EUROPEAN UNION FOR ARMENIA

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Protection of Rights Without Borders NGO

Summary

Examination of the Judicial Practice of Labor Cases: Labor Rights Issues

The given report was prepared by the "Protection of Rights without Borders" Non-Governmental Organization in the scope of the "EU4LabourRights: Increasing Civic Voice and Action for Labor Rights and Social Protection in Armenia" project (hereinafter referred to as the Project). The Project is implemented in collaboration with "OxYGen" Foundation, "Socioscope" NGO, "Asparez" Journalists Club NGO, Media Diversity Institute – Armenia and "Armenian Progressive Youth" NGO in partnership with the "Protection of Rights without Borders" NGO and Eurasian Partnership Foundation, respectively. The Project is financed by the European Union.

The content of the document belongs solely to "Protection of Rights Without Borders" and may not coincide with the views of the European Union, "OxYGen" Foundation, "Socioscope" NGO, "Asparez" Journalists Club NGO, Media Diversity Institute – Armenia, "Armenian Progressive Youth" NGO and Eurasian Partnership Foundation.

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In the scope of the Project, approximately 496 cases on employment relations were monitored, 384 decisions out of which were civil and 112 decisions were administrative cases, as well as 123 decisions were on discontinuation of the case.

265 decisions related to the dismissal on both disciplinary and non-disciplinary grounds. The majority of the applicants within civil cases on the *non-disciplinary grounds* were female (58%) representatives and the majority of applicants by administrative cases were male (74%) representatives. The majority of the cases without a representative was rejected.

In the majority of monitored cases, both parties ensured participation to the judicial hearing.

In the monitored cases, regardless the grounds of dismissal, both similar problems, which are general for all dismissal cases and problems conditioned by concrete characteristics for dismissal were recorded.

In the dismissal cases on the ground of reduction of positions, it was recorded, that the employees were not provided with the employment contracts or/and with the decrees on the dismissal, the employees were not notified properly (including, the notice did not contain the relevant information about the dates of elaborating and delivering of the notice), it is unclear whether the notice contains information about the dismissal or the change of the essential

conditions of employment and/or about the expected reductions, dismissal (the order, deadlines of the notice were not maintained, the employee was noticed after the adoption of the decision on dismissal, the notice did not contain the information, as envisaged by legislation, etc.), the necessity for reducing the number of employees or the positions in case of prerequisites prescribed by the Labor Code was not justified.

In cases of the prerequisites defined by the RA Labor Code, the reductions were actually of artificial nature and the given position was reduced after a short period of time: the dismissal was not conditioned by the changing of the conditions of production capacity and/or economic and/or technological and/or organization of labor, the employer did not offer other job to the employee neither did inform the employee about the impossibility of offering another job opportunity, the legal and/or the factual grounds were missing from the dismissal order, the dismissal orders were adopted during non-working days.

There were also cases, when the employment contract was rescinded at the end of probation period, when the employee was informed about pregnancy, the deadline to recall the notice on dissolving the contract by the employee prescribed by law was not maintained, rescission of an employment contract upon the consent of parties was not signed, the employee was dismissed on the ground of expiry of the employment contract in case, when the employment contract should be considered as concluded on an indefinite time limit basis, employment contracts on a fixed time limit basis were concluded for carrying out activities of permanent nature (multiple extension, failure to notify about the extension, etc.), the employment contract was dissolved on the ground of pension age, in case when such a provision was not prescribed by the employment contract, the employment relations under other type of contract were concealed, for example concluding a service provision contract, failure to conduct an evaluation before the dismissal on the ground of employment incompatibility, etc.

A number of problems conditioned by the characteristics of the applicable legal norms have been recorded, for example, reduction without conducting attestation, failure to comply with the right to preference, etc.

