

DISCRIMINATION CASES DOCUMENTATION

Sexual orientation and Gender identity based discrimination when renting
an apartment

Yerevan, Armenia
2018

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Introduction

This report was compiled by the New Generation Humanitarian Non-Governmental Organization (hereinafter referred to as the NGNGO) based on the experience of the Czech Republic.

It reflects a high level of discrimination in the Republic of Armenia (hereinafter referred to as the RA), related to person's sexual orientation and gender identity.



On June 28, 2018, a two-day workshop on "Situation Analysis of Discrimination Cases" took place in Armenia within the framework of which representatives of the Czech Republic's Poradna pro občánství, občanská a lidská práva Organization presented the "Situation Analysis of Discrimination

Cases" and its application forms. During the meeting, the role and functions of the Ombudsman in the Czech Republic were also touched upon in the context of LGBT community rights protection. The representatives of CSOs and mass media, advocates, human rights defenders and lawyers participated in the meeting.



As a result, 5 participants of the meeting went to the Czech Republic on September 23, 2018 to study the work of CSOs and the Ombudsman involved in the fight against human rights, discrimination and hatred in the Czech Republic, as well as to carry out practical work on documenting cases of discrimination.

Based on the observation of the Czech experience, the NGNGO has undertaken the process of compiling this report within the framework of the "How to Find the way" program.

REMINDER!

In the international and national legal sources, which are part of the legal system of the Republic of Armenia, there is no general barrier for private persons to confiscate / record video on objects belonging to a person or a person.

The Framework Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter referred to as the Convention) and the Constitution of the Republic of Armenia (hereinafter the Constitution) provide for fundamental rights that may be violated, without the consent of the record / video recording.

Article 31. Inviolability of Private and Family Life, Honor and Good Reputation

1. Everyone shall have the right to inviolability of his or her private and family life, honour and good reputation.
2. The right to inviolability of private and family life may be restricted only by law, for the purpose of state security, economic welfare of the country, preventing or disclosing crimes, protecting public order, health and morals or the basic rights and freedoms of others.

Article 31. Freedom and Secrecy of Communications

1. Everyone shall have the right to freedom and secrecy of correspondence, telephone conversations and other means of communication.
2. Freedom and secrecy of communication may be restricted only by law, for the purpose of state security, economic welfare of the country, preventing or disclosing crimes, protecting public order, health and morals or the basic rights and freedoms of others.
3. The secrecy of communication may be restricted only upon court decision, except where it is necessary for the protection of state security and is conditioned by the particular status of communicators prescribed by law.

Article 34. Protection of Personal Data

1. Everyone shall have the right to protection of data concerning him or her.
2. The processing of personal data shall be carried out in good faith, for the purpose prescribed by law, with the consent of the person concerned or without such consent in case there exists another legitimate ground prescribed by law.
3. Everyone shall have the right to get familiar with the data concerning him or her collected at state and local self-government bodies and the right to request correction of any inaccurate data concerning him or her, as well as elimination of data obtained illegally or no longer having legal grounds.
4. The right to get familiar with personal data may be restricted only by law, for the purpose of state security, economic welfare of the country, preventing or disclosing crimes, protecting public order, health and morals or the basic rights and freedoms of others.
5. Details related to the protection of personal data shall be prescribed by law.

Article 8 of the Convention.

"Everyone has the right to respect for his or her personal and family life, to ensure the security of his home, the confidentiality of correspondence."

The European Court considers interference with the right guaranteed by Article 8 of the Convention on the basis of the following formula:

1. The existence of a national law;
2. How accurate and precise the formulations of this law are;
3. Its purpose.

In the legal framework of the RA, based on the above-mentioned resolution, existing civil regulations do not provide any barriers, hence there is a lack of clear and precise formulations that will enable the use of evidence obtained in a "confidential" manner.

There are no general barriers to use of videotapes and tapes as evidence of confidentiality in the RA legal proceedings but during the proceedings, the video tapes / recordings acquired through infringement cannot be used, so if the video / audio recordings were violated by the violation of the law, can be used during the trial.

Summarizing the above-mentioned, we can state that no international or local legal act does not define a general ban on performing confidential records / video recording.

Secret recording / video recording is not permitted if one of the fundamental rights of a person is violated, including the right to a person's private and family life, confidentiality of communication, personal data. No international or local legal acts define confidential records / evidence to use a general barrier.

