



HELSINKI CITIZENS' ASSEMBLY-VANADZOR



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## REPORT

The RA state competent bodies' conduct, in terms of respect for human rights principles, in criminal cases initiated during call-ups, criminal cases based on avoidance of call-ups, appeals of conscript-related decisions and claims for compensation for damage to the health of early discharged servicemen

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## Introduction

Based on the special regime of compulsory military service and the closed status of the Armed Forces, Helsinki Citizens' Assembly-Vanadzor (hereafter also referred to as "the Organization"), finds crucial ensuring protection of human rights and implementation of civilian oversight over the Armed Forces, which also stems from Article 14 of the RA Constitution, enshrining that the Armed Forces are under civilian oversight.

As a number of the Organization's studies show, human rights violations in the Armed Forces start during the call-up and it is necessary to have oversight since that very phase, with the purpose of protecting conscripts' rights and restoring their violated rights.

It should be mentioned that point 27 of the OSCE Code of Conduct on Politico-Military Aspects of Security enshrines that each participating State will ensure that the recruitment or call-up of personnel for service in its military, paramilitary and security forces is consistent with its obligations and commitments in respect of human rights and fundamental freedoms.

According to the CoE Parliamentary Assembly's Recommendation 1742 (2006) on human rights of members of the armed forces, the army is the institution which is responsible for protecting the state and defending the community. According to point 2 of the Recommendation, members of the armed forces are citizens in uniform who must enjoy the same fundamental freedoms and the same protection of their rights and dignity as any other citizen.

Studying legislation related to the sphere, taking into account the data of legal aid that the Organization has been providing to persons subject to military enlistment, conscripts, servicemen and contractual servicemen, cadets, officers, discharged servicemen and contractual servicemen, early discharged compulsory-term servicemen and contractual servicemen and their family members, as well as relatives of servicemen killed, we hereby address the conduct of bodies related to them.

It should be mentioned that systemic statistical data has been available since 2010. Statistical data on the problems of representatives of the above-mentioned groups who applied to the Organization in 2010-2019 were presented in the report "Conduct of the RA state bodies

during call-ups”.<sup>1</sup> Below is presented statistical data regarding representatives of the above-mentioned group that applied to the Organization in 2020 and 2021:

In 2020 and 2021 (as of July 31), 249 persons applied to the Organization to get legal aid, of whom

- 16 persons subject to military enlistment,
- 98 conscript,
- 73 servicemen serving their compulsory military service,
- 1 cadet,
- 6 contractual servicemen,
- 7 officers,
- 2 officers discharged from military service,
- 1 officer discharged early from military service,
- 7 citizens who have not served military service by violation of the established procedure,
- 31 persons registered in the reserve,
- 5 servicemen discharged from their compulsory military service,
- 4 citizens exempted from compulsory military service,
- 16 early discharged servicemen,
- 3 early discharged contractual servicemen,
- 7 relatives of killed servicemen,
- 15 relatives of missing servicemen,
- 1 relative of a prisoner of war,
- 1 worker of the military hospital.

Human rights-related problems of the listed persons were mainly related to the activity of the following RA state bodies:

- The RA Ministry of Defense,

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<sup>1</sup> [https://drive.google.com/file/d/1lzCYtY\\_tg1pZPG6mfGUq5HnyCaAdIE2q/view](https://drive.google.com/file/d/1lzCYtY_tg1pZPG6mfGUq5HnyCaAdIE2q/view)

- Central Medical Commission,
- Central Military Medical Commission,
- General Staff of the RA Armed Forces,
- Military Medical Department of the RA Armed Forces,
- The RA MoD Conscription and Mobilization Service and territorial subdivisions,
- Garrison investigative divisions of the RA General Military Investigation Department of the Investigative Committee,
- The RA Ministry of Labor and Social Affairs and medical social expert examinations office,
- The RA Ministry of Education, Science, Culture and Sports,
- Insurance Foundation for Servicemen.

