



April 20, 2011

50 days of the Defender: reflection on property rights

The applications received by the RA Human Rights Defender's Office concerning violations of property rights can be conditionally divided into several groups.

The first group includes complaints, concerning the actions of the State Committee of the Real Estate Cadastre, relating to non-registration of rights recognized by judicial acts, refusal of registration of inheritance rights for different reasons or refusal to provide necessary information.

In this group of cases apparent and grave violations of human rights have been repeating for years. In certain cases owing to the persistent interference of the Defender's Office positive results were achieved, but regular repetition of similar violations comes to prove the existence of a systemic problem.

It is proper to reflect on a certain complaint regarding the State Committee of the Real Estate Cadastre, which is, at the same time, a typical one. According to the complaint lodged by Vladimir Yenokyan, he turned to the Yerevan Municipality Office with request to recognize the ownership right towards the house and the land necessary for its servicing. By the decision of the Yerevan Mayor his property right was recognized. However, Marash territorial unit of the State Committee of the Real Estate Cadastre not only failed to fulfill the Mayor's decision and did not provide real estate ownership registration certificate, but also didn't reply to the citizen. The Defender's Office is now reinstating violated property rights of Vladimir Yenokyan.

Next group of issues relates to non-fulfillment of court's decisions by Yerevan Municipality. The former Human Rights Defender also encountered the same problem and a number of often unresolved cases of the similar type prove the situation.

With this regard I deem necessary to specially remind all the municipal and state bodies that the court decision in legal validity is obligatory for all and the article 353 of RA Criminal Code provides for criminal responsibility in case of intentional non-fulfillment of a decision in legal validity, court decision or other judicial act.

A very specific example of such a gross violation is the complaint of Margarita Papoyan, whose property right was violated and is not restored yet. The previous defender also examined her case. The applicant has a court decision obliging the Yerevan Municipality to set contractual relations with her. However, for already 2 years neither the Municipality, nor the Compulsory Enforcement Service has taken any steps for realization of the court decision. In response of the Defender's inquiry the Yerevan Mayor, referring to technical problems, merely tried to connect the non-fulfillment of the decision with his status, more precisely with change of names, in fact refusing the legal succession of the same institution.

The third group of problems refers to the Compulsory Enforcement Service, which often does not provide proper consistency towards the process of realization of citizens' property rights as does not enforce the levers endowed by the law to implement the court decisions in legal validity. In particular, in cases, when the state body or official as a debtor does not perform the requirements of the legal act, the enforcement officers do not take the measures, defined by law, including the administrative liability towards the lawbreaker.

Another important issue is the violations of realization of property rights concerning property in the areas that have been officially recognized as areas of primary public interest. Till now the Defender continues receiving complaints from the owners of the areas that are alienated for public and state interests and from persons with other property rights, that refer both to the compensation and the problem of lack of proper state control over the builders.

Currently, there are around twenty cases under the procedure of the European Court of Human Rights concerning the violations of property rights and 4 case decisions were ruled against the Republic of Armenia. First, this is worrisome from the viewpoint of the protection of the RA citizens' property rights; however it should be noted that such kind of cases have negative impact on the international reputation of the Republic of Armenia.

RA Human Rights Defender's Office is ready to support everyone in order to restore their property rights violated by the State Committee of the Real Estate Cadastre adjunct to the RoA Government, city administrations, village administrations, territorial administration bodies, Compulsory Enforcement Service, as well as other state and local self-government bodies, except the cases that are subject to judicial settlement, which the Defender cannot address. My mission on the all above is not only to reinstate the citizens' rights through individual cases, but also to exclude through them similar cases in the future and to reveal and resolve systemic issues.

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