



LEGAL

SUMMARY

1

Armenia / Yerevan

April 2017 / April 2018

Dear colleagues ,

"New Generation" Humanitarian NGO (hereinafter referred to as the NGNGO) will now publish the "Legal Summary" report the main purpose of which is to represent the human rights activities carried out by the NGNGO for a given period.

In #1 Legal Summary You can get brief overview of the most fraudulent offenses between April 2017 and April 2018 and the legal support provided by the NGNGO on their behalf.

The next issue of the legal summaries will be published quarterly.

Best regards:



Sergey Gabrielian

President of "New Generation" Humanitarian NGO



Anahit Mkrtvhyan

Lawyer, Legal Advisor, "New Generation" Humanitarian NGO



Ara Gharagyozyan

Advocate on Criminal Cases, "New Generation" Humanitarian NGO



Maro Khachaturyan

Advocate on strategic matters, "New Generation" Humanitarian NGO



Hayk Hayrapetyan

Lawyer on civic cases, "New Generation" Humanitarian NGO

Terminology

Sexual orientation - Sexual orientation is an integral part of the individual's deep emotional, emotional and sexual attraction to others. Sexual orientation also refers to the self-esteem of those attitudes, behaviors, and belonging to the community formed by these attitudes.:

Gender identity - Gender identity is an individual's own perception of gender and personal experience that may or may not fit their biological gender. It is a category of social identity and refers to an individual's identification as a male, female, or other gender.

Transgender person - Transgender is a person whose gender identity and / or gender expression is different from the biological sex. A transgender person lives in accordance with his / her preferred gender, and medical intervention is not a requirement.

Trans woman – A man with a biological sex who is perceived to be a representative of the opposite sex (woman).

Bisexual man - Bisexual man is a man who has emotional and / or sexual attraction with two genders.

Homosexual man – Homosexual man is a man who has a deep emotional and sexual attraction, as well as intimate and sexual relationships and / or sexual desire with those of the same gender.

Case № 1

A person has been subjected to discrimination based on their sexual orientation and gender identity. The victim T. Q. was beaten because they was a trans woman.

On April 15, 2017, at 03:00 pm, the Applicant walked through Zakyan Street in Yerevan. He was walking alone in the park when three strangers followed them and subjected to physical violence. The next day, T. Q. applied to NGNGO for legal protection.

Actions taken by NGNGO

Lawyer Hayk Hayrapetyan provided the first legal aid, while lawyer Ara Gharagozyan ensured the representation of the victim in the body conducting the proceedings. Legal accompaniment was also provided in the provision of explanatory notes.

A criminal case has been launched under the Article 118 of the Criminal Code of RA, which is:

Battery or committal of other violent acts which did not cause the consequences envisaged in Article 117, is punished with a fine in the amount of up to 100 minimal salaries, or with arrest for the term up to 2 months.

T. Q. was recognized as a victim of the case. With the mediation of advocate Ara Gharagozyan, video recording of the scene was recorded. As a result of lack of sufficient evidence, the criminal case has been terminated.

Case № 2

RA citizen V.M., who is a bisexual man, has got acquainted with an unknown person near the Republic Square on June 5, 2017 at around 1:30 pm. Then, there was a sexual intercourse between them. During the time spent together with the victim, the violator told about him and asked to use the phone. In other words, he tried to gain confidence from the victim. On the same day at about 05:00 near the crossroad of Nar-Dos and Aghyusagortsner, not in a crowded place that person used violence against V.M. An unknown person brutally hit the victim on his head, back and sides. After the violence, according to preliminary data, the violator robbed the victim's mobile phone.

The victim appealed to his neighbors for help, but they threatened with violence and demanded to leave. On May 5, 2017, the victim appealed to NGNGO for help. The organization immediately responded to the request and provided the applicant with legal assistance.

Actions taken by NGNGO

The NGNGO Lawyer Hayk Hayrapetyan, has provided legal advice to the applicant, particularly that he has the right to apply to the Investigative Committee for reporting a crime and to file a civil suit for compensation. After clarification, V. M., along with Lawyer Hayk Hayrapetyan, was present at the Erebuni Police Department where they reported the incident. The following day, V.M. applied for a forensic examination based on the investigative decision and to assess the damage. Then, the NGNGO Lawyer Ara Gharagozyan, submitted an application for the victim's rights to obtain a ruling on the initiation of a criminal case.