When protecting rights of the above-mentioned group who applied to the Organization to get legal aid, we deal with various state bodies, in particular, regarding notifying citizens subject to military enlistment about their compulsory military service, military training gathering or mobilization, their health state examination, provision of medical conclusions on their health state, decisions regarding fitness for military service, state bodies' activity, their attitude, medical and other documents.

Protection of the rights of persons subject to military enlistment, conscripts, servicemen serving their compulsory military service and contractual servicemen, cadets, officers, (early) discharged servicemen and contractual servicemen, contractual servicemen and officers who applied to the Organization to get legal aid also involved

- Administratively and judicially appealing decisions, actions and inaction concerning the mentioned persons,
- Provision of legal aid in criminal cases initiated based on avoidance from military service call-up,
- Provision of legal aid in the frame of a claim for compensation for the damage caused to an early discharged serviceman or unlawful conscription,

- Provision of legal aid to secure the right to social security or monetary compensation of participants of military operations or their family members.

Currently, 19 cases regarding persons of the above-mentioned group are in proceedings in the RA courts. Out of those cases,

- 7 cases are in proceedings in the RA Administrative Court,
- 3 cases are in proceedings in the RA Administrative Court of Appeals,
- 6 cases are in the proceedings in the RA General Jurisdiction Court of First Instance (civilian cases),
- 3 cases are in proceedings in the RA General Jurisdiction Court of First Instance (criminal cases).

Out of the mentioned 19 cases

- 5 court cases were initiated in 2017,
- 3 court cases were initiated in 2018,
- 2 court cases were initiated in 2019,
- 5 court cases were initiated in 2020,
- 4 court cases were initiated in 2021.

The report presents information regarding the conduct and approaches of the RA Ministry of Defense and its competent divisions, RA MoD Conscription and Mobilization Service and Territorial Subdivisions, medical commissions, medical organizations, garrison investigative bodies, the RA Administrative Court, the RA General Jurisdiction Court of First Instance.

We hereby present the issues that citizens encountered, and we also singled out problems that arose during the Covid-19 pandemic.

## **1. Conduct of the RA MoD Conscription and Mobilization Service, its territorial subdivisions (previously called "military commissariats")**

During call-ups, the RA MoD Conscription and Mobilization Service territorial subdivisions play an important role in informing persons subject to enlistment and conscripts. Nevertheless, military commissariats do not properly implement actions they are supposed to perform, in particular,

- **Citizens are not properly notified**, despite the fact that in accordance with part 1 of Article 20 of the RA Law "On military service and serviceman's status", in order to ensure presence of a citizen at the compulsory military service call-up, the relevant military commissariat notifies the citizen, by paper or electronically, of his obligation to show up at the military commissariat, by mentioning in the notice the relevant date the person is to be there. Instead, the notice is either handed to other persons at home or they notify on the phone and sometimes a person other than the one subject to conscription.
- The same happened during the three-month (25 August 2021-25 November 2021) military training gathering of privates, non-commissioned officers and officers registered in the first category of the first group of the reserve, as announced by the Government's decision N 1356-Ն of 18 August 2021 "On announcing military training gatherings and involving transport means of the bodies with military transportation obligations" in line with Article 58 part 2 of the RA Law "Military service and status of a serviceman".<sup>2</sup>
- Conscription and Mobilization Service subdivisions' workers sometimes do not provide conscripts with all the documents regarding their health state, instead, they only provide some of those documents. However, it should be recorded that as compared to previous call-ups, citizens encountered this problem less frequently during the call-ups announced.
- Head of one of the Conscription and Mobilization Service Subdivisions ordered a police investigator to bring the conscript to the military commissariat after the conscript had already showed up at the commissariat and refused the notice, disagreeing with the conclusion of the CMC.

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<sup>2</sup> Then, on 2 September 2021, the Government issued decision N 1409-Ն "On announcing military training gatherings", which announced three-month (15 September 2021 – 15 December 2021) training gatherings of privates, non-commissioned officers and officers registered in the first category of the first group of the reserve.

