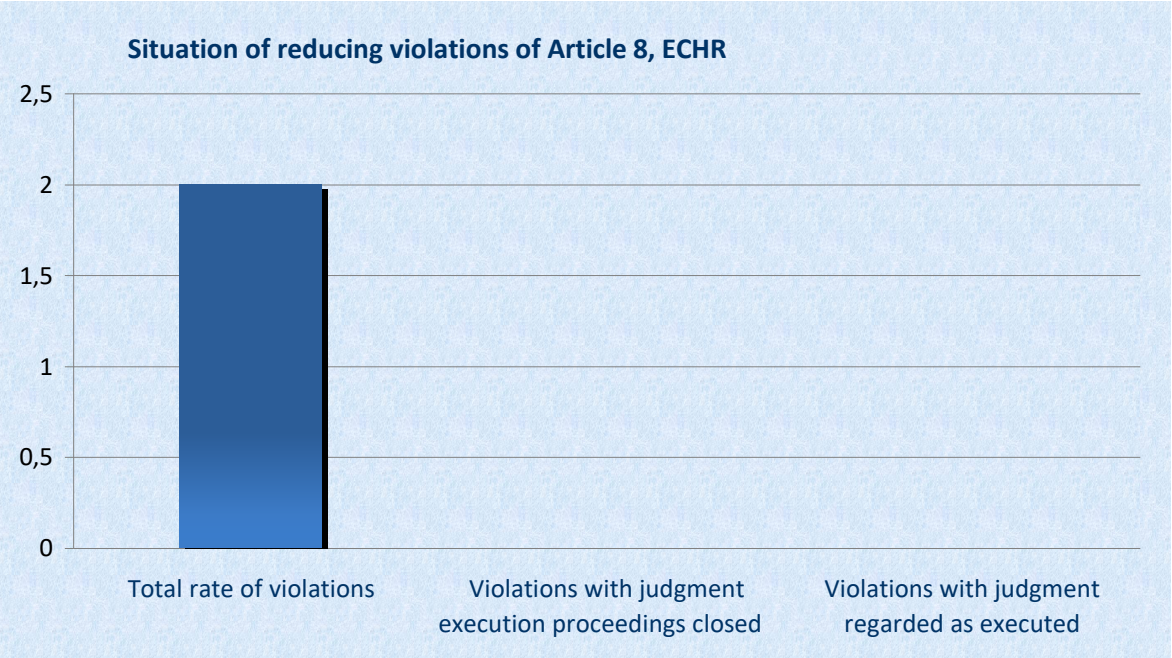

Chart 10

Study of Execution Status of Judgments under Individual Cases

Sefilyan v. Armenia (22491/08)

Became final on	02/01/2013
Date of submitting Action Plan/Report	With delay 22.04.2014 (DD(2014)96) 25.02.2014 (DD(2014)326) 04.02.2014 (DD(2014)190)
Proceedings	Not closed
Execution status	Not executed

In its judgment on *Sefilyan v. Armenia,* the Court referred to the issues of performing wiretapping "in compliance with law", where the law should be accessible to the person concerned and be predictable in terms of its consequences. In particular, the Court found that the Armenian legislation prescribed neither the types of offence, nor the scope of persons who might be wiretapped. The law did not detail on the circumstances or grounds based on which it might be decided to take such an action; the

law did not specify any clear-cut maximum period for wiretapping, regular control over the action or judicial review or any other independent control of similar nature over such action, any rule on studying, use, storage and destruction of the data. The law did not require either that the person was notified of the wiretapping against him/her upon its termination unless such notification no longer threatened its purpose.

The RA Government submitted 3 Action Plans on execution of the judgment on this case: Action Plan № (DD(2014)190) of February 4, 2014, Action Plan № (DD(2014)326) of February 25, 2014 and Action Plan № (DD(2014)96) of April 22, 2014. On only the latter concerns the actions taken to eliminate the said violation. The Government provided information about a number of regulations provided for by the draft RA Criminal Procedure Code under which numerous rapid response and investigative actions were ranged among confidential investigative actions and brought under the framework of criminal procedure legislation. The draft RA Criminal Procedure Code prescribed the types of crimes under which wiretapping might be applied (Article 249) and 12 months (Article 250) were set as the maximum terms for applying confidential investigative actions.

Nevertheless, it is noteworthy that despite the information submitted, apart from the fact that the updated RA Criminal Procedure Code has not been adopted yet, the Draft does not prescribe all the guarantees to perform wiretapping in compliance with the ECtHR standards. These issues are also raised in HCAV Study on Comparative Analysis of Legislation Regulating the Activities of RA National Security Service, RA Special Investigation Service and RA Prosecutor's Office by Council of Europe Standards.[70]

Chigarov and Others v. Armenia (13216/05)

Became final on	16/06/2015
Date of submitting Action Plan/Report	The 6-month term expired 16/12/2015
Proceedings	Not closed
Execution status	Not executed

[70] HCAV Study on Comparative Analysis of Legislation Regulating the Activities of RA National Security Service, RA Special Investigation Service and RA Prosecutor's Office by Council of Europe Standards (pp. 28-33), http://hcav.am/wp-content/uploads/2015/06/ԱԱԾ_ՀՔԾ_Դասախ._վերջնական_հրապարակած.pdf

In its judgment on *Chiragov and Others v. Armenia,* the Court found that the conditions of forced displacement of the Applicants from their place of residence and the lack of any possibility to return constituted a groundless violation of the right to respect for private and family life and home. The Applicants' ties with the region above were justified by the circumstances below: almost all of the Applicants got married and had children in that place, they earned their living there and their ancestors used to live there; also, they built houses that were owned by them. Also, the Applicants did not settle down elsewhere of their own free will but rather they were forced to live elsewhere as internally displaced persons.

The RA Government provided no action plan or report on this case.

ECHR Article 9. Freedom of thought, conscience and religion

1. Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief and freedom, either alone or in community with others and in public or private, to manifest his religion or belief, in worship, teaching, practice and observance.
2. Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

As of December 2015, in its judgments against RA, the ECtHR found violations of Article 9 under 3 cases, which makes up 4% of the upheld cases. The cases are listed below:

Bukharatyan v. Armenia 37819/03
Tsaturyan v. Armenia 37821/03
Bayatyan v. Armenia 23459/03

All the 3 cases above related to conscientious objection by members of Jehovah's Witnesses religious organization, and as a consequence, the issue of serving criminal punishment. Generally, it can be considered that an end was put to this violation.

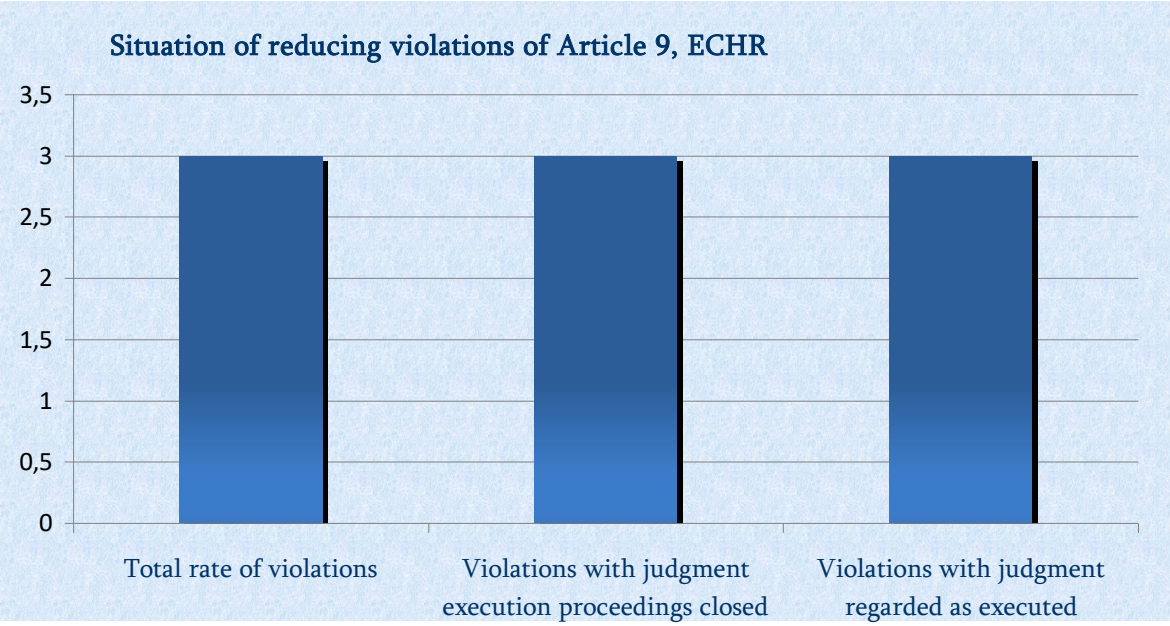

Chart 11

Study of Execution Status of Judgments under Individual Cases

Bayatyan v. Armenia (23459/03)

Became effective on	07/07/2011
Date of submitting Action Plan/Report	With delay 20.10.2014 (DD(2014)1302)
Proceedings	Closed 19/11/2014 (CM/ResDH(2014)225)
Execution status	Executed

In its judgment on *Bayatyan v. Armenia,* the Court found that the conviction and punishment of a Jehovah's Witnesses religious organization member as a person evading military service, given that the person showed conscientious objection based on the requirements of his conscience and beliefs contradicted the protection of freedom of conscience and religion in a democratic society.

