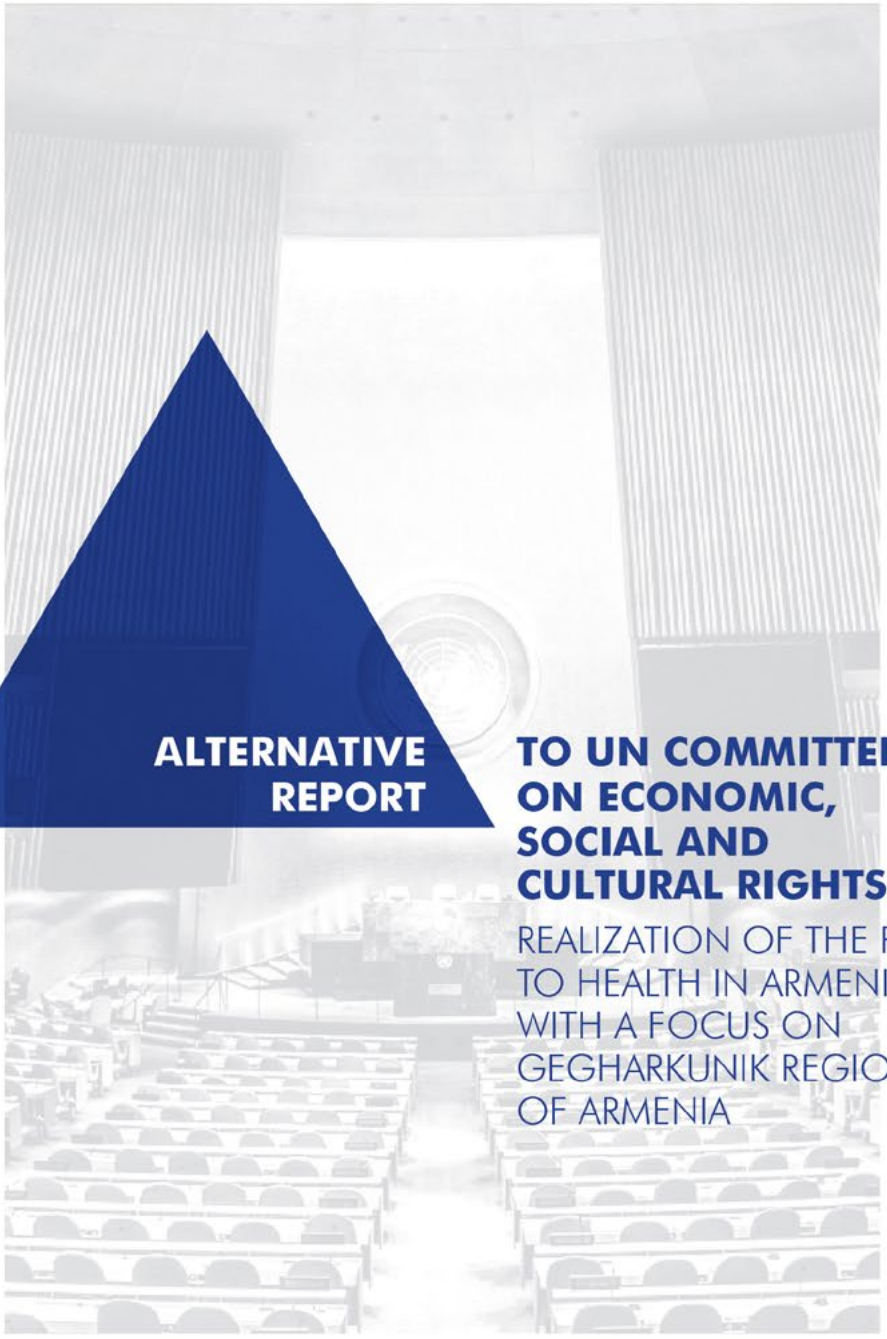

ALTERNATIVE REPORT

TO UN COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

REALIZATION OF THE RIGHT TO HEALTH IN ARMENIA WITH A FOCUS ON GEGHARKUNIK REGION OF ARMENIA

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This report has been produced as part of the project "Promoting Human and Labour Rights through GSP+ in Armenia" and is presented now for the purposes of the EU's ongoing GSP+ monitoring process. It is also to be submitted to the UN Committee on Economic, Social and Cultural Rights. However, that submission will be at an undetermined future date and hence the content of the report may be modified in the interim.