- The RA MoD Conscription and Mobilization Service workers violate the right to confidentiality, in particular, they threaten to let others know that conscripts are representatives of LGBT community.
- Organization of conscripts' medical check-up was not sufficiently regulated during the Covid-19 pandemic. Citizens had to wait long in hospitals in order to undergo medical examinations, despite the condition that the MoD informed that with the purpose of organizing preparatory works of summer 2020 call-up, heads of the RA MoD territorial subdivisions were instructed **to contact territorial outpatient clinics** and find out their daily capacity **to conduct medical examinations of conscripts since April 1**. At the same time, A. Sargsyan, Secretary General of the RA Ministry of Defense, noted that **since March 1**, the RA MoD territorial subdivisions and medical commissions stopped working. On 23 March 2020, the RA Defense Minister's spokesperson Shushan Stepanyan posted on her **Facebook page** that the main call-up, i.e., replenishment of the Armed Forces with privates subject to compulsory military service, would be implemented during 1 July 2020 – August 30 inclusive, while discharge was to be implemented since 1 July 2020 until August 11 inclusive. At the same time, she mentioned that preparatory work of the call-up was to start on May 1. Besides, with regard to ensuring items necessary to protect military commissariat workers against Covid-19, the RA MoD Secretary General noted that the military commissariats are provided with the necessary items based on necessity stemming from their functions. However, citizens who applied to the Organization mentioned that in many cases safety rules and protective equipment wearing rules were not kept. Moreover, not all conscripts waiting in queues in military commissariats or central gathering point wore masks; and even after distributing masks in military commissariats, some persons continued not wearing them, and military commissariat workers did not oblige them to.
- Besides, social distance was not kept in military commissariats or the central gathering point.



- During the first phase of the emergency state declared in the RA to prevent the spread of Covid-19, public transport did not work and thus some conscripts did not have the opportunity to reach the capital from provinces within the notice terms in order to undergo medical examinations, and some conscripts could not take a taxi due to their social state, and the RA MoD Conscription and Mobilization Service subdivisions did not take the necessary measures.

## **2. Conduct of medical institutions during the call-up**

Medical institutions play an essential role in medical examinations of conscripts during call-ups and decisions regarding fitness for military service based on their health state. This concerns not only medical institutions included in the list of medical institutions providing medical examinations and treatment of citizens of pre-conscription and conscription age, but also private medical institutions. It should also be mentioned that if previously private medical institutions mainly refused to examine persons subject to conscription and provide a conclusion, citizens encountered this issue less frequently during the mentioned call-ups.

- Medical institutions continue the practice of generating artificial obstacles: they do not provide copies of health state examination acts and conclusions made based on medical expert examinations, though in accordance with Article 17 part 5 of the RA Law "On Military service and status of servicemen", a citizen has the right to familiarize with the process of his health state check-up and medical expert examinations and get the relevant conclusions and other documents, present recommendations, explanations or objections, appeal health state-related conclusions in a manner prescribed by law. According to Article 7 of the RA Law on "Medical aid and service to the population", everyone has the right to get information on their health state, results of examinations, diagnosis of illness and treatment methods, related risks, potential options of medical interventions, consequences and treatment results, in an accessible way. Moreover, point 36 of the Appendix to the RA Government's decision N 405 establishes the obligation of medical institutions to provide citizens or their legal

representatives or persons authorized by them with information about their health state, examination results, diagnosis of illness and treatment methods, related risks, potential options of medical interventions, consequences and treatment results.<sup>3</sup>

- In response to HCA Vanadzor questions regarding organization of medical examination for contractual military service and protection of persons in hospitals from Covid-19, the RA MoD representative informed that **hospitals were prohibited from providing services to citizens.**
- It took medical institutions a long time to open a medical card of conscripts' illness history and as a result, queues were formed, which has risks concerning spread of the pandemic.
- Sometimes, more effective free treatment is offered in the frame of state-provided free medical aid.