Methodology Description

The report was compiled on the basis of telephone conversations implemented by the previously developed methodology.

- An employee of the organization searches on the Internet and finds rental housing announcements for house renting,
- Preserves the announcement page as a photo,
- Calls to the number indicated in the announcement,
- Records the telephone conversation,
- Presents themselves as an employee of the organization,
- Presents that the apartment is for their beneficiary, who is a representative of LGBT community,
- Receives a Positive or Negative Response from the renter;
- In case of receiving a negative response, the reasons for rejection are clarified,
- After the call, they perform call analysis / transcription,
- Summarizes results by obtaining statistics.

Voice Recording / Transcript

Call 1

Interviewer: Hey, my name is Emil.

Speaker: Hello.

- Yes, I'm calling you for a flat. I've seen that you have an apartment for daily renting. I just want to find out if it was an agency, and you have other apartments as well.

- There are. Do you call for a client?

- Excuse me?

- I have many apartments, which one do you need and for how many days?

- We need ten or fifteen days for our beneficiary, she just had to get out of the previous one, we have to find an apartment right now until we can find a main place.

- From 10, for 15 days?

- Yes, that could be.

- Just be clear and I will tell you what free options I have.

- I think at least since 10, because she does not have a place to live now, so we need to hurry to find a flat.

- Well, which one of my apartments have you seen?

- I just saw an ad, 13,000 a day, in a panel building on Tumanyan Street.

- Yes, it's one-room apartment. It's not free for a long time. I now have two options at Glendale Hill, a very nice apartment for long days.

- Well, let me say something, is it safe in Glendale Hill, because they did not take our former beneficiary in one of the apartments there.

- What problem should there be? There is no problem.

- **She is a trans person**, that's why.

- **Yes, I do not also give** because there is a problem with the residents of our building.

- Sorry?

- No, I do not also give it because the residents of our building do not let them live in the building.

- OK, thank you.

Call 2

Interviewer: Hello, my name is Gurgen.

Speaker: Hello.

- I have seen that you had an ad in List.am and how it was written you are an agency. I want to find out if you have other daily apartments as well.

- Hmm, apartment for daily rent. Which kind of apartment do you need? When? For how many days?

- Yes, it can be till 20 thousand, for 10 or 15 days, for our beneficiary, they just dropped him out of the flat, now we'll have to do something quickly until we can find the main place.

- For 10-15 days, one person as I understand.

- No, there will be two boys.

- Two boys ... How old are they?

- One is 20, the other is 22.

- They are students, aren't they.

- One, yes, learns the other works.

- I understand. How much are they ready to give for one day?

- Up to 20 thousand.

- Two rooms, yes, how I got?

- There is no difference, there may be a room, and they will stay with each other.

- Does the place matter?

- It's better at the center of the city, because it might be dangerous for them to live in the suburb.

- In what way?

- **Well, just because they look different**, just for that.

- That is, they are not ethnic Armenians, aren't they?

- No, they are Armenians.

- They are Armenians and are different in appearance, yes?

- Yes!

- Well, I understood. Do you have Viber?

- No, just tell me when to call and we will understand.

- We should try to find a flat. We need to call the renters, we have to understand whether they have a daily apartment or not. From what date?

- Maybe tomorrow, or the next day.

- I understand. I'll talk now, if I see that there's a flat, I'll call you back.

- Well, that's not going to be a problem to find a flat for them, isn't that?

- It matters what the differences are. Tell us, please, if something is not right.

- Well, let's just say, **they are boyfriends**, they live with each other, just knowing about one of them, they were dropped from the previous house, now they are looking for an apartment.

- **I understand, well, then I'll show it to the renters, let's see what we can do, I'll keep you informed.**

Call 3

Interviewer: Hello, my name is Gurgen.

Speaker: Hello. My name is Stepan.

- Sorry?

- My name is Stepan.

- I saw your announcement on list.am. I learned that it's an agency. I wanted to know if you have a daily apartment.

- Yes bro, we have apartments.

- Yes, for how much time is given and at what prices, because we need a beneficiary?

- Do you know what price do you look for?

- See, as quickly as possible, because they have been dropped out of the previous apartment.

- We have a flat for 14,000 AMD, near Moskovyan, a normal house, bro.