V.M. was recognized as a victim of the case. After the advocate's mediation the victim's phone was found, but the person who committed the crime was not disclosed and detained. Preliminary investigation of V.M.'s health damage continues and necessary investigative actions are being taken. The NGNGO Lawyer Ara Gharagozyan has appealed the investigator's inaction, taking into account the unfounded delay of the time limit. The case is under preliminary investigation.

Case № 3

The applicant M.T. is a transgender woman. On 2 December, 2016 near the "Caucasian Tavern" restaurant complex she was subjected to violence by police, in particular, one of the policemen hit the victim's face, causing him physical pain. The person applied to the police for the protection of her rights, but the police showed intolerant attitude and inaction to him.

Actions taken by NGNGO

On 8 December, 2016, M.T., , participated in a procedural action together with NGNGO Lawyer Ara Gharagozyan in the Central Division of the Police RA. The latter gave a written explanation to the investigator about the incidents of violence by the police.

According to the 309th article of Criminal Code of Armenia:

1. Actions willfully committed by an official which obviously exceed his authorities and caused essential damage to the rights of citizens, organizations, state or legal interests (in case of property loss, the amount (value) exceeding 500 minimal salaries), are punished with a fine in the amount of 300 to 500 minimal salaries, or with deprivation of the right to hold certain posts or practice certain activities for up to 5 years, or with arrest for the term of 2-3 months, or with imprisonment for the term of up to 4 years.
2. Same actions committed with violence, weapons, or special measures, are punished with imprisonment for the term of 2 to 6 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

3. The same act which negligently caused grave consequences, is punished with imprisonment for the term of 6 to 10 years, with deprivation of the right to hold certain posts or practice certain activities for up to 3 years.

Finishing the explanation, the victim M.T. presented a report on the crime together with the NGNGO lawyer Ara Gharagozyan in the same section. Materials prepared for M.T.'s report were sent to the prosecutor of the Kentron and Nork-Marash administrative districts who proclaimed the criminal case No. x on December 12, 2016, which was filed with Part 2 of Article 309 of the RA Criminal Code and sent to the RA Special Investigative Service.

On 16.12.2016 the investigator of the Special Investigative Service of RA, Dohoyan, has made a decision on recognition of M.T. as a victim.

On 13 January, 2017, NGNGO lawyer Ara Gharagozyan participated in the interrogation of the victim together with M.T. in the RA Special Investigation Service. As a victim, M.T. gave detailed instruction on the case. According to the lawyer Ara Gharagozyan, he stated in his testimony that the police beat him and illegally deprived of his liberty due to his sexual orientation and gender identity.

On 01.03.2017 M.T. has taken part in the confrontation, as a result of which he has recognized the policemen who have been subjected to violence. The police confirmed the fact that they had been detained, but denied that they had been subjected to violence.

The investigator made a decision to terminate the criminal case. This decision was appealed to the prosecutor by the NGNGO Lawyer. The prosecutor also denied the lawyer's appeal. The prosecutor's decision was appealed to the Court of General Jurisdiction of Arabkir and Kanaker-Zeytun administrative districts. The court rejected the plaintiff's appeal. The court's decision was appealed to the Appeals Court.

Case № 4

NGNGO beneficiary transsexual woman P.A. and her girlfriend transsexual woman H.V. have lived in a jointly rented apartment. H.V. got acquainted with a man through a social network and acquired a meeting arrangement. The latter agreed to meet for a certain amount of money. Visiting and finding that H.V. is a male partner, the stranger has refused to pay the promised amount, reasoning that he has assumed that H.V. is a female partner. He then said that the pictures posted on the social network are false and do not correspond to reality. The suspect H.V. and the stranger argued with each other while the beneficiary of NGNGO, P.A., heard the quarrel from the neighboring room and went out of the room and tried to persuade the victim that the latter either use H.V.'s service or pay the amount of money and leave. The victim continued to refuse the payment. Then, according

to the victim, Suspected H.V. threatened the victim with a knife and demanded the amount of money, the victim paid and left the apartment.

A criminal case has been initiated on the case. During the preliminary investigation, a crime scene was searched and as a result a knife was confiscated, which was a subject of crime. The preventive measure was chosen to not leave by the signature.

Actions taken by NNGGO

A criminal case has been instituted against P.A. by Article 34-176 of the RA Criminal Code.

A person applied to the NNGGO for legal assistance. NNGGO lawyer Ara Gharagyozyan was involved in the case. A criminal case has been instituted against P.A. by Article 34-176 of the RA Criminal Code.