On November 19, 2014, the RA Government submitted Action Plan № CM/ResDH(2014)225 on

execution of the Court's judgment by which it provided information on the amendments to the RA Law on Alternative Service and statistic data on the results of the application of the law. In this respect, the Action Plan submitted by the RA Government on execution of *Bayatyan v. Armenia* judgment can be considered exemplary since it provided information not only on the measures taken by the Government and their results and outcomes, but also real results, namely the impact of the actions taken. Given this, the results of the actions taken by the Government are more obvious and it becomes easier to assess the efficiency of such actions.

Despite the fact that under the resolution of the issue of alternative civil service, the right of the persons already doing their military service to pass to alternative service was not solved, this issue can be generally considered resolved.

Bukharatyan v. Armenia (37819/03)

Became final on	10/04/2012
Date of submitting Action Plan/Report	With delay 20.10.2014 (DD(2014)1302)
Proceedings	Closed 19/11/2014 (CM/ResDH(2014)225)
Execution status	Executed

See comment on execution of Bayatyan v. Aremenia judgment.

Tsaturyan v. Armenia (37821/03)

Became final on	10/04/2012

Date of submitting Action Plan/Report	With delay 20.10.2014 (DD(2014)1302)
Proceedings	Closed 19/11/2014 (CM/ResDH(2014)225)
Execution status	Executed

See comment on execution of Bayatyan v. Armenia judgment.

ECHR Article10: Freedom of expression

> 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
> 2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

As of December 31, 2015, in its judgments against RA, the ECtHR found violations of Article 10 under one case, which makes up 1% of the upheld cases. The case in question is listed below:

Meltex Ltd and Mesrop Movsesyan v. Armenia 32283/04

In the period examined, the ECtHR found violation of this Article only under one case. It concerned the activities of the National Commission on Television and Radio. The legislation causing the problem was amended and therefore, the judgment was considered executed. Yet, the transparency and independence of the NCTR still raise concern[71]:

[71] See Joint submission by a Group of Civil Society Organizations to the UN Human Rights Council 21st Session of the Universal Periodic Review (p. 20),

At the same time, it should be borne in mind that in a number of cases, Article 10 should be regarded by the Court as lex generalis to the lex specialis regulation under Article 11. Therefore, while the case had been examined particularly in the light of the requirements of Article 11, the Court found that the protection of personal views guaranteed by Article 10 made up an objective of freedom of peaceful assembly as provided for under Article 11. Therefore, violations of Article 11 under these cases should also be regarded as a violation of freedom of expression.

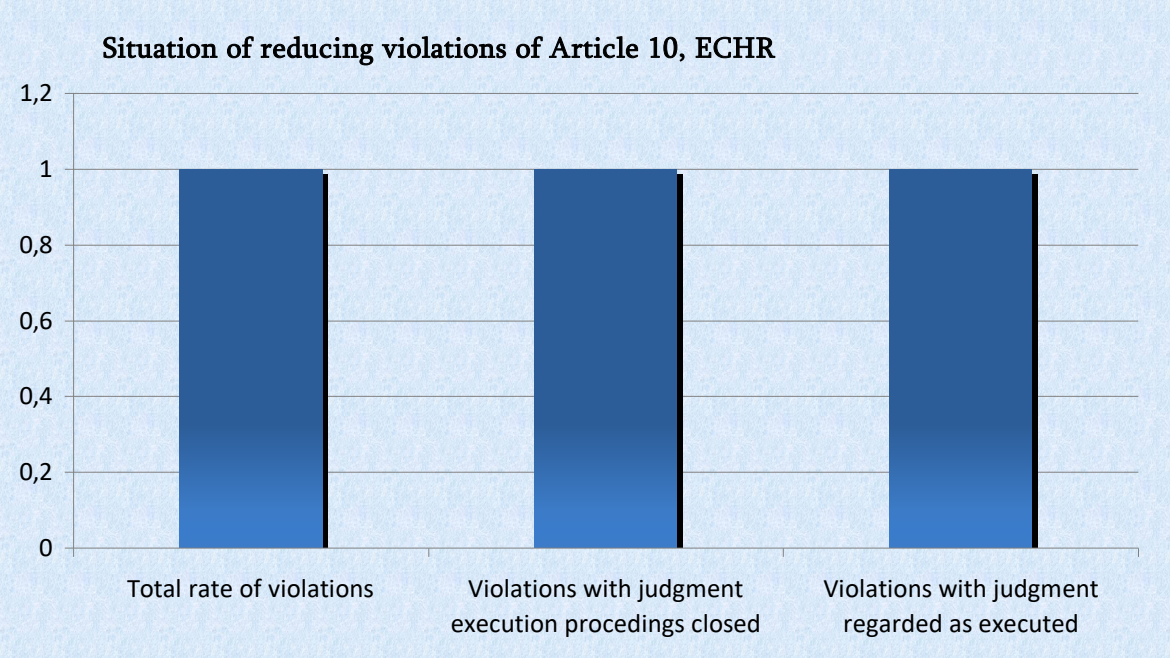

Chart 12

Study of Execution Status of Judgments under Individual Cases

Meltex Lted and Mesrop Movsesyan v. Armenia (32283/04)

http://www.osf.am/wp-content/uploads/2015/04/UPR_FFHR_Volume-I.pdf

Became final on	17/09/2008
Date of submitting Action Plan/Report	With delay 08/06/2011 (CM/ResDH(2011)39)
Proceedings	Closed 08.06.2011 (CM/ResDH(2011)39)
Execution status	Executed

By referring under *Meltex Ltd and Mesrop Movsesyan v. Armenia* to the phrase "as prescribed by law" used in the Article, the Court found that the licensing procedure by which the licensing agency, namely the NCTR did not justify its decisions (in this case on refusing to grant a broadcasting license), failed to provide adequate protection of the fundamental right to freedom of speech from arbitrary intervention of the state agency and therefore failed to meet the quality and lawfulness requirement set by law.

The information submitted by the RA Government and covered in the CoE Committee of Ministers Final Resolution № CM/ResDH(2011)39 of June 6, 2011 on closing the execution process of this judgment makes it clear that as the basis for execution of the judgment was considered the fact that Article 49(3) of the RA Law on Television and Radio was amended and stipulated that the National Commission's decision on declaring the license contest winner should be duly grounded and justified. The RA Government provided no information on the extent to which the activities of the National Commission on Television and Radio fulfilled this requirement under the above criteria.

Nevertheless, the transparency and independence of the NCTR's activities still raise concerns. [72]

[72] See Joint submission by a Group of Civil Society Organizations to the UN Human Rights Council 21st Session of the Universal Periodic Review (p. 20),
http://www.osf.am/wp-content/uploads/2015/04/UPR_FFHR_Volume-I.pdf

ECHR Article 11. Freedom of assembly and association

1. Everyone has the right to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests.
2. No restrictions shall be placed on the exercise of these rights other than such as are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals or for the protection of the rights and freedoms of others. This Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

As of December, 2015, in its judgments against RA, the ECtHR found violations of Article 11 under 8 cases, which makes up 7% of the upheld cases. The cases are listed below:

Mkrtchyan v. Armenia 6562/03
Galstyan v. Armenia 26986/03
Ashughyan v. Armenia 33268/03
Amiryan v. Armenia 31553/03
Gasparyan v. Armenia 1 35944/03
Sapeyan v. Armenia 35738/03
Hakobyan and Others v. Armenia 34320/04
Helsinki Committee of Armenia v. Armenia 59109/08

The main violation found by the Court in its judgments on the cases above resulted in restriction of persons' opportunities to attend assemblies through restriction of their liberty and application of sanctions or punishment for attending assemblies. Another case (Helsinki Committee of Armenia v. Armenia) concerned interfering with authorization and holding of an assembly.

It is noteworthy that in recent years, the behavior of the state and particularly law-enforcement agencies during the assemblies suggests that despite the large-scale legislative changes, the situation has not changed significantly and similar restrictions on the freedom of assembly still occur.