The report was prepared by

Eurasia Partnership Foundation,

“Human Rights Research Center”
Non-governmental organization,

“Martuni Women’s Community Council”
Non-governmental organization,

“Astghavard” Disabled Children’s Parents
Non-governmental organization

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EUROPEAN UNION FOR ARMENIA

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BRIEF INFORMATION ABOUT THE REPORT

(1) This Alternative Report aims to inform the UN Committee on Economic, Social and Cultural Rights (CESCR) on Armenia's implementation of Article 12 of the International Covenant on Economic, Social and Cultural Rights (hereinafter "the Covenant"), which sets forth the obligation of a state to ensure the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

(2) The Report focuses on the challenges of enforcement of the right to enjoyment of the highest attainable standard of physical and mental health in accordance with the provision of Article 12(1).

(3) The report analyses domestic legislation, policies and practices for consistency with the right to health under Article 12 of the Convention and the four interconnected elements laid out in CESCR General Comment (GC) No. 14: *availability, accessibility, acceptability,* and *quality*[1].

(4) Armenia ratified the UN International Covenant on Economic, Social and Cultural Rights in 1993. In 2009 it signed the Optional Protocol to the Covenant but has not ratified it.

PROBLEMS OF REALIZATION OF THE RIGHT TO HEALTH IN ARMENIA

Legislative safeguards of realization of the right to health and the national policies

(1) In Armenia the right to health is enshrined in the Constitution[2] and regulated by a number of domestic laws and subordinate normative legal acts[3].

1. See at: https://www.refworld.org/pdfid/4538838d0.pdf

2. See at: https://www.arlis.am/DocumentView.aspx?docID=102510

3. The RA Law "On Medical Assistance and Service to the Population" – as a core regulatory legislation for the field, the RA Law "On Drugs", the RA Law "On Psychiatric Care", the RA Law "On the Reproductive Health and Reproductive Rights of a Person", the RA Law "On Prevention of Disease Caused by the Human Immunodeficiency Virus (HIV)".

1.1) Article 85 of the RA Constitution provides for the *right to preservation of health,* according to which:

1) Everyone shall have the right to preservation of health in accordance with the law.

2) The law shall prescribe the list of free of charge basic health services and the procedure for the provision thereof.

1.2) Under Article 86 of the Constitution *implementation of programs for preservation and improvement of the population's health, creation of conditions for effective and accessible health services* are declared as one of the main objectives of the state policy in the economic, social and cultural spheres.

1.3) The legal, economic and financial grounds for organization of the medical assistance and service that ensure realization of the constitutional right of a person to healthcare are established by the RA Law "On Medical Assistance and Service to the Population" – a core legal document of the field. *It also establishes legislative grounds and safeguards for the provision of medical assistance that is the first component of the right to health defined in the GC 14.*

1.4) As to the policy documents, there are a number of strategies and state programs that regulate specific issues in the field, such as the Strategy on Preserving and Improving Mental Health in the Republic of Armenia for 2014-2019[4], Reproductive Health Improvement Strategy and its Action Plan for 2016-2020[5], Child and Adolescent Health Improvement Strategy and its Action Plan for 2016-2020[6], and State Target Program for Prevention of HIV/

4. See at: https://www.e-gov.am/u_files/file/decrees/arc_voroshum/2104/04/15-1ardz.pdf

5. See at: http://www.irtek.am/views/act.aspx?aid=86074

6. See at: http://www.irtek.am/views/act.aspx?aid=86895

AIDS in the Republic of Armenia for 2017-2021[7]. Several healthcare-related activities are included in the 2017-2019 Action Plan of the National Strategy on Protection of Human Rights[8]. *Nevertheless, there is no standalone comprehensive national policy document to cover the field of public health, which is considered by the Committee as a core obligation for realization of the right to health by the state. Such policy should introduce the state strategy and its plan of actions for realization of the right to health.*[9]

1.5) In 2009 Armenia signed but as of today has not ratified the Optional Protocol to the Covenant that would ensure an opportunity for Armenia to submit individual communications to the CESCR. With ratification of the Protocol the citizens gain access to another important mechanism for the protection of their rights, and it will give the state additional incentives to develop policies.

The problems of ensuring components of the right to health

(2) The CESCR defines the right to health as an embracive right that includes a number of other components besides the simple provision of medical assistance and services[10]. Without properly ensuring each of the components we cannot speak about full implementation of the state commitments under Article 12(1) of the Covenant.