It was recorded, that the Court did not have unified approach in terms of applying Article 214 of the Republic of Armenia Civil Procedure Code. In a number of cases the Court recorded, that the violation of Article 214 of the RA Civil Procedure Code is already a ground to declare the decision invalid. However, it should be noted, that not in all cases the Court refers to the availability of legal and factual ground: sometimes, the claim is satisfied based on another ground. In some cases, if the first instance court did not refer to the mentioned issue, the Court of Appeal recorded the problem and highlighted the obligation to mention the legal and factual grounds, respectively.

In the cases on the dismissal on the basis of changing the essential grounds of employment, the Court considered whether the respondent had notified the employee about the new employment conditions, as well as about the changing of the essential grounds of employment and generally whether the employers had notified or had considered the circumstance of the changing of the essential grounds of employment, the failure of the respondent to present evidence on the evidence of changing the essential grounds of employment, the failure of the employee to agree with the new employment conditions etc.

In the cases of dissolving the employment contract upon the mutual consent of the employer and the employee in the outcomes of the prescribed probation period, the Court confirmed that the probation conditions should be clearly envisaged in the contract, it should also be mentioned, which party initiated the probation period to understand which party shall evaluate the outcomes of the probation.

In the cases of dissolving the employment contract upon the mutual consent of the employer and the employee in the outcomes of the prescribed probation period, the Court evaluated the expression of will, the fact of written consent, as well as the maintenance of the timeframe prescribed for withdrawing the notification on rescinding the employment contract,

if relatable. It should be noted, that upon the consent of the parties to have a written consent on the dissolving of the employment contract, the Court did not have a unified approach: by one case the Court considered it obligatory by another case did not refer to the issue.

The Court also applied a different approach in evaluating the role of the dismissal decision issued by the employer, whether it's is sufficient or it cannot be considered as a ground of agreement about the proposal presented by the employee. The Court also evaluated whether the deadlines prescribed by the Republic of Armenia Labor Code were maintained, including in the context of withdrawal of the notice by the employee and their consequences.

In the monitored cases it was recorded, that in order to avoid the protection provided to the employee envisaged in the relevant legislation, the employers continued to conclude contracts for certain period of time using the vague legislative regulation and by giving an illegal interpretation to Article 95 of the RA Labor Code, respectively.

The Court considered different factors while evaluating the time limit of the employment contract, including the failure to indicate the expiry of the employment contract, extension of the terms of contract for more than twice, continuity, the lack of change in the work of the employer, employee, an agreement to extend the term of the contract, the failure to conclude by the applicant, etc.

The Court confirmed, that the extension of the contract on certain terms concluded with the employee of pension age does not make it concluded for a certain period of time. In case of employees working on mutual basis, the Court highlighted that Article 95 of the Labor Code does not imperatively regulate the cases of concluding contracts on certain period of time, rather it exhaustively envisages the cases, when the employer has the right to conclude employment contracts on uncertain time period.

In the cases of appealing the decision on rescission of an employment contract in case of incompatibility with the position held or work performed, the Court satisfied the appeals, in the scope of which, the lack of the professional knowledge of the employee was not justified, an evaluation of the compliance of the employee's professional skills was not conducted, a job

opportunity compliant to the qualification and health condition of the employee was not offered or the decision was adopted with the violation of the prescribed relevant deadlines.

In a number of administrative cases, the Court recorded that the appealed circumstances are not regulated by the legislation regulating public service, therefore in these cases the provisions of the RA Labor Code are applicable, which were not applied by the administrative body. For example, during the temporarily unemployment, the relations in regard to rescission of a civil servant from his/her position, early notification on rescission of an employment contract on the ground of reduction, labor relations, which arise between the person holding a discretional position and the new direct supervisor after the changing of the direct supervisor within a one-month period when the relevant appointment to the new position is not made and other issues. Both in civil and administrative cases, a number of violations were recorded, which related to dismissal as a result of structural changes in the given institution. In the satisfied appeals, the Court recorded the artificial nature of reductions, violations of the order of notifying the employee, the lack of legal and factual grounds in the decisions, the failure to offer another job opportunity to the employee according to his/her relevant qualifications, health condition and other issues.