### 3. Conduct of military commissariats' medical commissions during the call-up

- When conducting medical expert examinations, military commissariats' medical commissions do not take into account conscripts' right to confidentiality of health state and examine conscripts at the presence of other conscripts or persons. This issue was raised during almost all call-ups, and yet, the problem has not been solved so far. Moreover, during the Covid-19 pandemic, 10 and more persons were in doctors' rooms at a time without keeping the necessary distance.
- The mentioned bodies do not conduct medical examination of a conscript with several health problems by orally arguing that the conscript is to be granted a deferral based on an illness or another ground or the conscript is to be exempted from military service. As a result, the conclusion made does not cover all the health problems. This problem is also unsolved and conscripts encountered it during all the previous call-ups.

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<sup>3</sup> <https://www.arlis.am/DocumentView.aspx?DocID=121636>

- On the other hand, if a conscript is granted a deferral based on other health problems, during the next call-up, medical examination of the conscript is conducted incompletely, new health problems are not detected and this leads to them being recognized as fit for military service.
- Conscripts' complaints are not recorded at medical examinations conducted during the call-up.
- In case of seasonal illnesses, weather-related peculiarities are not taken into account, in particular, allergies, angiotrophoneurosis, etc.

#### **4. Conduct of the Central Medical Commission during the call-up**

In accordance with the RA Government's decision N 405, the CMC functions are:

- 1) to conduct expert examinations of conscripts who have undergone initial medical check-up and expert examination in military commissariats,
- 2) to provide practical and methodological support to military commissariat's medical commissions in medical expert examinations of pre-conscription and conscription age persons,
- 3) to cooperate with healthcare bodies in order to increase effectiveness of examination and treatment of pre-conscription and conscription age persons,
- 4) to make conclusions based on results of conscripts' medical expert examinations,
- 5) to oversee operation of military commissariats' medical commissions,
- 6) to review previously-made conclusions, if necessary.

In case of lack of data or not having undergone laboratory-instrumental examination or if there are contradictions between examination documents, the CMC can, based on the written argument of the doctor requiring an examination, make a conclusion on referring the relevant conscript to military medical or civilian medical institution for additional, checking or control examination in order to clarify the diagnosis.

- However, it should be noted that CMC conclusions not always correspond with diagnoses confirmed by acts on health state of conscripts. During two different call-ups, a conscript

with the same health problem undergoes expert examinations under two essentially different articles, and as a result, an unfavorable decision is made for the conscript.

- Besides, in case of certain illnesses, conscripts are not offered implementation of operations instructed by a doctor, in case of which, conclusion on his fitness is to be made after completing the treatment, based on the relevant results. Even in cases when a conscript does not refuse to undergo an operation, he is told that the operation will be performed during his military service just after being conscripted to the hospital.
- The CMC does not refer the conscript to undergo an expensive examination and as a result, the conscript is recognized fit for military service. However, based on results of examination conducted at a conscript's own initiative, the CMC has to change its decision and recognize the conscript unfit for military service.
- Having previously been granted a deferral, without a comprehensive treatment, conscripts are recognized fit for military service or fit for military service with limitations during the next call-up.
- Documents concerning health state of conscripts do not reflect their real health state.
- In case of two different diagnoses given as a result of medical examinations, the conscript is not referred to a checking examination. Moreover, sometimes, results of medical examinations undergone at the initiative of conscripts are not taken into account, they are not confirmed or denied, and the CMC takes a decision unfavorable for the conscript.
- In case there is contradicting data as a result of medical examinations, the CMC takes into account the results, according to which the conscript is considered fit for military service.

##### **5. Conduct of the RA Ministry of Defense during the call-up, and conduct of the RA Ministry of Defense and its competent subdivisions in cases of appeal of decisions regarding conscripts and servicemen (including contractual ones)**

While protecting conscripts' rights during the mentioned call-ups, in the frame of providing support in written form, the Organization applied to the RA Ministry of Defense by a letter or information inquiry. In particular, 22 letters were sent regarding specific servicemen, 17 of which were sent on behalf of the Organization and 5 were sent on behalf of citizens.