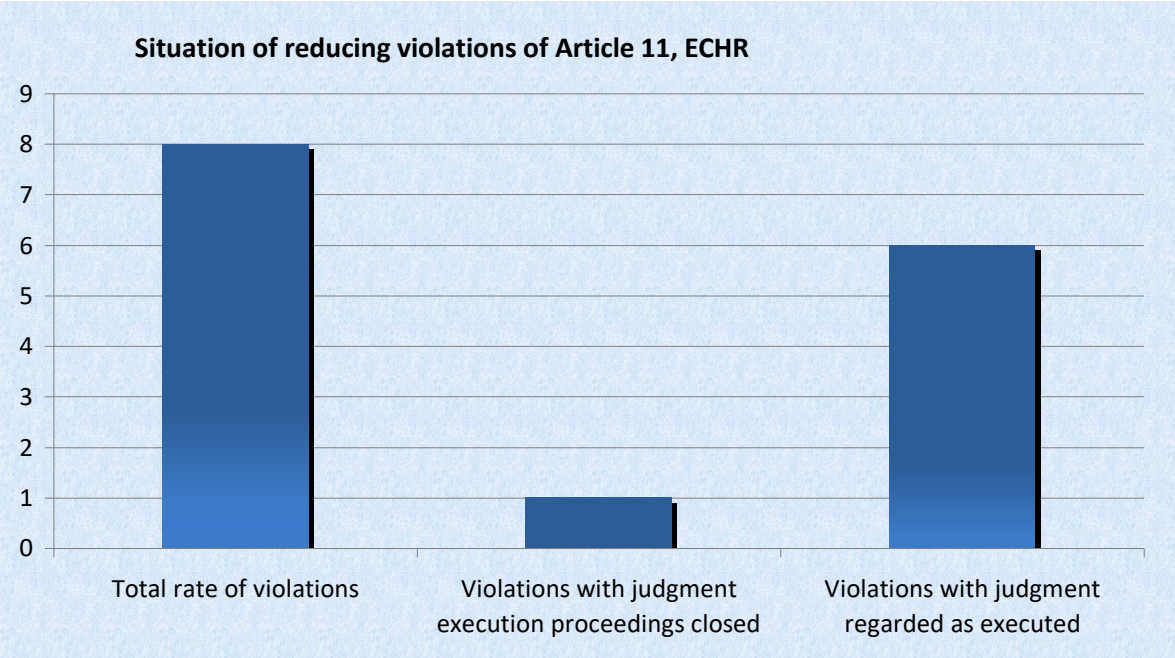

Chart 13

Study of Execution Status of Judgments under Individual Cases

Galstyan v. Armenia (26986/03)

Became final on	15/02/2008
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Executed

In its judgment on *Galstyan v. Armenia,* the Court found that holding a person liable under Article 172 (Petty Hooliganism) of the RA Code of Administrative Offenses for 'obstructing street traffic' and 'making loud noise' during a protest, as a result of which the person had no opportunity to attend the protest, contradicted the "necessary in a democratic society" clause of restriction of the freedom of

assembly.

For execution of the judgment on this case, see comment on execution of Hakobyan and Others v. Armenia judgment.

Ashughyan v. Armenia (33268/03)

Became final on	01/12/2008
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Executed

See comment on execution of Galstyan v. Armenia judgment.

Mkrtchyan v. Armenia (6562/03)

Became final on	11/04/2007
Date of submitting Action Plan/Report	With delay 27.03.2008 (CM/ResDH(2008)2)
Proceedings	Closed 27.03.2008 (CM/ResDH(2008)2)
Execution status	Executed

In its judgment on *Mkrtchyan v. Armenia,* the Court found that holding a person liable based on

Article 180 of the RA Code of Administrative Offences, by referring to the violation of the "established procedure" given that this procedure is not established by any legal act constitutes and intervention with the requirement prescribed by law of the right to freedom of peaceful assembly.

The examination of the execution of this judgment was closed by the CoE Committee of Ministers by its Final Resolution № CM/ResDH(2008)2 of March 27, 2008. The appendix to the Final Resolution also covers the information submitted by the RA Government on execution of the judgment. The RA Government provided information on adoption of the RA Law on Holding Assemblies, Rallies, Marches and Demonstrations on April 28, 2004.[73]

The required measures taken against the violation found in this judgment may be regarded as executed.

Gasparyan v. Armenia (No.1) (35944/03)

Became final on	13/04/2009
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Not executed

See comment on execution of Galstyan v. Armenia judgment.

Amiryan v. Armenia (31553/03)

Became final on	13/04/2009
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)

[73] The Law is not effective now as the new RA Law on Freedom of Assembly was adopted on April 11, 2011.

Proceedings	Not closed
Execution status	Executed

See comment on execution of Mkrtchyan v. Armenia judgment.

Sapeyan v. Armenia (35738/03)

Became final on	13/04/2009
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Executed

See comment on execution of Mkrtchyan v. Armenia judgment.

Hakobyan and Others v. Armenia (34320/04)

Became final on	10/07/2012
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Not executed

2. In its judgment on *Hakobyan and Others v. Armenia*, the Court found that subjecting the Applicants to short-term detention under Article 182 of the RA Code of Administrative Offences

(182. Willful disobedience to lawful order or requirement of a police officer or a member of the voluntary people's police[74]) aimed to prevent or hinder their participation in the demonstrations. The detention was applied based on a legal provision which had nothing to do with the previously communicated goal of this event; therefore, the intervention does not meet the requirement of lawfulness.

On April 16, 2015, the RA Government submitted Action Report № DD(2015)434. In its Action Report, the RA Government invoked the regulations of the RA Law on Freedom of Assembly adopted on April 14, 2011 and Article 180.1 of the RA Code of Administrative Offense prescribing legal relations concerning the violation of the procedure on holding assemblies as established by law.

Despite the submitted information, it is noteworthy that the practices of preventing persons from attending assemblies by applying various administrative and penal leverages still persist and therefore the right to freedom of assembly is not fully protected yet and the violation found in this case is not fully eliminated. For further details on this issue, also see Communication № DH-DD(2016)213E on *Galstyan v. Armenia* submitted by HCA Vanadzor.

On this part, the judgment cannot be regarded as executed.

Helsinki Committee of Armenia v. Armenia (59109/08)

Became final on	30/06/2015
Date of submitting Action Plan/Report	The 6-month term expired 30/12/2015
Proceedings	Not closed
Execution status	Executed conditionally

In its judgment on Helsinki Committee of Armenia v. Armenia, the Court found that prohibiting the Applicant organization to hold a march due to the fact that the post-election protests led to clashes

[74] Edited as at the material time of the incident (2004).

and casualties still under examination and that not all the offenders were detected or not all the weapons were revealed, failed to meet the "necessary in a democratic society" clause. The Court substantiated its ruling by the fact that the march was planned to be held over 2 months and over 1 month after the post-election clashes and the expiry of the terms of the emergency state declared by the RA President, respectively. There was no evidence that the organizers or participants of the planned marches were anyhow involved in the post-election riots or violence or had any intention to use violence or that the march might have turned into mass riots for any other reason.

So far, the RA Government has provided no action plan on this case and therefore no statistical data on the change of the situation.

ECHR Article 12. Right to marry

Men and women of marriageable age have the right to marry and to found a family, according to the national laws governing the exercise of this right.

In its judgments against RA in 2007-2015, the ECtHR found no violation of the right to marry.

ECHR Article 13. Right to an effective remedy

Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.

As of December 31, 2015, in its judgments against RA, the ECtHR found violations of Article 13 under 3 cases, which makes up 3% of the upheld cases. The cases are listed below:

Poghosyan and Baghdasaryan v. Armenia 22999/06
Helsinki Committee of Armenia v. Armenia 59109/08
Chiragov and Others v. Armenia 13216/05

In its judgments on the violation of this Article, the Court mostly identified the issues of compensation for non-pecuniary damage and practical efficiency of the right to effective remedy.

While in terms of the first issue, relevant legislative amendments were introduced, so far the RA Government has not submitted any statistical data on application of legislation provisions.