Particularly, the Administrative Court recorded the following issues: the position was reduced, however another job was not offered under the conditions, when the relevant attestation was not ensured, by the results of which the incompatibility of the applicant to the position would be decided or it would be impossible to move the employee to another position, a decision on reduction as of the moment of sending the notice on dismissal was not adopted, the order of notice on dismissal was violated, the failure to maintain the two-month deadline, the reduction were of artificial nature, etc.

In a number of monitored cases, the Court recorded, that the notices are not in compliance with the requirements prescribed by Paragraph 3 of Article 115 of the RA Labor Code and accordingly, the obligation envisaged by Paragraph 2 of Article 113 of the RA Labor Code is not properly implemented.

In a number of cases, the Court recorded the practice of artificial reorganization of public institutions, as a result of which, a number of employees were dismissed with violation.

In a number of cases, the Court made a reference to the issue of making another job offer or to the impossibility to do so and recorded a number of violations in this regard. First of all, the Court highlighted the importance of offering the employee another job opportunity or making the impossibility of doing so a matter of discussion. According to the Court, in case of the impossibility to offer another job it is important not only to make a notice about it but also to justify the latter, for example present the results of the attestation.

However, the Court did not apply a similar approach to the issue whether the employer, in case of availability, is obliged to offer an equal position, that is, the Court not in all cases evaluated the issue of the availability of the equal position while offering a lower position.

The appeal procedure by the dismissal from administrative and discretional positions were more challenging. As mentioned in the applications, the dismissed employees did not receive the dismissal decisions, did not know about the factual and legal grounds, as well as the requirements on the dismissal from a discretional position, prescribed by the law, were violated. It should also be noted, that in a number of cases on the dismissal of administrative positions, the Court had a different approach in terms of the scope of discretional powers and their application.

Thus, in the monitored cases, the Court recorded that the right to appoint and dismiss the deputy heads of a state institutions adjunct to the Republic of Armenia Government is under the absolute discretion of the Republic of Armenia Prime Minister and for the application of the mentioned power, the legislative branch has not defined any condition, that is, no additional circumstances can be mentioned in this regard.

Based on the same ground of dismissal, the Administrative Court with another composition expressed exactly the opposite approach, stating that the authority of dismissal vested to the RA Prime Minister cannot be interpreted in such a way, that the later can arbitrary, under subjective circumstances terminate the employment relations with a person

holding an administrative position: a subjective, legally defined basis should be available for such dismissal. The Court did not have a unified approach while discussing the legal ground for dismissal. Thus, the provision with similar content *(the deputy head of the state institution adjunct to the Ministry is appointed and dismissed by the relevant minister, upon the recommendation of the head of the relevant state institution adjunct to the given ministry)* was considered by the Court and the Court of Appeal as a provision defining the authority in case of the availability of grounds in legislative level and not as a ground for dismissal.

In the cases on the dismissal on the disciplinary basis, the respondents were state non-profit organizations, non-profit community organization, medical centers, regional administrations, ministries, as well as closed joint-stock companies, etc. The majority of the monitored cases, over 60 cases (64%) were submitted against the respondents of state/community bodies, respectively.

The Court elaborated conclusions on satisfying the decisions in such basis, as the failure to submit relevant evidence within the deadline and order, as prescribed by the Criminal Procedure Code (including the evidence confirming the facts of the individual appeal legal acts), lack of sufficient and/or credible and/or related evidence provided to justify the legal ground mentioned in the decisions, the legal and factual grounds presented in the appealed decision to change, dissolve the employment contract or to subject the employee to disciplinary liability or the circumstances for the failure to mention the both aspects, the violation of the order by other normative legal act or by internal legal act, the violation of the deadlines for subjecting to disciplinary penalty prescribed by the RA Labor Code etc.

