

Statement
on disinformation spread on behalf of
the RA Court of Cassation

Disinformation on behalf of the RA Court of Cassation . Human Rights Defender infringed the confidentiality of disciplinary procedure.

The reality. At the stage of submitting by the law the Defender's reports to disciplinary committee of the RA Council of Justice and disseminating information about it the disciplinary procedure has not been initiated yet. Therefore, advancing arguments relating to the disciplinary procedure process is merely senseless. If the Defender (as well as any other individual) is legally involved in disciplinary procedure, the confidentiality provisions will be applied to him as well. The Defender implements his activities publicly, in an open and transparent manner in all those cases, when the Law does not directly and explicitly forbids the Defender to act in that way.

Disinformation on behalf of the RA Court of Cassation. Human Rights Defender considered publicly affirmed the issue of gross and obvious violations of the Law committed by the Judges.

The reality. In his report the Defender clearly and literally mentions that the judges allowed obvious and gross violations of the rules of law “<according to the Defender assessment”, and the confirmation of those circumstances is indeed left to the jurisdiction of the body prescribed by the Law.

Disinformation on behalf of the RA Court of Cassation. As long as the RA Council of Justice does not consider the actions of the judges as obvious and gross violations of the Law, no other state body is competent to make assessments.

The reality. The Defender examines each complaint received from each applicant and evaluates the provided justifications. In an inverted logic the legislative change endowing the Defender with such an authority would be simply senseless, as, without the intervention of the Defender, individuals were and are still able to apply on their own to the bodies initiating disciplinary procedure. However, if individual persons decide to realize their right given by the Law still with the help of the Defender, the latter may make a report only after evaluating complaints.

Disinformation on behalf of the Court of Cassation. The RA Council of Justice represents itself as a Court; thus public assessments of the actions of judges imply pressure on the Court.

The reality. The RA Council of Justice **does not represent itself as a Court**, but **acts** by the Law as a Court. When defining this provision the legislator allowed the RA Council of Justice to use in its procedural actions the regulations of the administrative procedural law. This is testified by the Article 158 the RA Judicial Code, an incomplete and distorted quote of which turned into disinformation. Even if the RA Council of Justice “represents itself” as a Court by the Constitution and laws and evaluations were not allowed, the authors of disinformation suggest in this case to generally forbid voicing opinion regarding all current cases in all Courts.

Disinformation on behalf of the RA Court of Cassation. According to the Case Law of the European Court of Human Rights, existence of guarantees, excluding external influence, is, inter alia, one of the components of the independence of the Court.

The reality. Without overloading our arguments with Latin phrases we will make an essentially relevant quote from the same source: “Although the judiciary enjoys a special protection, it does not function in a vacuum, and questions about the administration of justice may be part of the public debate. Whilst courts are the forum for the settlement of disputes, this does not mean that there can be no prior discussion of disputes elsewhere...”/European Court of Human Rights. *The Sunday Times v. the United Kingdom*.

Disinformation on behalf of the RA Court of Cassation. A priori public evaluations of the actions of judges made by the Human Rights Defender are inadmissible from the standpoint of the independence of the Court and impede the execution of professional duties of judges.

The reality. Our arguments mentioned above indicate that Defender’s evaluations corresponded to the letter of the law. It is necessary to only add that in reality reputation, independence and execution of professional duties of judges are hampered by the repeatedly stated shortcomings of the judicial system which were and will continue to be addressed by the Defender via such public debates and discussions.

P.S. The RA Court of Cassation or any of its chambers did not definitely discuss and were not authorized by the law to discuss the activities of the Human Rights Defender. Therefore it can be assumed that the disinformation spread on behalf of the RA Court of Cassation is the result of illegal activities of separate individuals.

The illegal expostulation addressed to the Human Rights Defender- a Constitutional body -“to refrain in future from such a behavior”, can be viewed in future as intervention into the activities of the Defender with the aim of influencing his decisions or hampering by state officials the execution of the Defender's powers prescribed by the Law or a threat addressed to the Human Rights Defender for which up to a criminal liability is envisaged.