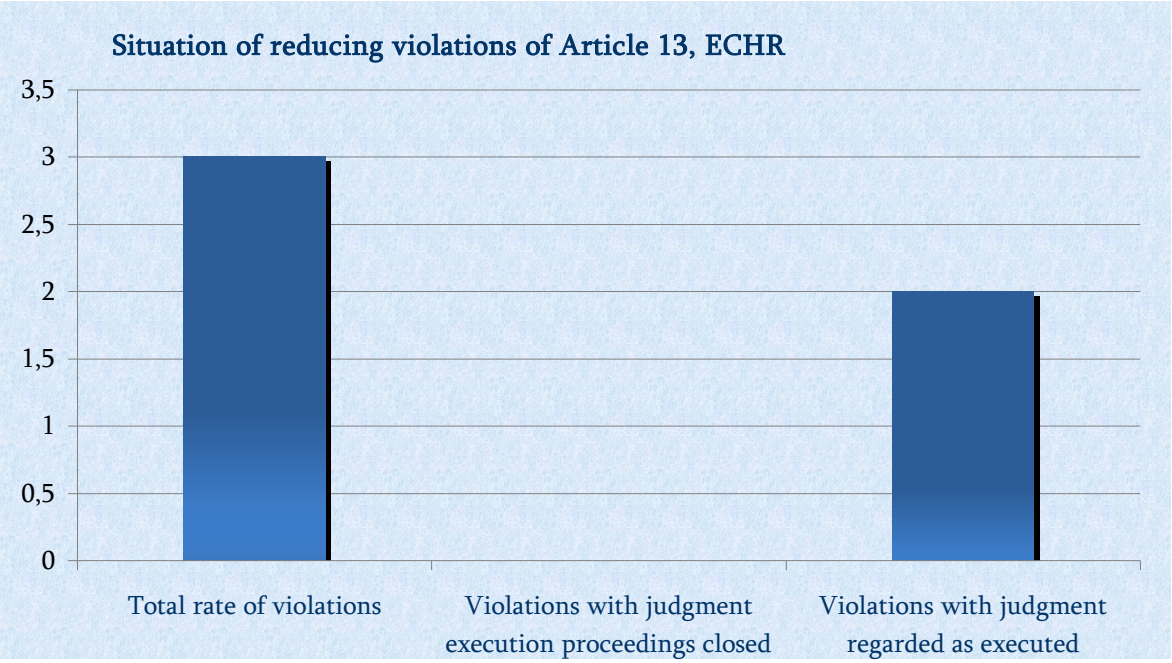

Chart 14

Study of Execution Status of Judgments under Individual Cases

Poghosyan and Baghdasaryan v. Armenia 22999/06

Became final on	12/09/2012
Date of submitting Action Plan/Report	With delay 12.08.2013 (DD(2013)851)
Proceedings	Not closed
Execution status	Executed

In its judgment on *Poghosyan and Baghdasaryan v. Armenia,* the Court found that given that the Armenia legislation provides for no possibility to receive non-pecuniary damage compensation, the Applicant was deprived of access to an effective remedy.

On August 12, 2013, the RA Government submitted Action Plan № DD(2013)851 on this case, by which it provided information on the draft RA Law on Making Changes and Amendments to RA Criminal Procedure Code and RA Civil Code.

The RA Civil Code was supplemented with some gaps by draft № HO-21-N of May 19, 2014 and amended by draft № HO-184-N of December 21, 2015. The said amendment enshrined the right of a person and in case of his/her death or legal incapacity his/her spouse, parent, foster parent, child, foster child, guardian or trustee to require in a court of law compensation for the non-pecuniary damage.

While there are no statistical data on the application of the provision above, on this part the judgment can be considered executed.

Helsinki Committee of Armenia v. Armenia 59109/08

Became final on	30/06/2015
Date of submitting Action Plan/Report	The 6-month term expired 30/12/2015
Proceedings	Not closed
Execution status	Executed conditionally

In its judgment on *Helsinki Committee of Armenia v. Armenia*, the Court found that while theoretically a remedy was available to the Applicant organization, in practice it was deprived of such a remedy as the mayor's decree was delivered to the Applicant after the prescribed terms, on the day following the date of the planned event. And no evidence was submitted on the availability of any other effective remedy.
The RA Government has submitted no Action Plan on the judgment on this case so far.

Chiragov and Others v. Armenia 13216/05

Became final on	16/06/2015
Date of submitting Action Plan/Report	The 6-month term expired 16/12/2015
Proceedings	Not closed
Execution status	Not executed

In its judgment on *Chiragov and Others v. Armenia*, the Court found that the Government failed to substantiate that the Applicants had available remedies with reasonable prospects to succeed in restoring the appealed rights, and therefore there is a continued violation of Article 13.

The RA Government has not submitted any action plan or action report on this case.

ECHR Article 14. Prohibition of discrimination

> The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

As of December 31, 2015, in its judgments against RA, the ECtHR found violation of Article 14 under one case, which makes up 1% of the upheld cases. The case in question is listed below:

Virabyan v. Armenia 40094/05

The Court found violation of Article 14 only under one case; furthermore, it found violation of the procedural aspect of Article 14, in conjunction with Article 3. The actions required for the execution of the judgment on this case are also directly related to taking systematic legislative and law-enforcement measures to combat discrimination in the country

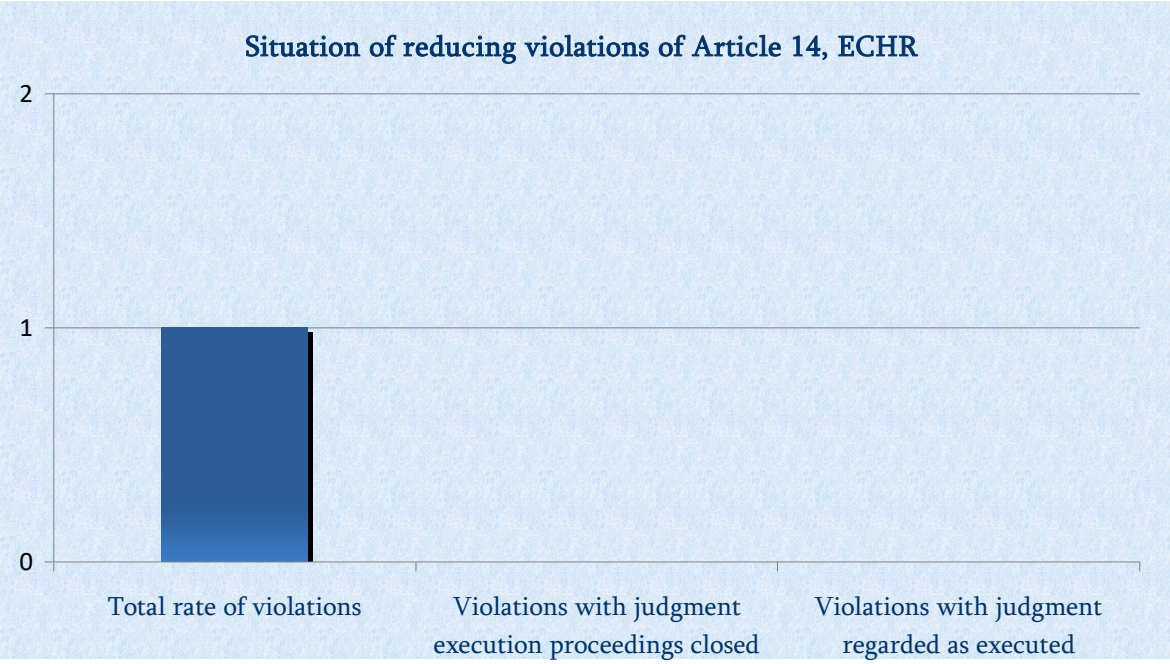

Chart 15

Study of Execution Status of Judgments under Individual Cases

Virabyan v. Armenia 40094/05

Became final on	11/02/2013
Date of submitting Action Plan/Report	With delay 16.02.2015 (DD(2015)206) 25.02.2014 (DD(2014)328)
Proceedings	Not closed
Execution status	Not executed

In its judgment on *Virabyan v. Armenia*, the Court found that the public authorities did not take sufficient measures to find out whether the ill-treatment against the Applicant was caused by discrimination based on his political views and activity.

The RA Government submitted 2 Action Plans on the execution of this judgment, namely Action

Plan № DD(2014)328 of February 25, 2014 and Action Plan № DD(2015)206 of February 16, 2015. In this Action Plans, the RA Government provided information on stipulation of corpus delicti of torture in the RA Criminal Code in compliance with the international standards and the intention to adopt comprehensive anti-discrimination law in Armenia. While in its Action Plan № DD(2014)328, the RA Government states that this issue is mostly an issue of legal practice and has nothing to do with legislative regulations, it provided no statistical data on changes of similar practices among the law-enforcement agencies.

Given that no anti-discriminatory comprehensive legislation has been adopted so far, the efficiency of defining discrimination as a ground for ill-treatment under corpus delicti of torture in the RA Criminal Code is not measured and the Government has not provided any statistical data, the judgment cannot be regarded as executed on this part.

Violation of Article 1, Protocol № 1 to ECHR

> Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.

As of December 31, 2015, in its judgments against RA, the ECtHR found violations of Article 1 of Protocol № 1 under 12 cases, which make up 13% of the upheld cases. The cases are listed below:

Minasyan and Semerjyan v. Armenia 27651/05
Hovhannisyan and Shiroyan v. Armenia 5065/06
Yeranosyan and Others v. Armenia 13916/06
Khachatryan v. Armenia 31761/04
Antonyan v. Armenia 3946/05
Danielyan and Others v. Armenia 25825/05
Tunyan and Others v. Armenia 22812/05

Baghdasaryan and Zarikyants v. Armenia 43242/05

Ghasabyan and others v. Armenia 23566/05

Gharibyan and others v. Armenia 19940/05

Chiragov and others v. Armenia 13216/05

Amirkhanyan v. Armenia 22343/08

Under the cases above, violation of a person's right of free access to his/her funds was considered to result from failure to ensure full execution of final judgments. Also, the violations below were found: expropriation of property (owned property) for the State's needs in violation of the "as prescribed by law" clause, arbitrary termination of the right to use housing space and violation of the right to peaceful enjoyment of one's possessions. While the proceedings of execution of the judgments under most of the cases above are closed, the most clear-cut legislative regulations were made in this sector. Nevertheless, it should be noted that the issues related to the expropriation of property for State's needs cannot be considered resolved in RA yet.