Moreover, the overall lack of legal and factual grounds, as well as the incompleteness or the unjustified grounds of the mentioned factual and legal grounds were considered as basis for satisfying the appeal.

According to the outcomes of the monitoring in regard to the dismissal on the disciplinary ground, the decisions adopted by the employers were annul, if the court had detected that there were such procedural violations, as demanding explanation before

applying disciplinary penalty or a reasonable deadline to submit the explanation was failed to provide or the explanation was requested in improper manner or the employer had not initiated measures to deny the circumstances reflected in the explanations by the applicant (in case of administrative cases, when it was confirmed that a proper service investigation by the case had not been conducted).

The decisions were recognized annul mostly also on the ground, that the factual and/or legal grounds were missing or the latter were incomplete. In this regard, the Court presented controversial observations related to the issue whether only the noting of the necessary legal grounds can be interpreted as the presentation of its factual grounds.

The decisions were recognized annul also in cases, when the deadlines to subject the person to disciplinary liability were expired or the person was dismissed during the vacation period or the person was subjected to liability for a deed which is not in the scope of his/her job duties or in case, when the employer subjected the employee to double liability for the same deed.

In terms of double liability, the Court applied a controversial practice for dismissing the employee on the double liability basis, which was connected to the availability of particular legislation framework regulating the work relations in different sectors.

In a number of group cases, the Court also referred the grounds, that in the scope of disciplinary proceeding, the guilt of the employee, the results, the severity and the circumstances of the act or to the issue that the imposed disciplinary penalty does not strictly comply with the committed act. In some cases, the Court recognized the decisions annul, highlighting that the employer did not present grounded evidence justifying the disciplinary violation.

The Court had particularly more observations related to the legislative regulations for dismissing the employees on the basis of the lack of trust towards the later.

By the cases on the dismissal of employees on the basis of lack of trust towards them, the courts had different interpretations on the issue of the applicants carrying out teaching

and educating functions, as well as to the interpretation of carrying out carrying out teaching and educating functions, for which the employers subject the employees do disciplinary penalty and fire them.

The ill-practice of the employers was noticed in terms of dismissing the employee on the ground of Article 122, considering the employees (for example doctors) in charge of providing monetary or commodity functions, who caused material damage to the latter. There were cases, when employees were fired for disclosing bank, trade secrets, however, according to the Court, did not obtain any information that the disclosed data was secret.

The 38 cases out of 384 monitored civil cases related to the *issues of compensation of salary and other payment,* including for mandatory idleness, monetary compensation for the unused annual leaves, overtime work, unemployment, payment of dismissal benefit, as well as late payment of such payments.

In a number of cases, the applicant raised the issue of concluding a fictitious deal for the purpose of concealing the factual employment relations under the contract on the provision of services, as well as for avoiding the exercise of the employees' guaranteed rights. The mentioned demands were presented both separately and by combination.

31 cases (82%) out of the above mentioned 38 cases were examined at the Yerevan First Instance Court of General Jurisdiction. The examination of the cases by the Court lasted for 4-19 months.

In the mentioned group cases, the Court, while satisfying the appeals considered the availability of the employment contract, the failure by the respondent to present objection or the failure to present evidence on final settlement, the information provided by the State Revenue Committee, that the employee was dismissed, but a final settlement was not conducted.

The monitoring recorded, that the applicants demanded to apply the Article 411 of the RA Civil Code, which envisages a penalty for the failure to carry out the monetary obligation. In this regard, it was mentioned, that a special rule for salary, unemployment, dismissal benefit

is envisaged by Article 198 of the RA Labor Code, therefore Article 411 of the Republic of Armenia Civil Code is not applicable in this case.

The appeals filed to the RA Administrative Court mainly related to the issues as the demand to compensate salary and other payments of unused annual vacation, working on Saturdays without remuneration, unpaid salary and other relevant issues. The cases on the compensation of the unused annual leave during the years were mainly filed by the military and penitentiary servants. As we can see, both in public and private sectors, the guarantee of the right to annual leave is considered problematic.