2.1) The Covenant addresses "a wide range of socio-economic factors that promote conditions in which people can live a

7. See at: http://www.irtek.am/views/act.aspx?aid=90527

8. See at: https://www.arlis.am/DocumentView.aspx?DocID=113223

9. ECSCR General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12), para. 43(f).

10. The components considered as such, are as follows: 1) access to safe and potable water and adequate sanitation; 2) supply of safe food, nutrition and housing; 3) ensuring safe and healthy working conditions, and a healthy environment; 4) access to education and information, including on sexual and reproductive health.

healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment."[11] Armenia has numerous problems related to ensuring these components.

2.2) Part of the problems intersects with the problem of poverty in Armenia. Addressing such problems and adopting a rights-based policy to overcome poverty are necessary steps from the perspective of protection and realization of the right to health and a number of related rights.

2.3) For example, 48.9% of children in poor households, and 78.4% of children in extremely poor households lack hot water, centralized gas supply, bath or shower[12].

2.4) Problems of availability of safe and potable water exist also in institutions of public and special education, in closed and semi-closed institutions. The Human Rights Defender's Office has reported numerous cases of the lack of water and sanitation in public preschools and schools, including the absence of indoor toilets[13].

2.5) Communities face serious problems with waste removal. In many locations, such as in Yerevan's Nubarashen administrative district, the overaccumulation of waste greatly endangers health of the residents. The landfill in Nubarashen accumulates as much as 300,000 tons of garbage annually and does not comply with landfill standards: it is not isolated by a fence and lacks a technical system for collecting leachate, which pollutes the groundwater and, as a result of spontaneous or imperfect combustion, different

11. ECSCR General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12), para. 4.

12. See at: https://www.armstat.am/file/article/poverty__2018-arm.pdf, p. 111

13. See at: http://www.ombuds.am/resources/ombudsman/uploads/files/publications/51ef7818aa7d3e528b03ae52443f1ba6.pdf

types of poisonous, including cancerogenic substances are emitted into the atmosphere[14].

2.6) There are numerous problems related to the realization of the right to healthy and hygienic working conditions as well, which we have addressed in a separate report submitted to the CESCR (in particular, with regard to the problems that exist in the field of mining)[15].

(3) Another group of components relates to access to education and information, including on sexual and reproductive health.

3.1) Article 51 of the RA Constitution prescribes the right to receive information, and Article 19 of the RA Law "On Medical Assistance and Service to the Population" obliges those offering medical services to provide everyone with information on the specific type, methods, extent, manner, and conditions of medical assistance or service.

3.2) Article 38 of the Constitution sets forth the right to education, which is further elaborated within domestic law. Government decision #1088-N of 28 July 2011 defines minimum requirements for the content of basic education, including *"Ecological and physical upbringing and of fundamentals of healthy lifestyle"*[16]. To this end, a "Healthy Lifestyle" course is taught in public educational institutions and covers sexual and reproductive health, including hygiene, sexual behavior, puberty, and sexually transmitted infections. There is no separate subject on sexual education in the RA public education curriculum.

3.3) Nevertheless, a review of the course content and the methodology of instruction revealed a number of problems,

14. See at: https://ampop.am/garbage-crisis-in-yerevan/

15. See: The Alternative Report on the Realization of the Right to Enjoynment of Just and Favorable Working Conditions submitted by the Armenian CSOs to the CESCR.

16. See at: https://www.e-gov.am/u_files/file/decrees/kar/2011/07/11_1088.pdf

including that "many children have no idea even on the main processes of puberty."[17]

3.4) To this end, the state educational system fails to ensure accessibility of adequate knowledge on sexual and reproductive health that is considered as one of the constituent elements of the right to health.

Problems and legislative gaps related to the availability, accessibility, acceptability and quality of health facilities, goods and services

The CESCR GC 14 establishes that ensuring the right to health in all its forms and at all levels contains the following core elements:

- *Availability* in "sufficient quantity" of "public health and health-care facilities, goods and services, [and] programmes." This includes facilities, goods, and programmes that support the "underlying determinants of health, such as safe and potable drinking water and adequate sanitation facilities, hospitals, clinics and other health-related buildings, trained medical and professional personnel receiving domestically competitive salaries, and essential drugs."[18]
- *Accessibility* "Health facilities, goods and services have to be accessible to everyone without discrimination." This includes physical accessibility, economic accessibility (affordability), and information accessibility as well as the notion that all facilities, goods, and services are accessible to all without discrimination.[19]
- *Acceptability* "Facilities, goods, and services must be respectful of medical ethics and culturally appropriate...as well as being designed to respect confidentiality and improve the health status of those concerned." [20]