- Ah, okey. Well, let me ask one thing: how many people can stay in the house?

- How many are they?

- **They are two boys, they need to stay together.**

- They are Armenians, aren't they?

- Yes, they are Armenians, they have just left their homes.

- **If they are Armenians, and two boys, there is no problem.** How many days do they remain?

- 10-15 days before we can get their main apartment.

- OK. Now I will finally make a decision, please. Do you have a Viber?

- Just call me, and we'll see what we can do for the pictures.

- OK. Thanks.

Call 4

Interviewer: Hello, my name is Gurgen.

Speaker: - Hello, I can hear.

- I saw your agency's announcement on List.am.

- Again, I did not hear.

- I want to find out if your agency gives a monthly rent or a daily rent.

- How many days do you want and which apartment?

- I cannot exactly tell the apartment, we need ten days stay near the center of the city.

- The price?

- To be honest, our apartment is for our beneficiary, and it would be fine if the price was not that high, because...

- Well, can you tell me approximately so that I can check if we have an apartment at the moment?

- Let's suppose 15-20 thousand a day, if ...

- For how many days?

- About 15 days.

- Since when?

- The sooner, the better, because she has now left home.
- Was he made to leave?
- Yes.
- Why.
- **His Daddy knew that our beneficiary was gay, and dropped him out the home.**
- **Well, oh, oh, let me look, and come back to you by this number.**
- OK.

Call 5

Interviewer: Hello, I'm calling you for renting; I've seen your ad on list.am.

Speaker: Oh, hello, which apartment do you speak about?

- You are an agency, aren't you?
- Yes, you say which apartment are you interested in, how long do you want, who will stay?
- Well, maybe we'd like a 10-15-day stay for our beneficiary, he's just been dropped out of the house,
- Excuse me, why?
- **Well, his daddy learned that he was a gay, fought with him and left home, now he does not have a place to live, so we want him to stay somewhere for 10-15 days until we find the main apartment.**
- **Are you from any organization?**
- **Yes, I called you from "For the LGBT Rights" NGO.**

They turned off and did not answer anymore.

Call 6

Interviewer: Hello, I call you for rent, I wanted to know if you are an agency so that I can find a convenient apartment.

Speaker: Hello, yes, of course, tell me what kind of apartment you want, we will try to help you.

- Well we need a home for our beneficiary, she has no room to live now, he has been out of the previous apartment. We need to get for her a 10-15-day stay somewhere until we find a permanent apartment.
- Did I get it right that he has been dropped out of his previous house?
- **The owner of the previous house learned that he was a gay, refused to give the rent.**
- **Well, let me tell you that I will not give o rent to him as well.**
- **But what's the problem?**
- **There's no problem, I just do not have a home for such kind of people.**
- **OK, thanks. Good luck!**
- Good luck.

Call 7

Interviewer: - Hello.

Speaker - Hello.

- Hello.

-My name is Emil, will you tell me your name, please?

- Armen.

- Well, Armen Jan, I'm calling you from "New Generation" Humanitarian NGO, we have to rent an apartment for our beneficiary.

- For what term?

- There is no difference, we just want to know for how long we can hire.

- Tell us concrete day to say and the exact number of days, we'll give you a specific price - let's say we offer something concrete.

- OK. One of the guys is just going to stay out of the house, perhaps for ten days, and we'll have to rent an apartment until we get to the long-term squad.

- What is his age?

- He is 20 years old.

- I can offer Khorenatsi-Nar-Dos crossroads at Tashir trade center with AMD 13,000 a day.

- Can you, please, repeat the address so that I can write down.

- Khorenatsi - Nar-Dos crossroad, near Tashir shopping center.

- How much was the daily rent price?

- If it is 10 days, I will provide 13,000 a day with a separate bedroom, hot and cold water, internet, wi-fi, everything else.

- Good, and I want to ask whether he can host guests or not.

- What type of meeting will be there?

- He's in a relationship, he has a friend and I want to know if he can live with his friend.

- He is a boy and wants to meet a friend, yes?

- Yes.

- What is your organization, sorry?

- It's an NGO.

- Can you, please, tell the name of the organization?

- "New Generation".

- Who do you protect? From whom?

- It is a humanitarian organization, if you want to know for a specific beneficiary that is going to live there; **he is out of the house because his family has learned that he is a gay**, so he has been out of the house.