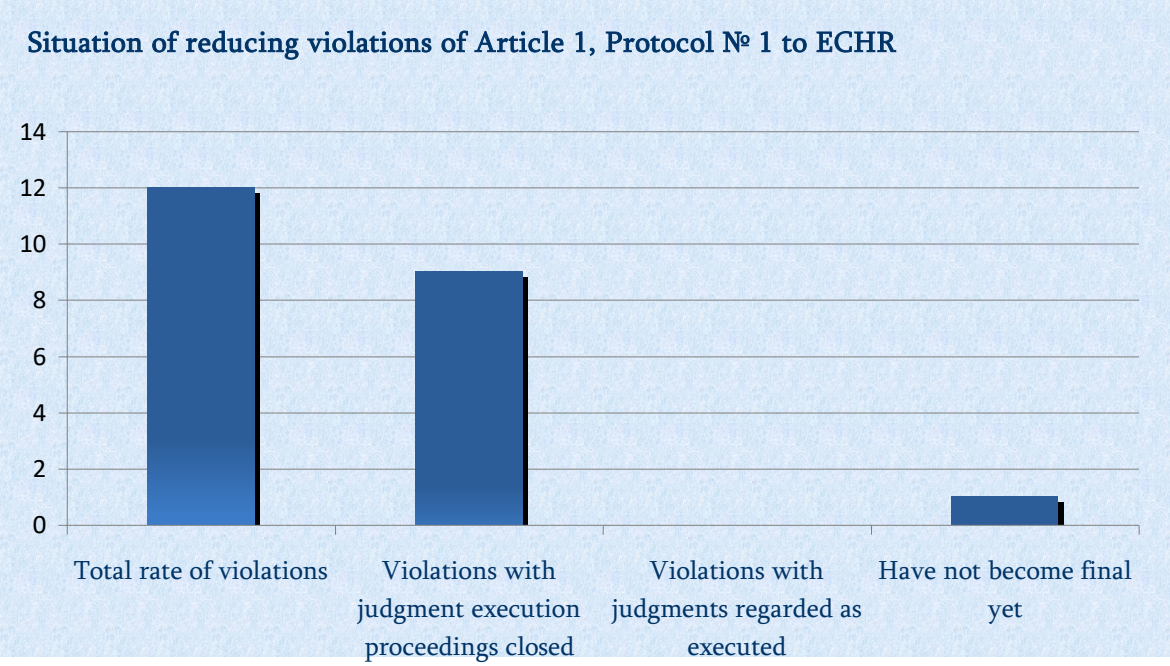

Chart 16

Study of Execution Status of Judgments under Individual Cases

Khachatryan v. Armenia 31761/04

Became final on	01/03/2010
Date of submitting Action Plan/Report	With delay 18.11.2014 (DD(2014)1419) 16.02.2015 (DD(2015)207)
Proceedings	Closed 12.03.2015 (CM/ResDH(2015)37)
Execution status	Not executed

In its judgment on *Khachatryan v. Armenia*, the Court found that the State took no necessary measures to execute the judgment in favor of the Applicant, which prevented the Applicants from receiving their full amounts. Consequently, this constituted a disproportionate interference with their right to peaceful enjoyment of their possessions.

On execution of the judgment see the comment on the actions against violation of Article 6(1) under Khachatryan v. Armenia.

Minasyan and Semerjyan v. Armenia 27651/05

Became final on	23/09/2009
Date of submitting Action Plan/Report	With delay 14.10.2015 (DD(2015)1088) 22.04.2015 (DD(2015)484) 30.05.2014 (DD(2014)776) 21.05.2013 (DD(2013)583)
Proceedings	Closed 12.03.2015 (CM/ResDH(2015)191)
Execution status	Not executed

In *Minasyan and Semerjyan v. Armenia*, the Court found that in case of the 1st Applicant the

expropriation of property (owned property) for State's needs was not performed "as prescribed by law" and in case of the 2nd Applicant the termination of the right to use the housing space was also arbitrary.

The RA Government submitted 4 action plans and report on this case: № DD(2013)583 on May 21, 2013, № DD(2014)776 on May 30, 2014, № DD(2015)484 on April 22, 2015 and № DD(2015)1088 on October 14, 2015. And by its Final Resolution № CM/ResDH(2015)191 of March 12, 2015, the CoE Committee of Ministers closed the examination of the judgment execution.

In its Action Report № DD(2015)1088, the RA Government provided information on the legislative changes it made (RA Law on Expropriation of Property for Public and State Needs adopted on April 18, 2006). Also, the RA Government invoked the position expressed in RA Constitutional Court's Ruling № ՍԴՈ-630 of April 18, 2006.

It is welcoming that in this Action Plan the RA Government also submitted statistical data, namely information on judicial practice.

Nevertheless, despite the submission above, it is noteworthy that the persons' ownership right is not fully protected yet in terms of expropriation of property for public and state needs in RA and this process is accompanied by arbitrary approaches. The State provides no guarantees to ensure full protection of the persons deprived of their property.[75]

Therefore, while the judgment execution process on this case was closed, it cannot be stated that it is fully executed.

Hovhannisyan and Shiroyan v. Armenia	**5065/06**
Became final on	20/10/2010
Date of submitting Action Plan/Report	With delay 14.10.2015 (DD(2015)1088) 22.04.2015 (DD(2015)484)

[75] See Joint submission by a Group of Civil Society Organizations to the UN Human Rights Council (21st Session of the Universal Periodic Review), pp. 28-30.

Proceedings	Closed 12.03.2015 (CM/ResDH(2015)191)
Execution status	Not executed

In *Hovhannisyan and Shiroyan v. Armenia,* the Court found that the termination of the Applicant's right to use of his/her housing space was arbitrary and unlawful.

On execution of the judgment, see comments on execution of Minasyan and Semerjyan v. Armenia judgment.

Yeranosyan and Others v. Armenia 13916/06

Became final on	20/10/2010
Date of submitting Action Plan/Report	With delay 14.10.2015 (DD(2015)1088) 22.04.2015 (DD(2015)484) 30.05.2014 (DD(2014)776) 21.05.2013 (DD(2013)583)
Proceedings	Closed 12.03.2015 (CM/ResDH(2015)191)
Execution status	Not executed

See comment on execution of Hovhannisyan and Shiroyan v. Armenia judgment.

Chiragov and Others v. Armenia 13216/05

Became final on	16/06/2015
Date of submitting Action Plan/Report	The 6-month term expired 16/12/2015

Proceedings	Not closed
Execution status	Not executed

In its judgment on Chiragov and Others v. Armenia, the Court found that regardless of whether the Applicants' houses could still be found on their place, yet the rights of all of them to the lands constituting "possession" within the meaning of Article 1, Protocol №1 were preserved; therefore, continuous deprivation of the Applicants of access to their property (as a result of which they lost the opportunity to control and use their property) constitutes violation of a person's right to peaceful enjoyment of his/her possessions.

The RA Government submitted no action plan or action report on this case.

Gharibyan and Others v. Armenia 19940/05

Became final on	13/02/2015
Date of submitting Action Plan/Report	With delay 14.10.2015 (DD(2015)1088)
Proceedings	Closed 12.03.2015 (CM/ResDH(2015)191
Execution status	Not executed

See comment on execution of Minasyan and Semerjyan v. Armenia judgment.

Ghasabyan and Others v. Armenia 23566/05

Became final on	13/02/2015
Date of submitting Action Plan/Report	With delay 14.10.2015 (DD(2015)1088)

Proceedings	Closed 12.03.2015 (CM/ResDH(2015)191)
Execution status	Not executed

See comment on execution of Minasyan and Semerjyan v. Armenia judgment.

Baghdasaryan and Zarikyants v. Armenia 43242/05

Became final on	13/02/2015
Date of submitting Action Plan/Report	With delay 14.10.2015 (DD(2015)1088)
Proceedings	Closed 12.03.2015 (CM/ResDH(2015)191
Execution status	Not executed

See comment on execution of Minasyan and Semerjyan v. Armenia judgment.

Danielyan and Others v. Armenia 25825/05

Became final on	09/01/2013
Date of submitting Action Plan/Report	With delay 14.10.2015 (DD(2015)1088) 22.04.2015 (DD(2015)484)
Proceedings	Closed 12.03.2015 (CM/ResDH(2015)191)
Execution status	Not executed

See comment on execution of Minasyan and Semerjyan v. Armenia judgment.

Tunyan and Others v. Armenia 22812/05

Became final on	11/02/2013
Date of submitting Action Plan/Report	With delay 14.10.2015 (DD(2015)1088) 22.04.2015 (DD(2015)484) 24.03.2015 (DD(2015)383) 02.01.2014 (DD(2014)308)
Proceedings	Closed 12.03.2015 (CM/ResDH(2015)191)
Execution status	Not executed

See comment on execution of Minasyan and Semerjyan v. Armenia judgment.