Moreover, the employers not only do not ensure relevant conditions for employees to use the annual leave, but also avoid to remunerate the employees while firing them. By the cases, when a forfeiture on the compensation for the damage was presented, the Court satisfied that demand by referring Article 198.

In the scope of the Project, 114 cases on *confirming the facts of legal significance in labor issues* filed to the Court of General Jurisdiction, from which 95% of cases were satisfied. There was a necessity to confirm the fact, since there was a difference between the personal data reflected both in the employment record and in the passport, absence of the employment record and other type of documents envisaged by legislation or lack of relevant record in the employment record document, errors in the employment record document or availability of other issues or incompliance of the data to the envisaged order under the conditions failing to maintain the records in archive, lack of the relevant documents prescribed by the RA Government on the obligatory social payments for the relevant timeframe or the failure to present the relevant justified document of the lack of the relevant legal decisions confirming the work experience, in case of the availability of the employment record because of the lack of archive documents, the applicant needed to confirm the mentioned evidence according to the legislation of another country.

In the monitored cases, a non-unified approach was recorded in terms of a number of issues, including the status of the Social Security Service (Service) in terms of confirming the

work experience, presentation of objection by the Service as a means to evaluate the availability of the dispute and by its consequences, the confirmation of the work experience within the time frame of 1992-2013 in case of the lack of evidence on payment of social fees.

It should be highlighted, that the Court did not apply a similar approach in regard to confirming the work experience within the time frame of 1992-2013, if there is no evidence on the payment of social fees.

In the majority of the cases, the Court noted, that under the conditions of the lack of documents confirming the social payments and the receipt of the salary, the work experience is confirmed at the court.

Taking into account, that the procedure of forwarding the cases is not applicable by Criminal Procedure Code, people in vulnerable groups get into a worse situation, since they miss the deadlines envisaged for submitting administrative appeal and they are subjected to double material damage, including the state duty fee and the fee of the representative, respectively to restore their rights. In this regard, simplified and accessible court procedures are needed.

In the scope of the Project, 25 cases on *appointing pension, including calculation of work experience for pension* were examined. By the mentioned cases, 21 cases (84%) were satisfied, from which 17 cases were satisfied completely. The cases related to the payment of less paid pension fee, the recount of the pension including the longer work experience, out of which 2 cases related to the recount of the pension of the court, appointment of pension under preferential conditions, appointment of age pension, the resumption of the payment of a suspended pension and the appointment of a partial pension.

In the mentioned cases, the Service did not count the work experience by the following reasons: in case of the application for preferential or partial pension, the profession mentioned in the employment record is not envisaged by the relevant RA Government decree enabling the relevant benefits, false (not reliable) data were detected in the pension cases, the title pages and the registration on the period of the work of the employment record of the

person deported from Azerbaijan are registered by the Social-Economic Department of the RA Migration Service and confirmed by the stamp of "The Committee for Receiving and Accommodating Armenians Returning to Armenia", the employment record book which was lost because of the Earthquake of 1988 was filled in during a later deadline, which also included the previous work experience and the archive document are not maintained, the deadline, for which the applicant did not receive salary was not included in the work experience, for which the applicant did not receive salary, information on the payment of social fees was missing, in the context of receiving pension under preferential conditions, the applicant had a joint contract, the stamp of the employment record book was unreadable and the relevant documents were missing from the National Archive of Armenia, etc.

It is notable, that in some cases the Service did not even consider the work experience, which had been confirmed beforehand by the Court of General Jurisdiction.

In the mentioned cases, the main issue was that in case of proper record in the employment record book, the Service did not confirm one part of work experience for the following reasons: the complete or the partial information on the payment of social fees by the employers were missing from the database of the state pension system and the records on the payment of the employer's salary were not saved, the application on opening an individual account and the personified record were missing, including in case of Yerevan Criminal Court, the working months were not included in the employment record, for which the applicant was not paid, even in case when the name of the applicant was mentioned in the salary record book, but the salary is not calculated.