23% of letters sent by the Organization were responded to later than the terms established by law, and in 41%, responses do not address solution to problems raised in the letter.

*Table 1. Terms of responses to HCA Vanadzor letters regarding conscripts addressed to the RA MoD and how the responses address the issues raised*

Number of letters sent	In time		Delayed	
	To the point	Not to the point	To the point	Not to the point
17	8	5	2	2

With regard to the conduct of the RA MoD, it should be mentioned that this agency maintains a high level of confidentiality in providing information, and we shall address this in a different analysis.

With regard to cases of conscripts who applied to the Organization during a call-up and disagreed with the decisions on recognizing them fit for military service or fit for military service with limitations, they are appealed with the relevant substantiations to the RA Minister of Justice or head of the relevant subdivision. In cases of compulsory-term and contractual servicemen, too, during military service, when they disagree with decisions, actions and inaction concerning military service, they are appealed, with the relevant substantiations, to the Head of the RA Armed Forces General Staff or Head of the relevant subdivision.

In nearly all cases, the competent administrative body refuses our appeals and upholds legality of administration of a lower administrative body. During the administrative proceedings initiated on the ground of administrative appeal, factual and legal grounds of the appeal are not properly discussed, which further leads to judicial appeal of the above-mentioned decisions, actions or inaction. In particular, the decision regarding an administrative appeal presents the

background of the case and decision of the administrative body without any factual and legal analysis.

*We hereby record that the conduct of the RA Ministry of Defense did not undergo any essential changes in terms of the mentioned cases for the discussed period of time.*

#### **6. Conduct of garrison investigative bodies during investigation of criminal cases initiated based on cases of avoiding a military service call-up**

In the frame of its activity, the Organization continues protecting rights of conscripts who do not agree with the conclusions on recognizing them fit for military service or fit for military service with limitations and appeal them to superior bodies and court instances. In all the mentioned cases, when the conscript refuses to receive the notice on being conscripted to military service, irrespective of reasons, a criminal case is initiated and criminal prosecution is conducted against the conscript under part 1 of Article 327 of the RA Criminal Code by the garrison investigative body based on the petition of the RA MoD Conscription and Mobilization Service territorial subdivision.

The body conducting proceedings of the case continues not taking into account and not implementing proper investigation into the reasons and substantiations for refusing to serve military service. In particular, disagreeing with the conclusion of Central Medical Commission, some conscripts appeal it in a manner prescribed by law and challenge the conclusion on recognizing them fit for military service, but the mentioned condition does not become a matter of investigation in the frame of the criminal case, and the right to appeal decisions regarding oneself – established by the RA Constitution and other legal acts – is not taken into account. The aforementioned condition is also not taken into account during judicial examination of criminal cases.

The body conducting proceedings of these cases continue appointing forensic medical commission examinations, based on which the investigative body finds out whether the Central Medical Commission made a right decision by recognizing the conscript fit for military service.

However, in this case, only forensic medical commission examination is not enough. Forensic medical commission examination can only answer questions such as what illness the conscript has, how long he has had the illness, and other health-related questions. Whereas, military medical expert examination can find out how objective the CMC actions were, what decision should have been made regarding fitness of the conscript for military service, under what Article(s) his expert examination should have been conducted. Taking into account issues identified in the previous analysis, we recommended appointing a complex forensic medical and military medical expert examination instead of a forensic medical examination, based on the formulation of the relevant legal act (the RA Health Minister's Order 87-Ն of 24 December 2013) according to which issues related to health state, substantiation and existence of illnesses of conscripts are solved during the complex forensic medical and military medical examination; however, this recommendation has not been accepted so far.

