



Expert Opinion and Recommendations on the Draft “RA Police Reforms Strategy and Its Implementation Action Plan for 2020-2022”

On 10 February, 2020, the Ministry of Justice of the Republic of Armenia submitted for the public discussion **the Draft “RA Police Reforms Strategy and Its Implementation Action Plan for 2020-2022”** on the Unified Website for Publication of Legal Acts’ Drafts www.e-draft.am, (hereafter in the text: Strategy). The following comments and recommendations on the Strategy are presented below:

- 1) In the preamble to the draft internal (local) decision of the Government of the Republic of Armenia attached to the Strategy, **Articles 146 and 153 of the Constitution** are referred to as the Authorizing Norms, on the basis of which the Government of the Republic of Armenia shall approve the Strategy. In this connection, it should **first of all** be taken into account that, in the light of Article 6 of the Constitution, the aforementioned articles do not directly provide the Government of the Republic of Armenia an authorization to adopt the Strategy; moreover, Article 153 (3) only refers to the competence of the Government of the Republic of Armenia to adopt a **secondary regulatory legal act**. **Secondly**, considering the requirements of Article 1 (2), Article 2 (1) Part 6, and Article 13 (1) of the Law of the Republic of Armenia on Normative Legal Acts, it is necessary to mention the article or part of the legislative act authorizing the Government of the Republic of Armenia to adopt an internal (local) legal act.
- 2) According to Section 2 of the Strategy, entitled “Operational Summary”, **“The objective of the police reform is to transform it into a resisting to modern challenges, specialized and technically equipped, with integrity values and respectable modern police force and the creation of a new policeman characteristic of democratic rule of law.”** In this regard, we find that the formulation of the Strategy Goal, as well as the outcome indicators set out in the 2020-2022 Strategy Action Plan, do not comply with the requirements of Paragraphs 38 and 41 of the Protocol Decision N 42 on “Approving the Methodological Directive on the Development, Submission and Supervision of Strategic Documents Affecting State Revenue and Expenditure,” which was approved at the 5 October, 2017 Government session, (hereinafter referred to as "Methodological Directive"), according to which:
“38. At each level, strategic goals (expected outcomes) should be defined as clearly and measurably as possible. It should be possible to represent them numerically and quantitatively



to a particular benchmark or period, so that its implementation can be monitored. **In other words, it is impossible to understand and evaluate the achievement or progress of any goal if it is not measurable.**

41. **Realistic, qualitative and quantitative output indicators should be set for strategic purposes,** which will then serve as a basis for measuring project objectives, evaluating progress and effectiveness.”

3) The “Priority Directions” sub-section of Section 2, entitled “Operational Summary” of the Strategy, notes that, **“For each direction of the reform, it will be necessary to conduct a more detailed study of the situation,** in particular with regard to the audit of sectoral legislation, material and technical security (including databases and information systems).” Further, the following are indicated as priority directions:

- Clarification of structural changes and functions in the RA Police system,
- Patrol service and the establishment of an operational management center,
- Increase the effectiveness of the pre-investigation,
- Protection of public order,
- Reconsideration of the concept of the community police,
- Attractiveness in police service, training of human resources and professional development
- Improving human rights protection,
- Ensuring transparency and public accountability.

First of all, it is important to note that, in the majority of the areas prioritized by the Strategy, **a proper description of the current situation** has not been provided, which does not allow to record baseline indicators of this or that direction, against which further progress in the relevant target output will be assessed. Second, conducting an audit of the current situation in a number of areas and conducting studies at the implementation stage of the Strategy does not allow to assess whether it is justified in the Strategy to prioritize just that direction or vice versa. Moreover, if we do not have the results of the audit and studies, then how it will be estimated whether the selected target indicators are correct or incorrect? Whereas, in accordance with paragraph 43 of the Methodological Directive: when defining the outcome indicators in the strategic documents, **it is mandatory for each of them to set both the relevant target and their baseline indicators.** The baseline indicators describe the actual level of the



relevant indicator against which the target indicators have been set and against which further progress on the relevant output will be assessed. (...)

In the Strategy Action Plan, there are perhaps only two directions where baseline indicators have been identified. These are the directions of the **"Description of the New Police"** and **"Process of Implementation of the Police Reform and International Cooperation"**.

- 4) Section 2 of the Strategy, entitled "Operational Summary", indicates the following as an objective: **"review and reform the system of training and continuing professional training of police officers, both in terms of content and method of preparation, according to their professional needs"**. Further, as a solution to the above problem, the Strategy Action Plan identified the direction **"Description of the New Police"**, but the aforementioned problem received a different formulation: **"Changing the image of a coercive State body, which serves to the current government into a public, trustworthy, and respectful type of public service"**. Considering that the Strategy and Action Plan are considered as one complete document or legal act, and that **internal contradictions should be excluded** in it, we recommend editing the wording of the objective.
- 5) Section 3 of the Strategy, entitled **"Description of the New Police"**, refers to the main actions to be taken in this direction, but not all of them are included in the separate actions envisaged for that purpose. **For example**, the Strategy provides for the introduction of new staffing procedures in the police service, in addition to psychological testing, **such as the integrity benevolence and social behavior testing, and the practice of conducting interviews during competitions**, which also implies the development and adoption of draft laws envisaging relevant amendments and supplements. However, no specific action, deadlines and responsible authorities are provided. The aforementioned also applies to the remuneration of police officers, the provision of more attractive social guarantees for officers working in the regions and other matters.
- 6) Section 3 of the Strategy, entitled **"Description of the New Police"**, it is stated that one of the main objectives of the Strategy is to introduce to the public **a new system of police which has police officers of a new image**; this will involve recruiting new staff, training the staff, reviewing police education programs, providing targeted training, and other complex activities. In this regard, we recommend that the Strategy provides in this direction that during the discussions on the organization of educational programs and the content review of the



Police Educational Complex, Special attention will be paid, in particular, **to the issues of integrity and anti-corruption education of the police officer**, and the curricula will include mandatory modules on Integrity and its individual components (accountability, professionalism, ethics, anti-corruption behavior), corruption and its manifestations, conflict of interest. We also emphasize that educational programs are implemented with application of case study methodology.