Based on the results of the monitoring, the Service applied an artificial approach in cases, when the name mentioned in the employment record book was not compliant to the list of professions as prescribed by relevant legislation. The Court highlighted, that it should be important to note, whether the factual work obligations are compliant to the professional work responsibility envisaged by legislation or not and the incompliance of the name cannot be

considered a justified ground for rejection. In this regard, the Service could detect the circumstances through obtaining explanations from employers.

According to the monitoring results, the courts of general jurisdictions did not apply similar approach in terms of *the levy of state duty* in the same group cases both in case of the applicant who is exempt from paying state duty fee and in terms of the state duty fee for the derivative demands, even though it is envisaged by Article 22 of the RA Law on "State Duty", that the applicants are exempt from paying state duty fee by the disputes on salary and other relevant payments.

Thus, by 11 cases out of 244 civil cases (114 cases on confirming the evidence and 14 cases on the compensation of caused damage are not included) the Court did not record that the applicant is exempt from paying the state duty fee, from which 5 cases related to the dismissal, including on the disciplinary ground, 4 cases to final settlement, the levy of the salary and other payments and the 2 cases related to the provision of decision on dismissal, respectively.

Moreover, the two appeals on the request to provide the decision on the dismissal were returned by the Court, since a document confirming the payment of the state duty fee in a line with the relevant order and amount envisaged by the law was not attached to the appeal and the intervention to grant a privilege for payment is also missing.

By the satisfied cases on the dismissal, the Court, besides the amount of money fixed for the non-property claims of duty, confiscated from the respondent also the money for mandatory idleness and for the impossibility to restore the previous job in the amount of 2% of the compensation money. However, in that regard, the Court did not apply a similar approach.

It should be mentioned, that by the civil cases, the Court highlighted that in case when the applicant is released from the obligation of paying state duty fee, the same privilege is not applicable in terms of the respondent, in this case the employer. At the same time, some cases were recorded when the Court did not apply similar approach in case of charging the amount

of state duty fee from the respondent, under similar factual circumstances (unpaid salary, final settlement).

In one case the Court, among other issues, obliged the respondent to forfeit the levy of execution on penalty as defined by Article 198, however the Court recorded, that the fixed money in the amount of 7.282.18 AMD should be confiscated from the respondent in favor of the RA state budget in case, when by another case, the Court decided that a state duty fee in the amount of 2% from the confiscated money from the responded to the RA state budget should be confiscated.

In contrast to the civil cases at in the half of the administrative cases, the Court found that the applicant was not exempt from paying the state duty fee.

Thus, in 53 cases out of 112 administrative cases, the applicants were not exempt from paying the state duty fee, from which 25 cases related to the appointment of the pension/recount, 14 cases to the dismissal from public service, including also on the disciplinary ground, without the consent to transfer to another position, 8 cases to the levy of the salary and other payments, 3 cases to the appeal of the disciplinary liability, 1 case to the transfer to another position without consent, 1 case to recognizing the result of the competition annul, 1 case to the provision of the conclusion elaborated in the exam results, etc. It should be mentioned, that the Court did not apply a similar approach by the above mentioned grounds in terms of being exempt from paying state duty fee.

Thus, in the 5 out of 13 monitored cases on the levy of the salary and other payments, the Court recorded that the applicants were legally exempt from paying the state duty fee and by 8 cases, the later were not exempt from paying the state duty fee.

The applications filed to the RA Administrative Court mainly related to the issues as the demand to compensate salary and other payments of unused annual vacation, working on Saturdays without remuneration, unpaid salary and other relevant issues.

The cases on the unused annual vacation during the years were mainly filed by the military and penitentiary servants. As we can see, both in public and private sectors, the guarantee of the right to annual leave is considered problematic.