It should also be noted that previously, as well as during the period under discussion, irrespective of investigative activities taken during the preliminary investigation, during nearly all call-ups (except for cases when a forensic medical examination is appointed in the frame of the criminal case, and the relevant conclusion has not been made yet) the investigative body sends the conscript's case to the relevant territorial subdivision of the RA MoD Conscription and Mobilization Service for his conscription issue to be decided; and during each call-up, just as the investigative body, the relevant territorial subdivision of Conscription and Mobilization Service "calls on" conscripts to review their decision on not serving military service, and join the military service.

*Thus, once again we record that though not in all cases, investigative bodies continue manifesting a conduct typical of a body conducting call-up in criminal cases initiated against conscripts.*

## **7. Conduct of the RA Administrative Court in cases of appeal of decisions, actions or inaction concerning conscripts and servicemen**

In the frame of cases under discussion, the main issue continues to be terms of investigation. Taking into account issues identified in the previous analysis, we recommended that in the frame of criminal cases initiated based on applications presented to the RA Administrative Court against administrative acts, actions or inaction during call-up for compulsory military service, terms be established for administrative cases' examination and forensic medical examinations appointed in the frame of those cases, that will allow having the court's decision by the end of the call-up; as a pattern, the example of special terms established for cases of protecting the right to vote can be taken into account. However, this recommendation has not been accepted, and as a result, the situation remains the same: examination of judicial cases lasts quite long, during which each conscript is called to the territorial subdivision of Conscription and Mobilization Service and undergoes examinations; and in case the conscript does not receive the notice and does not leave for military service, preliminary investigation of the criminal case already initiated under part 1 of Article 327 of the RA Criminal Code continues. Again taking into account the condition that call-up of privates is implemented until the age of 27, long examination of this case – which may also include examination of appeals and appeals in cassation – can result in the relevant person not being subject to conscription due to age. For example, in the frame of the appeal of the judgment ruled on 21.04.2021 by the RA Administrative Court in H.H.'s case, a court session is scheduled on 16.02.2023, whereas H.H. turns 27 years old in February 2022, which means that at the time of the court session scheduled and the decision taken by the court afterwards, H.H. will no longer be subject to conscription. Moreover, this fact was noted in the appeal and we requested that the Appeal Court examine the case and make a decision before H.H. reaches 27.

As already mentioned, we consider that establishing case examination terms that would allow having the court's ruling by the end of the call-up is the solution to this problem.

*At the same time, we again record that no biased attitude was manifested when the Administrative Court examined appeals of decisions, actions and inaction concerning conscripts and servicemen.*



**8. Conduct of the RA General Jurisdiction Court of First Instance during examination of claims for compensation for damage caused to early discharged compulsory-term and contractual servicemen**

Five cases of the Organization concerning claims for compensation for damage caused to health are currently in the proceedings of the RA General Jurisdiction Court of First Instance. Based on our petitions, forensic medical examinations have been appointed in the frame of three of the mentioned cases, and two cases have been suspended; we are planning to make petitions to have forensic medical examinations appointed in the frame of the other two cases, as well.

Just as in case of the RA Administrative Court, in this case, too, the main issue is case examination time period. In particular, three out of the above-mentioned five cases were initiated in court in 2017, but they are still in the preparatory phase of examination of the claim.

We consider it early to make a general judgment regarding conduct of the court in the frame of these cases, taking into account that these cases are in the preparatory phase of examination of the claim and there are still no judicial acts in force.

