

Summary: Examination of Judicial Acts against Yerevan Municipality



“The Protection of Rights without Borders” NGO, with the financial assistance of the National Democratic Endowment (NED) has been implementing the Project on “Improvement of Judicial Reforms: Improvement of Public Administration Quality: Is Armenia Creating a New Reality”.

In the scope of the Project, an examination of the cases adopted into proceeding against Yerevan Municipality and administrative districts of Yerevan, have been conducted, one of the aims of which is to raise the systematic problems related to the systematic administration problems recorded by Court.

In particular, 274 decisions out of 787 decisions registered in the Court in 2019 and 2020 respectively and adopted by Court until June 30 of 2020, as well as 228 discontinuation decisions out of 882 appeals have been analysed.

68% of the examined cases have been satisfied completely or partially.

In case of 76% of the examined cases, the decisions on subjecting to administrative liability have been disputed.

40% of the examined cases related to disputing of the administrative penalty implied for the failure to pay the state duty fee for parking the vehicle in a paid community parking area.

In the outcomes of the conducted examination, a number of similar systematic problems have been recorded, in regard to which the RA Administrative Court has issued a clear approach and reported about the applied legislation and conditioned by the latter about the requirements, the quality of the evidence and the applied deadlines in regard to the implementation of administrative proceeding.

Cases of the violations of the right to proper administration, right to ownership and the right to be heard have particularly been recorded.

It was also recorded, that in case of 60% of the examined cases filed against Yerevan Municipality (mainly dispute cases) neither the applicant nor the respondent ensured presence at the court sittings.

Yerevan Municipality and the administrative districts did not ensure participation during the examination of the case by 84% of the overall cases (231 cases) and by the examined 109 cases on

disputing of the administrative penalty implied for the failure to pay the state duty fee for parking the vehicle in a paid community parking area the representatives of Yerevan Municipality did not participate in the relevant sittings held in court.

According to the examination, the RA Administrative Court recorded the following problems, which had continuous nature, particularly.

- the failure to conduct comprehensive examination, including the failure to ensure the exercise of the right to be heard, including the failure to make the alleged accused a participant to the elaboration process of the protocol, failure to explain his/her rights and obligation, as a result of improper notification about the sitting of the proceeding
- Application of the normative act with lower legal force
- Presenting irrelevant evidence and subjecting to liability in case of the absence of criminal evidence or the presence of confirmed criminal evidence
- Failure to maintain the deadlines for the implementation of administrative proceeding
- Exercise of the discretionary authority with the violation of the principals of proportionality and arbitrariness
- Failure to maintain the statute of limitations for subjecting to liability.

As shown by the outcomes of the examination conducted by the Organization, despite the adoption of various decisions by the RA Administrative Court and making statements about the recorded similar problems, Yerevan Municipality does not change any aspect in its adopted policy.

Yerevan Municipality continues to ignore the problems recorded both by the RA Court of Cassation and RA Administrative Court respectively by adopting similar decisions with the same procedural violations, which lead to essential and gross violations of human rights, in the outcomes of which the state carries damages, since in the outcomes of instituting and satisfying such appeals, the state spends human and financial resources.

It was also recorded, that Yerevan Municipality recognizes the administrative act instituted on its initiative annul with the expectation that the court will reject the appeal.

In the mentioned case, judicial expenditure is formulated, if the Court receives a decision after the adoption of appeal into proceeding, regardless the deadline of adoption.

According to the RA Code on Administrative Offences, the applicant is released from the obligation to pay state duty fees by the dispute cases on the imposition of penalties, as prescribed by the RA Code on Administrative Offences.

The majority of the appeals by the relevant examined cases were satisfied by the RA Administrative Court based on the similar grounds.

As a result, necessary expenditure was made for the examination of the case, as well as for satisfying the demand to compensate the representativeness expenditure, which exceeds the amount of the penalty for a few times.

In the scope of the Project, Yerevan Municipality was recommended to meet and discuss the detected problems, however that recommendation was rejected and the approach was expressed in a letter, which is attached to the report (see attachment 1).