- **By the way, it would be great if he did not meet me.**

- **Why?**

- **Sorry, is our conversation now being recorded or not?**

- **No, just want to understand why he will not meet you.**

- **Well, it will not be good, I'm against such perversions.**

- In other words, the apartment will not be rented.
- Certainly, if he gave \$ 1,000 a day, I would not agree, anyway.
- OK, Armen jan, thank you.
- And I advise you to change your style of work, or keep away from such people, we are Armenians.
- Thank you, good luck.

Call 8

Interviewer: Hello.

Speaker: - Hello. I've seen your announcement on list.am, you rent apartments, I wanted to clarify whether you are an agency and have other apartments.

- OK, tell me what kind of apartment do you want and how can I help you?
- Well, I need it for 10-15-day; it's desirable in the center of the city for our beneficiary.
- I can offer you an apartment on Sayat-Nova, 20,000 AMD a day, and want to know whether who will stay, how many people will stay, their age.
- Yes, there will be two boys, they have just left their former flat, now they have no room to stay. We have to find home for a 10-15-day stay until we find a permanent place to live.
- And why were they dropped out of the previous home.
- Well ... The owner of the former house knew that they were Trans, but they did not do anything, did not hurt anyone.
- Let me say, no matter how good they are, I will not give my house to a trans person.
- Why, sorry?
- Well, because I and the whole nation are against those things and definitely will not want them to live in their own home.
- Good.

Call 9.

Interviewer: Hello. I call you for a rent and want to know the conditions.

Speaker: Hello. What apartment are you speaking about?

- Yes, as I understand, you are an agency. Well, I need an apartment in the center for nearly 10-15 days. It is for our beneficiary. He is now out of his house and needs a new one until we find main place for him.
- Well, can you tell me what is the age of the beneficiary. What price is the best for you?
- He is a 20 year old boy. He doesn't have money and is out of the house now, we shall cover the expenses, that's why the cheaper, the more convenient: up to 20,000 AMD.
- Well, got it. Why is he out of his house.
- **Let me say, his father learned that he is a gay, that's why he dropped out him from his house.**
- **OK. Let me see what we can do. Give us Viber, we will call.**
- Call us back, please.

We didn't get a call back and didn't answer then.

Call 10

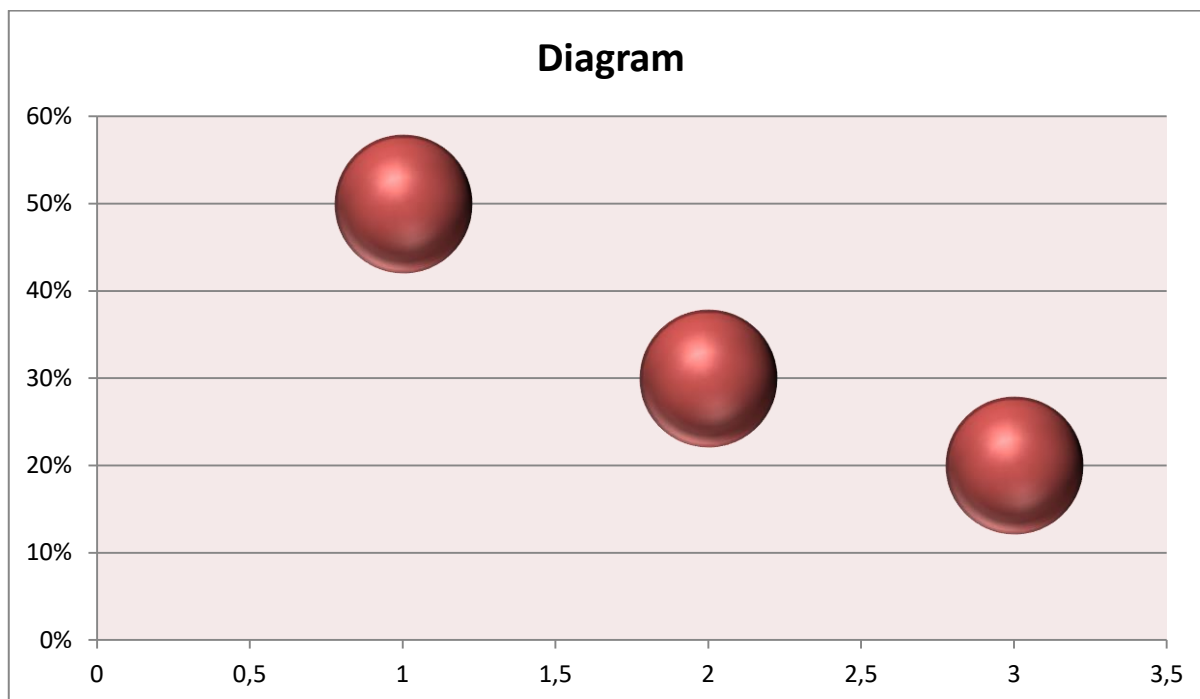
Interviewer: Hello. I'm sorry to see your announcement on list.am that you rent apartment, I wanted to find out if I could find something suitable for me.