A criminal offense shall be deemed to be a direct intentional act (inaction) which is directly aimed at committing a crime if the offense has not been completed by circumstances beyond the will of the person.

The robbery, the apparent kidnapping of another's property, is punished with a fine in the amount of 200 to 600 minimal salaries, or with arrest for the term of up to 2 months, or with imprisonment for the term of up to 3 years.

During the pre-trial investigation, the NNGGO lawyer Ara Gharagyozyan sent an application to the Investigative Department of the RA to present the evidence available. Accompanied by an advocate, the victim participated in the procedure of explanation. Then there was a confrontation, which was also attended by lawyer Ara Gharagyozyan.

As a result of the investigation carried out by the investigator, it was found out that there is no actual crime carried out by the accused P.A., on the basis of which the criminal case was decided to be terminated.

Case № 5

NNGGO beneficiaries Trans women A.A., S.P. and A.S. were on Zakyán Street on the day of the incident, where the victim A.Z. stopped in his black BMW next to them. The passenger R.H. tried to photograph the accused A.A., S.P. and A.S. The defendants exhorted not to photograph them but all in vain. Then the victim cursed the accused, who in turn cursed him. Then, the victim came out of the car and hit S.S., attacked A.S. and tried to drown. Then, R.H., who was in the car, drove the car and left the place. Police officers came to the place together with the victim. The victim has shown the accused and a criminal case was subsequently instituted under the Article 258 (4) of the RA Criminal Code.

1. Hooliganism, gross negligence of public order, which has been expressed in a public disrespectful attitude, is punished with a fine in the amount of up to 50 minimal salaries, or with arrest for up to one month.

4. The act envisaged in parts two or three of this Article, committed with the use of weapons or objects used as weapons, is punished with imprisonment for the term of 4 to 7 years.

Actions taken by NGNGO

Within the framework of the criminal case against the accused, the investigator filed a motion to impose arrest warrant. The court has satisfied the motion. NGNGO lawyers Ara Gharagyozyan and Hayk Hayrapetyan have filed appeals, which resulted in a decision to dismiss the arrest as part of a pretrial detention facility and to replace the pledge. The decisions taken against others have remained in force.

Upon termination of arrests, NGNGO lawyer Ara Gharagyozyan applied to the court for refusing to extend the term of arrest and arrest warrant for making a decision to replace the detention, but the court rejected the motion.

Then confrontations took place between the legal advisers of the NGNGO lawyers Ara Gharagyozyan and Hayk Hayrapetyan, between the accused, the victims and the witnesses.

After filing a petition on extending the term of arrest, the court ruled that the petitions would be prolonged. The NGNGO lawyer Ara Gharagyozyan has appealed the court's decisions to the Court of Appeal, then to the Court of Cassation and the ECHR.

The European Court of Human Rights has registered and numbered the complaint regarding A.S., which is a violation of Article 5 of the ECHR.

By the way, in March 2018, defendants S.P. and A.S. had attempted suicide by injecting saliva in the Nubarashen penitentiary. The lawyer Ara Gharagyozyan reported on the case to the RA Prosecutor General on suicide on the grounds of hatred.

The case is now under way.

Case № 6

On 10 April, 2018, on the Zakyan street of Yerevan, an unknown car approached the beneficiary of NGNGO transsexual woman P.S. A person leaving the car attacked the beneficiary and beat her.

The beneficiary applied to the police department.

The beneficiary has not been subjected to a forensic medical examination due to absence of passport.

Police officers claim that there are no cameras in the area.

The victim lodged a complaint to the Center's Police Department and appealed to the NGNGO for legal assistance.

Actions taken by NGNGO

Taking into account the fact that there is not enough evidence in the case, the lawyer Anahit Mkrtchyan commented on the possible outcomes, abstention or reconciliation of the case.

It was recommended that the accused be compensated for the damage caused to him by taking 500,000 Armenian drams in the presence of the police officers in order not to commit acts of extortion.

Beneficiary P.A. also had passport-related problems. The beneficiary has also been commented on the procedure for obtaining a passport.

Case № 7

On April 11, 2018, the police detained the RA citizen Mashtots Police Department, RA citizen B.K., who is a homosexual man, without commenting on what he was charged with. B.K.'s phone, necklace, belt were seized.

In the Mashtots section the beneficiary was beaten and tortured to accept his guilt in committing the crime.