*In this regard, we find it important to stress once again that positions and approaches of the respondents of the case – the RA Ministry of Defense and RA Ministry of Finances – have not changed, in particular, they continue claiming that there are no grounds for providing compensation for the damage caused to early discharged servicemen.*

## Recommendations

Summing up issues identified during previous and mentioned call-ups, we recommend:

1. **The RA MoD Conscription and Mobilization Service territorial subdivisions** to notify conscripts by paper or electronically and mention the date he is to show up in order to ensure presence of conscripts during compulsory military service call-up, military training gathering announced during that period.
2. **The RA MoD Conscription and Mobilization Service territorial subdivisions** to eliminate cases of refusing to provide copies of medical documents regarding health state of conscripts and CMC decisions.
3. **The RA MoD Conscription and Mobilization Service territorial subdivisions** to eliminate cases of forcing the conscript to show up, if the conscript does not agree with the decision on his being fit for military service and does not show up at the subdivision, especially when the conscript has already showed up and refused the notice.
4. **The RA MoD Conscription and Mobilization Service territorial subdivisions** to ensure all the conscript's right to confidentiality.
5. **The RA MoD Conscription and Mobilization Service territorial subdivisions** to exclude the vicious practice of having conscripts wait a long time to undergo medical examinations during call-ups and establish the schedule and maximum number of conscripts who can undergo a health state examination; to ensure all protective measures and social distance, given that the pandemic is not overcome yet.
6. **Medical institutions** to subject conscripts to complex examinations in order to find out their health state and at the same time, to provide copies of documents on their health state.
7. **Medical institutions** to implement **effective and quality** free medical measures in the frame of free medical aid provided by the state.
8. **Medical institutions** to exclude pandemic-related obstacles during organization of medical examination of contractual servicemen.

9. **The RA Ministry of Defense** to respond to the Organization's applications and inquiries within the terms established by law and address issues raised therein.
10. **Medical commissions of the military commissariats** to ensure the right to confidentiality of health state when conducting medical expert examinations.
11. **Medical commissions of the military commissariats** to conduct medical examination of each health problem if conscripts have multiple health problems and to make conclusion on their health state by covering all the health problems irrespective of the decision on fitness made based on one problem and when the health problem emerged.
12. **Medical commissions of military commissariats** to eliminate the practice of not recording conscripts' complaints.
13. **Medical commissions of military commissariats** to take into account the nature and peculiarities of seasonal illnesses and make a decision only based on it.
14. **Central Medical Commission** to provide conclusions, whose difference from diagnoses established by acts on conscripts' health state is substantiated.
15. **Central Medical Commission** to make a substantiated decision in case of two essentially different articles.
16. **Central Medical Commission** to ensure implementation of operations of conscripts before the call-up in case it is advised by the doctor and the conscript does not refuse it.
17. **Central Medical Commission** to ensure all the referrals for the necessary examinations in order to make a correct and valid decision regarding fitness of the conscript.
18. During administrative proceedings initiated based on appeals of decisions, actions or inaction of **competent bodies**, make a subject of discussions the factual and legal grounds of the appeal, make fact-based and reasoned decision based on results of discussing the appeal.
19. With regard to **criminal cases** initiated based on avoidance of compulsory military service call-up:
  - Take into account that the relevant person exercises his fundamental rights guaranteed by the RA Constitution, RA Administrative Procedure Code, RA Law on "Fundamentals of administration and administrative proceedings" and other legal acts,

tries to find out the legality of administration implemented by the administrative body and challenges the decision on recognizing him fit for military service or fit for military service with limitations and give, a criminal-legal assessment to that person's act only after the final document (judicial act, decision of the administrative body) adopted as a result of challenging the administrative act, action or inaction becomes unappealable;

- Take the above-mentioned condition into account also during judicial examination of criminal cases;
- Instead of appointing a forensic medical commission examination during the preliminary investigation, appoint a complex forensic medical and military medical examination;
- During the regular call-up announced during preliminary investigation, not to send the conscript's personal case and not to call on the conscript to show up at the territorial subdivision of the RA MoD Conscription and Mobilization service to once again clarify the issue of being fit for military service or fit for military service with limitations and not to delay the process of preliminary investigation respectively.

## **20. Regarding legislative changes**

- In the frame of cases initiated based on claims presented to the RA Administrative Court against administrative acts made, actions or inactions taken during a regular call-up of compulsory military service, legislatively enshrine forensic medical examination terms that will allow having the court's decision by the end of the call-up, as established in cases of protection of the right to vote.