17. See at: http://www.ysu.am/files/Sex-ed_Teacher2018_WRC_CGLS.pdf

18. ECSCR General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12), para. 12(a).

19. ECSCR General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12), para. 12(b).

20. ECSCR General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12), para. 12(c).

- *Quality* "Facilities, goods, and services must be scientifically and medically appropriate and of good quality," including qualified personnel, modern drugs and equipment, and adequate water and sanitation. [21]

(4) As an availability indicator, CESCR notes ensuring the availability of safe and potable drinking water and adequate sanitation of public health and health care facilities.

4.1) The Law "On Licensing"[22] (Article 11) sets out rules regarding cleanliness and other norms and applies these rules to healthcare facilities. The Ministry of Health is responsible for ensuring compliance with the law.

4.2) After reviewing annual reports of the Human Rights Defender, research from various non-governmental organizations, and conducting our own investigation, it is clear that healthcare facilities in Armenia face serious problems in terms of ensuring appropriate building and sanitary-epidemiological conditions: the physical condition of the facilities; buildings are in disrepair and cleanliness is severely lacking. The Human Rights Defender's 2019 report notes that sanitary conditions in state-funded facilities are so poor that many patients are forced to choose paid patient rooms rather than use those provided for free by the state[23]. In a study of emergency medical and policlinic services in 10 regions in Armenia, the majority of respondents specified the need for systematic improvement in the hygienic conditions of the policlinics[24]. *Thus, healthcare facilities in Armenia have many problems in terms of providing safe and potable drinking water and sanitation, that impede availability of the right to health in the RA.*

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21. ECSCR General Comment 14: The Right to the Highest Attainable Standard of Health (Art. 12), para. 12(d).

22. See at: http://www.irtek.am/views/act.aspx?aid=150090

23. See at: http://www.ombuds.am/resources/ombudsman/uploads/files/publications/0e3f463c0e6c42f12cb497d483739dec.pdf

24. See at: https://transparency.am/files/publications/1515577747-0-615102.pdf

(5) The problems pertaining to the accessibility of the right to health are addressed in great detail in the "Report on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health" by the Special Rapporteur Mr. Dainius Pūras on his working visit to Armenia in 2017[25]. Therefore, we see no need in addressing again the problems of discrimination, as well as problems of physical and economic accessibility existing in the field. *The problem of accessibility could be mitigated by comprehensive legislation prohibiting discrimination, including on the grounds of health status, in accordance with international best practices and the requirements of the Convention. This law is necessary in order to address a number of manifestations of discrimination in the health-related field and ensure equal accessibility of the right to health in Armenia.*

(6) One particular problem of *acceptability* in Armenia relates to the preservation of medical confidentiality.

6.1) According to Article 5 of the Law "On Medical Assistance and Service to the Population", every person shall have the right to demand confidentiality regarding the fact of visiting a doctor, of his or her health condition, as well as of the information revealed during examination, diagnosis and treatment. Article 19 of the same Law provides that medical providers must ensure the confidentiality of the fact that a person visits a doctor, the information on his or her health condition revealed during the examination, diagnosis and treatment, except in certain situations in cases prescribed by law. However, the Law does not define "medical secrecy" nor is there legislation establishing liability mechanisms for divulging confidential medical information, and there are a number of legislative gaps[26]. An insufficient legal framework combined with cultural practices and limited awareness

25. See at: https://digitallibrary.un.org/record/1627460/files/A_HRC_38_36_Add-2-EN.pdf

26 See at: http://www.ombuds.am/resources/ombudsman/uploads/files/publications/0e3f463c0e6c42f12cb497d483739dec.pdf

among medical personnel and patients lead to a situation of persistent violations of a patient's right to confidentiality.

6.2) Violations of patient confidentiality are widespread for persons living with HIV/AIDS and in cases regarding reproductive health. Disclosure of confidential information persists for those diagnosed with cancer, in which it is common for the diagnosis to first be revealed to a patient's relatives without their consent. The relatives in turn ask the providers to "not to tell the patient anything". Patient confidentiality is also regularly compromised in mass media, which often disclose a patient's identity and diagnosis without consent[27]. *Poor legislative regulation of the patient's right to confidentiality and the current practices lead to the problem of ensuring the acceptability criterion within the framework of realization of the right to health in Armenia.*

REALIZATION OF THE RIGHT TO HEALTH IN GEGHARKUNIK REGION

(7) The project included an assessment of the realization of the right to health in Gegharkunik region based on group and individual interviews with residents and medical personnel in five cities: Gavar, Vardenis, Sevan, Tchambarak and Martuni. A description of the methodology is presented in Attachment 1 of this Report.