Antonyan v. Armenia 3946/05

Became final on	11/02/2013
Date of submitting Action Plan/Report	With delay 25.12.2013 (DD(2014)121) 10.03.2014 (DD(2014)325) 13.11.2014 (DD(2014)1395)
Proceedings	Closed 18.02.2015 (RES(2015)18)
Execution status	Executed

In its judgment on *Antonyan v. Armenia*, the Court found that the manner in which the domestic authorities rejected to cancel the registration at the Applicant's apartment of her niece's children (residing with their father in another town) by referring to an RA Government Decree and requiring that compensation was paid to the children, led to unpredictable application of the domestic law and did not comply with the principle of lawfulness and rule of law.

The RA Government submitted 3 action plans on this case, namely Action Plan № DD(2014)1395 of November 13, 2014, Action Plan № DD(2014)325 of March 10, 2014 and Action Plan № DD(2014)121 of December 25, 2013. And by its Final Resolution № RES(2015)18 of February 18, 2015, the CoE Committee of Ministers closed the examination of the case. In its Action Plans, the RA Government stated that in 2010 changes were made to the RA Government Decree № 821 of December 25, 1998 and the provisions serving as grounds for the rejection above became void. And the procedure for registration and deregistration of a person are stipulated by the RA Government Decree № 1231-N of July 14, 2005, Para 8.1 of which prescribes that a person shall be deregistered based on the owner's application or a court judgment. Also, the same judgment holds that minor children shall be registered, irrespective of whether there is written consent from the owner, at the place of registration of one of the parents or their lawful representative (Para 21). Considering that there is some certainty on the legislative regulations of this issue, it can be regarded as resolved.

Amirkhanyan v. Armenia 22343/08

Become final on	Has not become final yet
Date of submitting Action Plan/Report	----
Proceedings	-----
Execution status	-----

In *Amirkhanyan v. Armenia*, the Court found that the final court judgment recognizing the person's ownership right over a property may be considered "possession" in the meaning of Article 1 of Protocol № 1. Therefore, admission, examination and granting without any legal grounds of an appeal, resubmitted after having been once returned by the Cassation Court, which resulted in reversed final court judgment recognizing the ownership right above, was unlawful.

Violation of Article 3, Protocol № 1 to ECHR

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

As of December 31, 2015, in its judgments against RA, the ECtHR found violations of Article 3, Protocol № 1 to ECHR under one case, which makes up 1% of the upheld cases. The case in question is listed below:

Sarukhanyan v. Armenia 38978/03

Under the judgment above, the Court found that declaring registration of a deputy candidate invalid was unlawful; this was caused both by the legislative regulations and the formal interpretation of the law by the court. The legislation underlying the cause of the violation was amended.

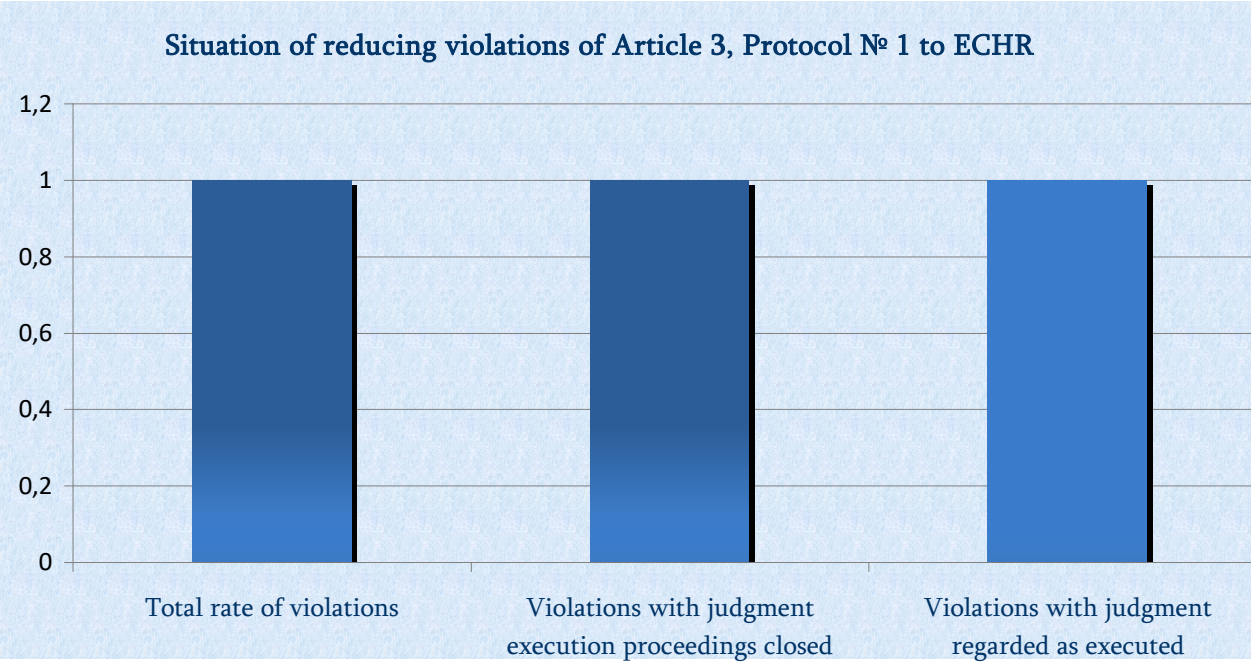

Chart 17

Study of Execution Status of Judgments under Individual Case

Sarukhanyan v. Armenia 38978/03

Became final on	27/08/2008
Date of submitting Action Plan/Report	With delay 16.07.2014 (DH-DD(2014)965)
Proceedings	Closed 10.09.2014 (CM/ResDH(2014)108)
Execution status	Executed

In its judgment on *Sarukhanyan v. Armenia*, the Court concluded that declaring the Applicant's registration as a deputy candidate invalid on the grounds that he had provided false information in the property declaration was disproportionate to the pursued lawful aim since there was no compelling evidence in support of the Applicant's intention, there were objective and adequate reasons justifying his mistake and his ownership share (which he did not declare) was insignificant.

On July 16, 2014, the RA Government submitted Action Report № DH-DD(2014)965 on this case. The examination of the execution of the judgment on the case was closed by the CoE Committee of Ministers Final Resolution № CM/ResDH(2014)108 of September 10, 2014. In its Action Plan, the RA Government stated that under the RA Election Code adopted on June 26, 2011, a property and income declaration was no longer a prerequisite for registration of a person as a candidate since the declaration should be submitted after the registration rather than before. Also, the Election Code prescribes no sanctions for failure to submit information and the requirement merely aims to ensure transparency.

Despite the legislative amendments mentioned in the Action Plan, which will reduce the risk of any further violations, it should be taken into account that the violation under this case was largely caused due to the formal and non-substantive application of the law by the courts of law.

Violation of Article 2, Protocol № 7 to ECHR

1. Everyone convicted of a criminal offence by a tribunal shall have the right to have his conviction or sentence reviewed by a higher tribunal. The exercise of this right, including the grounds on which it may be exercised, shall be governed by law.
2 This right may be subject to exceptions in regard to offences of a minor character, as prescribed by law, or in cases in which the person concerned was tried in the first instance by the highest tribunal or was convicted following an appeal against acquittal.

As of December 31, 2015, in its judgments against RA, the ECtHR found violations of Article 2 of Protocol № 7 under 8 cases, which make up 9% of the upheld cases. The cases are listed below:

Galstyan v. Armenia 26986/03
Tadevosyan v. Armenia 41698/04
Mkhitaryan v. Armenia 22390/05
Ashughyan v. Armenia 33268/03
Hakobyan and others v. Armenia 34320/04
Karapetyan v. Armenia 22387/05
Gasparyan v. Armenia (No. 2) 22571/05
Kirakosyan v. Armenia 31237/03

In all the judgments under the cases above, the Court identified the same issue: uncertainty in the procedures for review by a higher court of decisions on imposing administrative detention. Given that the institute of administrative detention was abolished and the Administrative Procedure Code prescribed clear-cut appeal mechanisms, this issue was resolved

