

RESEARCH ON THE LEGALITY OF THE RIGHT TO RESTRICTION OF PRIVATE FREEDOM IN THE CONTEXT OF THE STATE OF EMERGENCY DECLARED IN THE REPUBLIC OF ARMENIA

In the outcomes of the state of emergency declared in the Republic of Armenia within the period of March 16 of 2020 to April 14¹ of 2020, as well as prolonging it until May 14 of 2020, serious restrictions of human rights and fundamental freedoms were recorded.

The RA authorities had to take serious measures to prevent the prevalence of the Coronavirus disease (COVID-19) and to have control over the given situation.

During the pandemic, many countries initiated relevant measure to prevent the disease, however the legislative aspect regulating the measures differ from country to country. The state of emergency declared in the country revealed a lot of legislative gaps. In this regard, in order to fill the gaps, the RA National Assembly adopted laws, including criminal and administrative sanctions for the violation of the restriction rules for isolation or self-isolation or the right to freedom of movement in terms of the state of emergency.

The Commandant also adopted decisions, which regulates the restrictions of rights and freedoms during the state of emergency in Armenia.

However, the legislative aspect remains without proper actions, particularly in the sector of restricting the rights of the citizens for the prevention of the Coronavirus disease.

At the same time, a number of citizens were subjected to administrative liability for violating the rules defined for the restriction of freedom in the context of the Coronavirus pandemic.

Up till now, the Armenian authorities assessed the mentioned restrictions as a restriction of the right to freedom of movement², however, as shown by the analysis of the applied measures, citizens who were given an instruction for isolation or self-isolation are actually subjected to the restriction of the right to freedom of movement taking into consideration the intensity of the restriction.

¹ The RA Government Decree N 298-Ն, dated March 16 of 2020 on the State of Emergency in the Republic of Armenia, available with the link <https://www.arlis.am/DocumentView.aspx?docid=140392>, The RA Government Decree N 543-Ն, dated April 13 of 2020 on Extending the Deadline of the State of Emergency Declared in the Republic of Armenia and Making Amendments and Supplement in the RA Government Decree N 298 dated March 16 of 2020 available with the link <https://www.arlis.am/DocumentView.aspx?docid=141255>.

² The decisions of the Commandant: The decision N 16, dated March 24 of 2020 (inactive) on the restrictions of movement in the Republic of Armenia, available with the link <https://www.arlis.am/DocumentView.aspx?DocID=140682>; The Decision N 27, dated March 31 of 2020 on the restrictions applied in the Republic of Armenia, available with the link <https://www.arlis.am/DocumentView.aspx?DocID=141596>

Armenia exercised its right not to apply the norms of the international agreements, particularly articles of the European Convention on Human Rights, as well as Article 9 (right to freedom), Article 12 (right to freedom of movement) and Article 21 (right to freedom of assemblies) respectively of the International Covenant on Civil and Political Rights.

The Republic of Armenia legislation³ envisages an opportunity to restrict certain human rights under the condition of the state of emergency, including the right to freedom of movement, right to freedom of expression, right to immunity of private and family life, right to freedom of communication and restriction of the right to confidentiality. However, the law does not stipulate restriction of the right to freedom. The RA Government elaborated a package of legislative amendments to envisage the restriction of the right to freedom, which was filed to the RA Parliament under urgent order and was included in the agenda⁴ of sitting envisaged for April 28 of 2020.

Taking into consideration, the above mentioned, it should be stated, that the restriction of the freedom of the citizens, who were subjected to self-isolation by the order of the Commandant, as well as subjecting the latter to administrative liability for the violation of the mentioned regime were illegal.

³ Article 4 of the RA Law on State of Emergency, <O-106-Ն, entered into force on 05.05.2012, available with the link <https://www.arlis.am/DocumentView.aspx?DocID=140775>

⁴ Making amendments and supplements in the RA Law on “State of Emergency”. Making Amendments in the RA Law on “Normative Legislative Acts”, available with the link <http://www.parliament.am/agenda.php?lang=arm>