The beneficiary has not been asked what kind of procedural status he has.

The beneficiary approached the "New Generation" Humanitarian NGO office with a personal identification document to seek legal assistance.

Actions taken by NGNGO

Anahit Mkrtchyan, "New Generation" Humanitarian NGO's lawyer, provided legal advice to the victim.

The latter commented that the theft is established under Article 177 of the RA Criminal Code.

Theft, clandestine appropriation of somebody's property in significant amounts, is punished with a fine in the amount of 100 to 400 minimal salaries, or correctional labor for 1-2 years, or arrest for the term of 1 to 2 months. Or with imprisonment for the term of up to 2 years.

Then, the lawyer Ara Gharagozyan was involved in the case.

Ara Gharagyozyan has sent an oral question to the Human Rights Defender to find out B.K.'s procedural status.

The HRD informed that B.K. was involved in a criminal case as a suspect. The case is under preliminary investigation.

Case № 8

On April 15, 2018, trans person K.K. was stabbed in her rented apartment at about 2:30 pm.

The latter had a meeting arrangement with a man with whom they had got acquainted from the internet. The unfamiliar person abused K.K.'s trust, entered their apartment, drank and chatted. Then, when the victim K.K. turned with their back to the stranger, the latter pulled the hair of K.K. and hit them in the neck with a knife. The knife was pierced into the throat of K.K.

The unknown person left the house, taking the victim's phone (iphone 7), the keys of the Mitsubishi car and the jacket.

When the stabber left, the victim exhaustedly removed the knife from their throat and crawled to the next door. The neighbors urgently responded, called an ambulance and helped the wounded before doctors could approach.

K.K. was taken to the intensive care unit of the Erebuni Medical Center where he was operated on at 06:20 am.

The doctors demanded about 300,000 AMD for medical interventions from accompanying people.

Actions taken by NGNGO

The victims applied to NGNGO. "New Generation" Humanitarian NGO immediately proceeded to apply to the Ministry of Health, then to Erebuni Medical Center, providing sufficient arguments to provide free medical care. As a result of the NGO's intervention, the victim's medical aid was fully provided free of charge.

"New Generation" Humanitarian NGO provided an advocate to Victim XX. A criminal case has been initiated. The case is under preliminary investigation.

Case № 9

"New Generation" Humanitarian NGO beneficiary A.S. was dismissed from compulsory military service because of being homosexual in 2011, but as in all other cases, this time also the reason for the release of conscription was on the basis of mental illness.

Beneficiary A.S. acquired a driver's license in 2013 legally. Having been informed that his driving license lost force on 08.08.2016, A.S. applied to RA Police asking for the provision of a relevant act adopted, in response thereto the respondent said: "In response to the application received on XX.XX.XXXX, I declare that you are involved in the 2010-2012 list of mentally disabled people as mentally ill, sent by the Military Commissariat of RA to Traffic Police".

Taking into account the Article 29, paragraph 1, Sub-paragraph b of the RA Law on road safety,

MG XXXXXX driving license issued under your name is considered invalid (force lost).

Actions taken by NNGO

The plaintiff X.X applied to the court. His spokesperson noted that the registration of the A.S. driver's license in the RA Police Electronic Registry by the Armenian Police has not been legitimate, it violates A.S.'s right to respect for private life and non-discrimination. In this situation, discrimination has been manifested both by law and by the executor of law.

The administrative body was obliged to take into account the legal provisions of the RA Constitution and international acts, prohibiting discrimination and not applying the legal norm that is in force by the fact of contradiction.

On April 4, 2018, the Administrative Court of Armenia, presided over by Judge Liana Hakobyan, made a fair judgment on the administrative case in favor of the "New Generation" Humanitarian NGO beneficiary X.X.

Basing on the above-mentioned, the administrative court has decided:

1. To satisfy the claim of plaintiff against the Service of Road Police of RA about the decision of considering X driver's Number MG license invalid in the Electronic Registry of Police RA.
2. To consider invalid the record of Police of RA "Road Police" Service in Electronic Registry of Police of RA about declaring the plaintiff's X driver's Number MG license invalid and also to consider invalid Number X writing of "Road Police" of the Police of RA service chief E. Karapetyan.
3. To confiscate 4000 AMD from "Road Police" of the RA for the benefit of X.X as a pre-paid state fee.

Case № 10

In another case, the citizen had a problem concerning donation contract. He wanted to find out if it was possible to recognize a donation contract invalid, if yes, then in what cases.