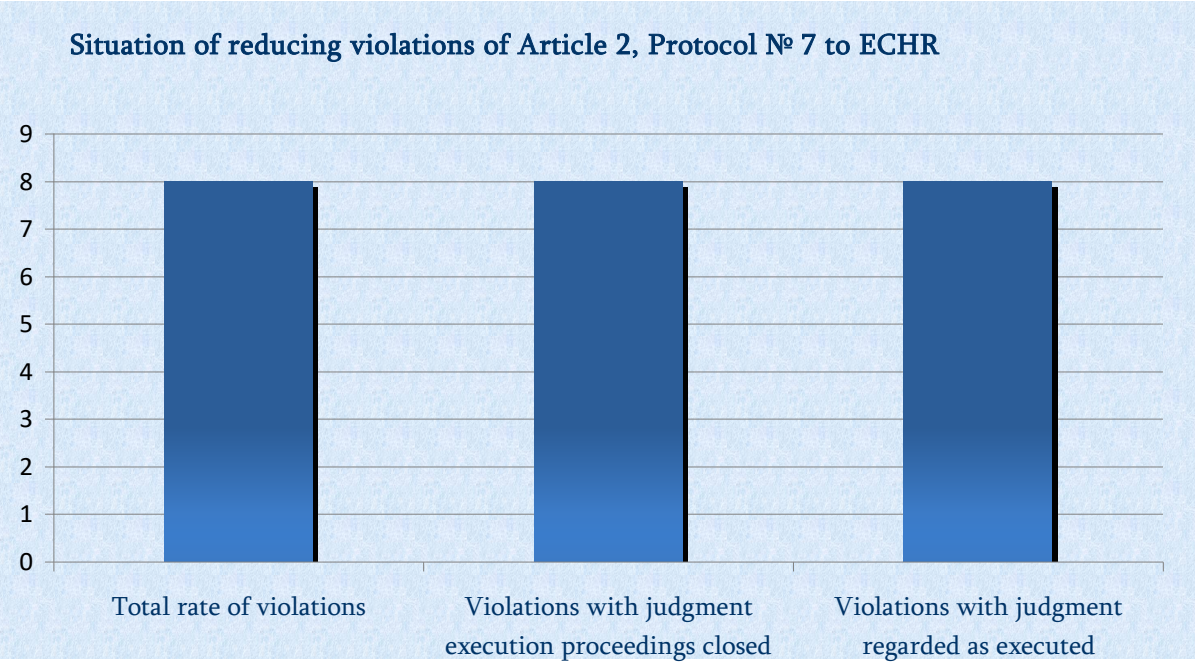

Chart 18

Study of Execution Status of Judgments under Individual Cases

Galstyan v. Armenia 26986/03

Became final on	15/02/2008
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Executed

In *Galstyan v. Armenia*, the Court found that the review procedure provided for in Article 294 of the Code of Administrative Offences did not grant the person a clear and accessible right to appeal. The right of the president of the higher court to review the decision had no clearly-cut procedure or

terms and there was no consistent practice of its exercise.

On April 16, the RA Government submitted Action Plan № DD(2015)434 on execution of the judgment on this case. In its Action Plan, the RA Government provided information on abolition of the institute of administrative detention and adoption of an upgraded RA Code of Administrative Procedure. The said Code provided for a number of guarantees to ensure the compliance of administrative proceedings with the general procedural procedures and the fundamental procedural rights.

On this part, the judgment can be regarded as executed.

Hakobyan and Others v. Armenia 34320/04

Became final on	10/07/2012
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Executed

See comment on execution of Galstyan v. Armenia judgment.

Gasparyan v. Armenia (2) 22571/05

Became final on	16/09/2009
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)
Proceedings	Not closed
Execution status	Executed

See comment on execution of Galstyan v. Armenia judgment.

Kirakosyan v. Armenia 31237/03

Became final on	04/05/2009
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420) 09.04.2010 (Action report)
Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)
Execution status	Executed

See comment on execution of Galstyan v. Armenia judgment.

Tadevosyan v. Armenia 41698/04

Became final on	04/05/2009
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420) 09.04.2010 (Action report)
Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)
Execution status	Executed

See comment on execution of Galstyan v. Armenia judgment.

Karapetyan v. Armenia 22387/05

Became final on	27/01/2010
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420)
Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)
Execution status	Executed

See comment on execution of Galstyan v. Armenia judgment.

Mkhitaryan v. Armenia 22390/05

Became final on	04/05/2009
Date of submitting Action Plan/Report	With delay 03.07.2015 (DD(2015)738) 18.11.2014 (DD(2014)1420) 09.04.2010 (Action report)
Proceedings	Closed 04.11.2015 (CM/ResDH(2015)169)
Execution status	Executed

See comment on execution of Galstyan v. Armenia judgment.

Ashughyan v. Armenia 33268/03

Became final on	01/12/2008
Date of submitting Action Plan/Report	With delay 16.04.2015 (DD(2015)434)

Proceedings	Not closed
Execution status	Executed

See comment on execution of Galstyan v. Armenia judgment.

Violation of Article 3 of Protocol № 7 to ECHR

When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed, or he has been pardoned, on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to the law or the practice of the State concerned, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

As of December 31, 2015, in its judgments against RA, the ECtHR found violations of Article 3 of Protocol № 7 to ECHR under one case, which makes up 1% of the upheld cases. The case in question is listed below:

Poghosyan and Baghdasaryan v. Armenia 22999/06

Under this case, the Court identified the issue of granting the convicted person non-pecuniary compensation for a miscarriage of justice; given the amendments of 2015 to the RA Civil Code, this issue can be regarded as resolved.

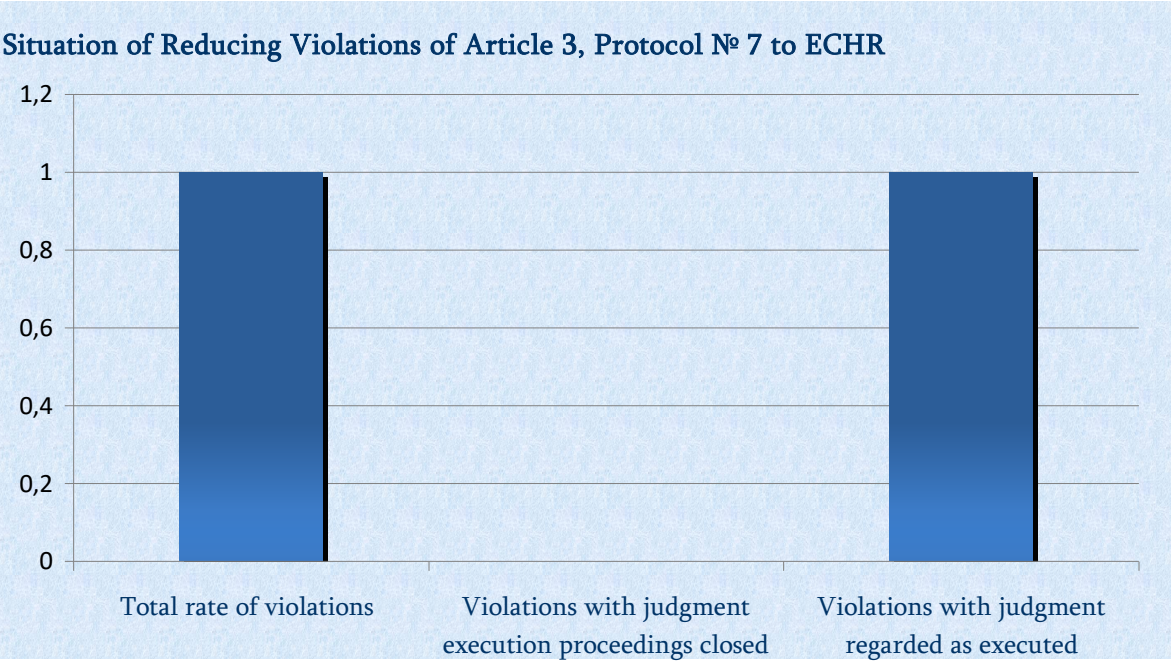

Chart 19

Study of Execution Status of Judgment under Individual Case

Poghosyan and Baghdasaryan v. Armenia 22999/06

Became final on	12/09/2012
Date of submitting Action Plan/Report	With delay 12.08.2013 (DD(2013)851)
Proceedings	Not closed
Execution status	Executed

In its judgment on *Poghosyan and Baghdasaryan v. Armenia*, the Court found that Article 3 of Protocol № 7 did not merely aim to redress pecuniary damage in case of wrongful conviction but also to provide the person wrongfully convicted with compensation for non-pecuniary damage. Therefore, when a person is convicted for a miscarriage of justice and when later such judgment is annulled by national courts based on new or newly discovered evidence, and the person seeks

compensation (for pecuniary and non-pecuniary damages), the failure to provide him/her with such compensation violates the said article.

On execution of the judgment, see comments on Khachatryan and Others v. Armenia judgment.

Summary

In recent years, the Republic of Armenia has adopted a number of reforms to ensure the mechanisms for execution of the European Court of Human Rights judgments. The Division for Execution of Judgments and Securing Conventional Requirements was set up under the Department of Relations with the European Court of Human Rights of the RA Ministry of Justice and the official website of the RA Government Representation before the European Court of Human Rights was launched; the website has a special section providing information on the progress in execution of ECtHR judgments.

Also, the recent years have seen intensified activities by the civil society to promote the execution of the European Court of Human Rights judgments.