- 7) We recommend that civil society organizations be mentioned among the bodies responsible for carrying out specific actions in all areas/directions of the Strategy Action Plan, whose role will be significant and useful especially in providing accessible and timely information to the public on the implementation of these reforms, **building public trust and respect for the image of the new police officer**, to support auditing and research in a number of areas/directions, as well as public oversight/monitoring of the Strategy.

It is also worth noting that such an experience already exists, **and that non-governmental organizations have been included as co-perpetrators** in a number of bodies responsible for implementing a number of new anti-corruption strategies developed and approved by the Government of Armenia last year.

In addition, considering that the Strategy specifies the **development of separate action plans**, such as patrol service or strategic communications programs, we therefore recommend that the Strategy stipulate that, prior to the adoption of individual action plans, they must be developed through an inclusive process, involving specialized civil society structures in this process, and provide effective mechanisms and guarantees for non-governmental organizations to keep these processes under public control.

The aforementioned also issues from the approach outlined in the area direction “**Structural Model of the Police**”, according to which **the new police should have effective civil and parliamentary oversight mechanisms characteristic of a democratic state**.

- 8) The direction “Development of Criminal Police and Effective Pre-Investigation” of the Strategy states on the one hand that, “...**The new Criminal Procedure Code also does not envisage any procedures that would increase the role of police officers in the investigation of criminal cases**”, which already indicates that a different approach to the investigation of criminal cases has been adopted, and on the other hand, the Strategy proposes to increase the role of the police in the investigation of criminal cases.



In relation to aforesaid, it is worth noting that the institutional changes of this function made in 2014 have been substantiated not only by the following justifications brought in the Strategy, “providing higher guarantees for the protection of human rights, as well as separation of the body having the function of carrying out the pre-investigation from the body of investigation”, but also considering other justifications that are important. In particular, it is about the following: **“... Practice of conducting pre-investigation by different bodies, shows that they do not have common principles of organization and functioning. In many cases, different approaches to the same legal issues are used, which undermine the principle of equality before the law.** In addition, as a result of the activities of the investigative bodies within the system of executive authorities, **the procedural autonomy of the pre-investigative bodies is significantly restricted**; the resolution of a number of internal litigation issues is carried out through special mechanisms for administrative-legal relations, which contradicts the nature of the investigator's procedural functions. The investigative body within the executive body functions on the material and technical basis of that executive authority, which has a direct impact on the independence of the investigative bodies.”¹ Therefore, the Strategy had to provide serious and grounded justifications for the return to the former model.

Second. Considering that the introductory part of the Strategy states that, “It is necessary to provide full synergy with other sector reform programs by the Strategy and Government; in particular, with other strategies for National security, **judicial and legal, anti-corruption**, public service, human rights protection and other sectoral reforms, and, of course, with the new criminal legislation under review”, we believe that if there were a need for changes in the state policy related to the number of investigative bodies, adjustment of the scope of cases subject to transfer to investigative authority, and other issues, then they would have already been included in the Decree N 1441-L of the Government of the Republic of Armenia of 10 October, 2019 **“On Approving of the Strategy for Judicial and Legal Reforms in The Republic of Armenia for 2019-2023 and the Action Plan deriving therefrom”**, as well as relevant regulations related to police should have been provided for in the new Criminal Procedure Code.

¹ See more in the following link:

<http://www.parliament.am/drafts.php?sel=showdraft&DraftID=6542&Reading=0>



- 9) **State budget funds, as well as funds not prohibited by law** are generally cited as sources of funding for the implementation of actions under the Strategy Action Plan. In this respect it is worth noting that, in accordance with the requirements of the Methodological Directive, it was necessary to make in advance **an appropriate cost estimate of the Strategy directions (priorities) and to include those cost estimates in the Strategy**. In addition, as required by the Methodological Directive, cost estimates related to strategies should be defined not only at the level of the whole strategy but also at the level of objectives and/or strategic programs/measures to be implemented within it, **which should then be transferred to the budgeting system through budget programs and serve as a basis for establishing the MTEF (Medium Term Expenditure Framework) and budget allocations**.
- 10) The justification of the strategy states that since the independence of the Republic of Armenia the public perception of the police has recorded varying degrees of public confidence; **which was due to a combination of a number of objective and subjective inferences**. It is further noted that **sustainable change in this area can be achieved through state-public dialogue** that is, through the implementation of institutional changes (value, content, environment and material saturation) in the police, through inclusive professional discussions during the development and implementation of reforms, and, of course, by carrying out informed and targeted strategic communications about change. In this regard, it is worth noting that one of the prerequisites for conducting proper dialogue between the state and the public could be the proper legal and political assessment of the previous years of police work in the Strategy, considering that the Strategy has in no way identified the gross violations and omissions that took place in this activity. Whereas such a record may not only be relevant to prevent such phenomena in the future, but it is also important in the context of consistently ensuring the principle of legality in practice of the police in future.