Speaker: Well, tell me, what are you interested in?

- Well, we need a 10-15-day apartment, it's desirable in the center, and as accessible as possible.
- What's the deal, say the approximate price, and I'll suggest.
- Well, it's a maximum of 20,000.
- OK, you're going to stay alone, aren't you?
- No, it's not for me, it's for our beneficiary, he has applied to our organization to help him because he is out of his house, now he does not have a place to live, we have to find a house for 10-15 days until we find a permanent place to live.
- How old is he? What does he do?
- He's a 20-year-old boy, he's a student, he's just got out of the house, **they've learned about him, that he is gay, and do not let him go back home.**
- Yes, I understand, sorry, but I think I can't help you.
- Why?
- Well, it's a big headache, his family might know where he lives, or the residents of the building might complain that he doesn't behave well.
- I'm sorry, but he is a very young and smart student.
- No, do not hesitate to contact another person, but I do not think you will find anything.
- Well. Thank you.

CONCLUSION

The following diagrams are obtained by analyzing the records of telephone conversations carried out by the NGNGO within the framework of the "How to Find the Way" program.



50% - immediately rejected

30% - would call later

20% - turned off and didn't call back

Analysis of telephone conversations records shows a very high percentage of discrimination towards LGBT people in the society.

Discrimination is manifested in various aspects of life, including employment, place of residence, education, health, family, etc.

In this case, the problem was related to the limitation of the right of LGBT people to have a place of residence. Despite the fact that at the beginning of the conversation they are willing to provide apartments, many of the renters, knowing that the beneficiary is a member of LGBT community, immediately avoid providing housing. Often they make their decisions based on their own views of sexual orientation and gender identity or the fear of being criticized by the society.



The Armenian legislation does not clearly define the prohibition of discrimination on all grounds and consequently does not exist the possibility of applying to the competent authorities on that basis, the difficulty of access to a particular group of discriminated persons becomes difficult.

People, who are often subjected to violation on the ground of discrimination, give a crime report, largely because of intentional infliction of serious, moderate, minor injuries, beatings, physical pain or mental illness, but the offenses of these crimes do not contain discrimination factors.

Discrimination against the most vulnerable groups in society is often manifested not only by physical violence, but also by calls for intolerant attitudes and hatred.

In this respect, the RA legislation did not define adequate guarantees for the protection of hate speech, the only effective mechanism is the legal protection mechanism of insult and defamation.

It should be noted that Article 14 of the European Convention on Human Rights states:



The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, color, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.



Article 29 of RA Legislation states:

Discrimination based on sex, race, skin colour, ethnic or social origin, genetic features, language, religion, world view, political or other views, belonging to a national minority, property status, birth, disability, age, or other personal or social circumstances shall be prohibited.

In all of these, there is no comprehensive legislation to prevent discrimination in Armenia that would create new legal protection mechanisms.

Summarizing the above mentioned, we can state that there is a high level of discrimination in society, which is conditioned by legislative gaps and stereotypes about LGBT people in society.

We suggest, to

- Adopt the RA Law on Equality of Rights, which defines sexual orientation and gender identity as a basis for discrimination,
- Establish Equality bodies among the Ombudsman's Office and Community Municipalities that will give conclusions on the existence or absence of discrimination in a particular situation,
- Include discrimination issues in the agendas of working meetings of public councils adjacent to the Government of the RA,
- Refrain from discrimination, hatred and violence in media and information materials,
- Make amendments to RA Criminal Code and provide for discrimination as a crime,
- Conduct trainings, discussions and other formats of awareness raising activities on different discrimination groups.