Nonetheless, it cannot be argued yet, that adequate mechanisms for ensuring execution of the ECtHR judgments are in place in RA. In particular, adequate mechanisms for supervision of the execution of such judgments have not been secured yet. The competent standing committees of the RA National Assembly, namely the Standing Committee on State and Legal Affairs and the Standing Committee on Protection of Human Rights and Public Affairs have no powers to exercise supervision of the execution of the ECtHR judgments and within their mandate almost do not address the issues of full and substantial execution of such judgments.

While the violations found under ECtHR judgments have been remedied in some cases through relevant rulings of the RA Cassation Court or Constitutional Court even before the ECtHR issued its judgments, it should be stated that the lack of independence of the RA judiciary negatively affects the direct application of the ECtHR positions by the RA courts of law, which in its turn contradicts the ECtHR case law.

There are relatively few concerns over the individual measures envisaged by ECtHR judgments, including payment of just satisfaction.

The main concerns arise from the practices of providing incomplete solutions to systemic problems identified in ECtHR judgments. Particularly, while in a number of cases it seems at first sight that the State introduced systematic legislative changes and awareness campaigns, the actual impact of such changes and measures on the situation of protection of a specific right proves ineffective. In such cases, the execution of the judgments on specific violations was assessed as "Executed conditionally." In some cases, a number of legislative amendments were introduced to execute judgments, but the measures taken resulted in no real changes, and the violation of the right in question persists. In such cases, regardless of whether the CoE Committee of Ministers considered the judgment execution

proceedings as closed or not, we assessed such judgment on the part of said violation as "Not executed" (See comment on execution of Minasyan and Semerjyan v. Armenia judgment (Article 1, Protocol № 1).

Out of the 55 judgments examined, supervision procedure on 38 was closed, including on 11 judgments under Article 6; 9 judgments under Article 1 of Protocol № 1; and 8 judgments under Article 2 of Protocol № 7.

Under the 55 judgments above, 93 violations were identified, with the most of 24 violations under Article 6; 21 violations under Article 5; 12 violations under Article 1 of Protocol № 1; and 9 violations under Article 3. Out of the violations above, sufficient measures were taken under 36 violations (see Charts 20, 21, 22).

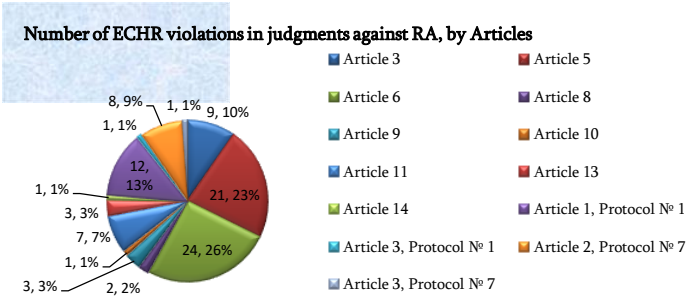

Chart 20

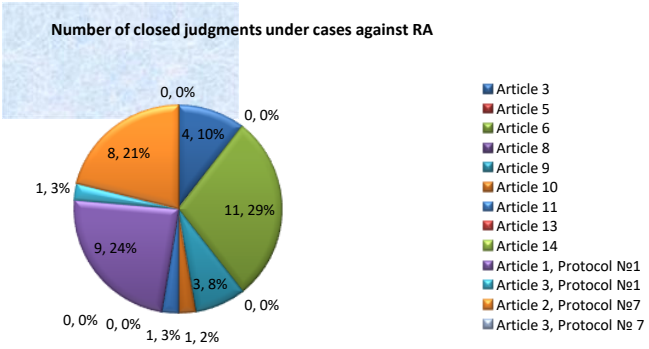

Chart 21

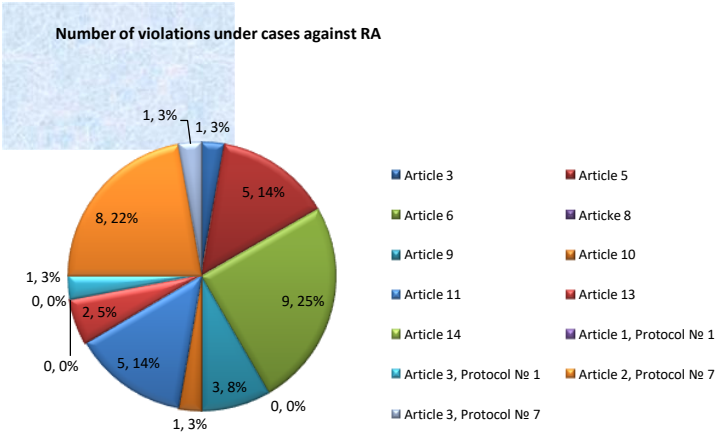

Chart 22

With regard to the execution of the European Court of Human Rights judgments on RA, the issues related to the protection of the rights below still require resolution.

Article 3, ECHR:

- inadequate medical care at penitentiary facilities;
- degrading detention conditions at detention and penitentiary facilities;
- use of torture by police officers and ineffective and inadequate investigation into incidents of torture by domestic authorities.

Article 5, ECHR:

- violation of the standard for lawfulness of detention and requirement for "reasonable time" of continued detention;
- lack of "well-grounded and adequate" evidence for detention and extension of detention period;
- violated equality of the parties during examination of motions on detention;
- violation of reasonable time limits for investigation into criminal cases;
- lack of full factual and legal rationale for court rulings on detention

Article 6, ECHR:

- breach of the reasonable time limits for duration of criminal proceedings;
- making the trial unfair by using evidence obtained through torture;
- inadequate factual and legal rationale for judgment

Article 8, ECHR:

- wiretapping procedures by special intelligence services not fully compliant with ECHR standards;
- issues of forcibly displaced persons after armed conflicts.

Article 10, ECHR:

- Inadequate transparency and independence of NCTR's activities

Article 11, ECHR:

- limitation of persons' opportunities to attend assemblies through restriction of their liberty or application of sanctions

Article 14, ECHR:

- lack of systematic legislative and law-enforcement measures to combat discrimination

Article 1, Protocol №1

- Issues related to expropriation of property (real estate) for the State's needs and arbitrarily termination of the right to use housing space

Proposals

Based on the findings of the Study, we hereby present the proposals below:

To CoE Committee of Ministers:

- When evaluating the execution of judgments on individual cases, request sufficient information to assess the impact of the measures taken by the Government;
- If the information on the execution of judgments on individual cases appears insufficient, turn to the national or international human rights institutions or the Applicants under relevant cases to receive necessary information on the elimination of the causes underlying the violation.

To RA Government:

- Ensure that competent officers of all the executive agencies in RA get familiar with the ECtHR judgments on RA and directly apply the positions expressed therein.

To Representation of the RA before the ECtHR and RA MoJ Department of Relations with ECtHR:

- Organize and hold regular consultations on execution of individual ECtHR judgments with Armenian civil society, Applicants under ECtHR judgments and their representatives;
- Involve civil society members in drafting of action plans;
- Ensure publication by the RA of Action Plans and Action Reports in Armenian;
- Apart from the description in Action Plans and Action Reports of the systemic measures taken to put an end to the violation in question, also cover the impact of such measures on any changes in the situation.

To Staff and deputies of the RA National Assembly, Standing Committee on State and Legal Affairs, Standing Committee on Protection of Human Rights and Public Affairs and other Standing Committees of the NA:

- Hold regular public hearings on the execution of European Court of Human Rights judgments and issues of ensuring protection of rights and restoration of violated rights;
- Lay down a requirement for the Representation of the RA before the ECtHR for submitting and publishing annual reports about its activities to the RA NA;

- Assign the NA Standing Committee on Protection of Human Rights and Public Affairs to supervise the execution by RA of ECtHR judgments and compliance of the legislative acts with the ECtHR case law.

To RA Council of Courts Chairmen, RA Cassation Court, RA courts of law:

- Ensure direct application of the European Court of Human Rights judgments throughout examination of cases;
- Carry out regular review of the application of ECtHR positions by courts of all the instances and disclose the findings of the review;
- Make relevant decisions to improve the application of ECtHR positions (to: RA Council of Courts Chairmen).

Along with the proposals above, we hereby suggest taking adequate and effective measures to resolve the pending issues to ensure full execution of the ECtHR judgments on RA (see Report Summary).

About HCA Vanadzor

Helsinki Citizens' Assembly-Vanadzor /hereinafter referred to as HCA Vanadzor/ is a non-political, non-religious, non-profit NGO, which unites individuals who acknowledge the supreme principles of democracy, tolerance, pluralism and human rights as values.

HCA Vanadzor was founded in 1998 as a branch of HCA Armenian Committee. It was registered in 2001 and re-registered in 2005 at the Ministry of Justice of the RA. The headquarters of the Organization is located in Vanadzor, Lori marz (region) center. The geographical scope of the Organization's activity covers both Lori Region and the entire Republic of Armenia.

The vision of HCA Vanadzor is to form a society based on the supreme values of human dignity, democracy and peace.

The mission of HCA Vanadzor is to support and promote civil initiatives and enhance rights protection and peace-building at the national and regional levels.

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