The mentioned 5 cases related to the working in the Ministry of Defense on Saturdays without remuneration, compensation of unused annual vacation, the levy of damages calculated on the amount of forced downtime and the levy of unpaid wages, mandatory idleness.

In 8 cases, from which the applicant was not exempt from paying the state duty fee related to working on Saturdays without remuneration, the compensation of the unused annual vacation, the levy of damages calculated on the amount of forced downtime.

For example, in 2 out of 6 monitored cases on working on Saturdays without remuneration, the Court found that the applicant was legally exempt from paying the state duty fee, since according to point “a” of Article 22 of the RA Law on “On State Duty”, the applicants are exempt from paying the state duty fee in the courts by the cases of the payments of salary and other equal payments, therefore no legal expense for state duty fee is recorded.

In other cases, which related to working in the Ministry of Defense on Saturdays without remuneration, the applicant filed a mediation to prolong the deadline for paying the state duty fee, which was satisfied by the Court. The appeal by the mentioned case was satisfied and the Court adopted a decision, according to which the obligation for the compensation for the judicial expenses, state duty fee bears the Ministry of Defense and the latter is obliged to pay a compensation in the amount of 4000 AMD to the applicant as a state duty fee for submitting an appeal.

In contrast to civil cases, in case of satisfying the appeals in administrative cases, when the applicant was legally exempt from paying the state duty fee and did not pay it, the Court, as a rule, but not in all the cases, did not charge the state duty fee from the respondent and recorded that the issue of state duty fee should be considered solved and made a reference

to the RA Court of Cassation Decision (see RA Court of Cassation Decision N ՎԴ/1115/05/16, dated 30.10.2018).

It is notable, that by certain civil cases, the Court in cases of the availability of certain demands, including recognizing the decision on dismissal annul, restoration of the previous job and compensation of the average salary, considered the later as 3 separate demands, including: 1 cases related to the compensation of money from the respondent in the amount of 8000 AMD and 2% of the charged money, in other case recognized the demand to recognize the decision as main, and the restoration demand as derivative, for which 4000 AMD was confiscated, however, the demand on the levy of the mandatory idleness was again recognized as a main monetary claim.

In case of derivative claims, including the compensation of mandatory idleness, in contrast to civil cases, the RA Administrative Court does not charge the money in the amount of 2% subject to confiscation.

As we can see both in civil and administrative cases, the Court did not apply unified approach on the issues of being exempt from state tax duty in case, when such privilege is envisaged by legislation.

As shown by the outcomes of the monitoring, the Court overall kept the three-day deadline to accept the appeal into proceeding, prescribed by Article 211 and the deadline prescribed by Article 210 of Civil Procedure Code to examine the cases on employment disputes was not maintained at all. It should be mentioned, that such a particular deadline is not prescribed by legislation in terms of cases being investigated in administrative procedure order, as a result of which different approach was applied in terms of dispute resolution in public and private sectors, respectively.

The monitoring of the cases on the dismissal (dismissal, applying of disciplinary penalty, final settlement, by the administrative cases include the work experience for service record) lasted from 3 months to 2 years and more. The case which lasted for 2 years and 2 months related to appealing the decision on dismissal from public service.

According to the monitoring results, the three-month time limit for resolving the disputes as set by the legislation was not ensured. Thus, only 13 (12%) cases out of 106 monitored cases on dismissal on non-disciplinary ground were resolved after the adoption of the appeal into proceeding, within three-month period, out of which only 5 cases were satisfied. The other 93 cases were solved only after 4 months, within 23 months.

107 civil cases were monitored, by which 62 decisions on discontinuation ((37%) were adopted, out of which 22 decisions were on conciliation ground and 45 appeals (42%) were left without examination. 16 administrative cases were monitored, by which decision on discontinuation was adopted and in regard to which decisions on discontinuation were adopted.