Actions taken by NNGO

Consultations were provided by the NGNGO lawyers. Particularly, Article 594 of the RA Civil Code has been submitted.

1. Under the contract of gift one party (the donor) without compensation transfers or undertakes the duty to transfer to the other party (the donee) property in ownership or a property right (or claim) against itself or against a third person, or frees or undertakes the duty to free it from a property obligation to itself or to a third person.

In case of a reciprocal transfer of property or a right or a reciprocal obligation the contract is not a contract of gift. The rules provided by Paragraph 2 of Article 306 of the present Code shall be applied to such a contract.

2. A promise to transfer without compensation to anyone property or a property right or to free anyone from a property duty (a promise of a gift) is a contract of gift and binds the promisor if the promise is made in the proper form and contains a clearly expressed intention to make in the future a non-compensated transfer of property or of a right to a concrete person or to free it from a property duty.

3. A promise to give all of one's property or part of all property without an indication of a concrete subject of gift in the form of property, a right, or freeing from a duty is void.

4. A contract providing for the transfer of a gift to the donee after the death of the donor is void.

The rules of the present Code on inheritance shall be applied to such a gift.

Case № 11

In another case, the NGNGO beneficiary has been subjected to psychological violence by a family, especially from his father, for which he has left the house. The latter needs shelter, food and clothing.

He wants to find a job, but he does not know whom to ask for.

Actions taken by NGNGO

The beneficiary's application on granting asylum, food and clothing was presented to the President of the NGNGO, Sergey Gabrielyan. The beneficiary was provided with financial support.

The Beneficiary has been provided with data from the Yerevan Department of the Employment Agency to contact them.

In case of necessity, an application will be made for the beneficiary to the Mayor of Yerevan.

Case № 12

The NGNGO Beneficiary wanted to clarify that sexual violence against homosexual man can be described as rape.

Actions taken by NGNGO

The NGNGO lawyer explained to the Beneficiary that sexual harassment against men can not be qualified as rape, as the RA Criminal Code provides explicit description of rape (rape, male sexual intercourse with a woman against her will or threaten to use violence against her or another person or by using the helplessness of the woman, is punished with imprisonment for the term of 3 to 6 years).

Instead, the act may be qualified as sexual violence (sexual activity, including sexual acts, with the threat of violence against a victim or another, or using a victim's helpless situation, is punished with imprisonment for three to six years term).

Case № 13

The NGNGO beneficiary passed an appropriate medical examination at the local and provincial conscription commissions. On 19.06.2017 the beneficiary was to be present at the Republican Conscription Commission, where a final decision had to be made to release him from compulsory military service due to his health condition.

Actions taken by NGNGO

NGNGO lawyer Anahit Mkrtchyan accompanied the beneficiary Gor Hovhannisyan to the Republican Conscription Commission to take legal action in case of possible unlawful acts. According to preliminary data, the Republican Conscription Commission has passed a decision regarding Gor Hovhannisyan's release from compulsory military service due to his health condition.

Case № 14

The Beneficiary is registered in 27 a, Tigran Mets, Ashtarak.

He wants to get out of the register and get a passport at his actual address.

Actions taken by NGNGO

The beneficiary has been told that the person is removed from the registration:

- 1) on the basis of the owner's application or judgment of the court;
- 2) in case of death of a person or recognized as dead by a court decision,

3) In the case of leaving the Republic of Armenia for the purpose of permanent residence of the person without citizenship of the Republic of Armenia, in case of notifying the local registry of its registration place in writing.

Case № 15

The NGNGO beneficiary is 18 years old. The latter wanted to know if individuals were released from compulsory military service on the basis of sexual orientation and gender identity.

Actions taken by NGNGO

Anahit Mkrtychyan, NGNGO lawyer, commented on Article 8 of Appendix 2 to the RA Minister of Defense's April 4, 2013 N 410-N Decree.

Includes personal and behavioral disorders, including specific and mixed disorders, habits and inclinations, sexual identification disorders, sexual preference disorders, sexual and mental development disorders, and psychological and behavioral disorders.

Paragraph "A" refers to expressed and non-compensable forms.

Paragraph "B" refers to disorders of personality with frequent decompensation, as well as repeated situational and personal reactions, whose frequency is 3 times or more in a year.

Psychopathic reactions are examined by Article 2.

More than 300 (three hundred) legal advice was provided by "New Generation" Humanitarian NGO during the above mentioned period.