(8) The residents of Gegharkunik region receive the necessary emergency and primary medical assistance in their locations. Emergency medical services are accessible in all cities, but there is a problem as regards specialists, equipment and overall organization of public healthcare in the region. In particular, most resident interviewees pointed out the lack of specialists qualified to use complex medical devices, as a result of which the equipment is left unused.

27 See at: https://med.news.am/arm/news/11594/hayastanum-lrjoren-khakhtvum-e-hivandneri-bzhshkakan-gaxtniqi-iravunqy-masnaget.html

(9) Participants in the study all complained about the poor quality or total absence of medical services, necessitating either travel to Yerevan or abandoning treatment altogether if a trip to the capital is cost-prohibitive. Such services include conducting examinations, services related to treatment of cardiovascular diseases, and various surgery services.

(10) The building conditions of the hospitals in Martuni and Vardenis, according to the interviewees, are extremely poor, effectively depriving the residents of the opportunity to use hospital services.

(11) The region has a serious problem with safe water and sanitation. In Gavar, Martuni and Vardenis, water treatment stations do not operate properly. All the villages in the region lack sewage systems. As a result, sewage from the whole region pours into Lake Sevan, which, if not prevented, will eventually lead to environmental and sanitary disaster.

(12) Absence or poor operation of intra-community and inter-community transportation also creates problems in terms of accessibility of medical services.

(13) Respondents from Gavar, Marthuni and Vardenis pointed to the problem of physical inaccessibility of hospitals. People with disabilities, as well as elderly persons can only make use of the services with the help of an assistant.

(14) Various manifestations of discriminatory attitude towards patients also cause problems of accessibility. According to the respondents, the problem is especially bad in Yerevan, where patients coming from the regions face discrimination based on social status, official position, as well as on how well-groomed the patients are and their appearance. In addition to impolite treatment, the discrimination manifests itself in the slow speed of services, neglect and inferior care towards patients arriving from the regions.

14.1) Several respondents mentioned that in Yerevan it is possible to receive adequate services under the state-funded

scheme only if one has reached a preliminary agreement with the particular doctor working at the given health facility with whom he or she is familiar. In addition, the problem of illegal payments that are demanded was also pointed out. However, according to the respondents, this problem is decreasing.

(15) *Financial inaccessibility of medical services* is omnipresent, especially for vulnerable groups such as the elderly, single parents, and persons with disabilities. Due to the lack of information many people do not receive the free drugs to which they are legally entitled.

15.1) Besides the high prices for medical services and medicine, the unavailability in the regions of a number of services also causes financial inaccessibility, as people are obliged to travel to Yerevan. Financial accessibility of surgery services, which many people cannot afford to pay for, is especially problematic.

15.2) The majority of respondents mentioned that, due to the lack of financial means, they had experienced deterioration of their health, although the disease was fully curable.

(16) Respondents noted a lack of access to information on health issues. Often, policlinic personnel do not possess relevant information or are not informed themselves. The regional TV channel does not broadcast health programs. Access to reliable health information seems to depend on the diligence and awareness of individual doctors and medical staff.

16.1) Migrant workers noted that, although they benefit from awareness-raising campaigns on sexually transmitted infections, the *stereotypes* associated with this issue often makes communication between the patient and the provider difficult.

(17) Most respondents complained about the *failure to observe medical confidentiality,* particularly when nurses provide health

information to patients' acquaintances, neighbors and others.

(18) The hospital in Martuni does not have a reception desk, meaning the process of finding and applying to a specialist is dependent on the ability and tenacity of the patient. According to the respondents, nurses and administrative personnel show a negative attitude towards patients.

(19) All interviewees reported on the widespread problem of participation in the processes of deliberations on the issues and decision making. No governmental entity conducts discussions or consultations concerning monitoring, evaluation and improvement of health services – either among the residents or medical personnel.

(20) All health institutions in the region lack quality specialists. In Martuni and Vardenis, the residents cannot access quality services due to absent or outdated equipment. Medical institutions fill in false data in the documents and avoid examining people. Residents of the region do not trust doctors and consider medical care provided by the state to be inefficient and of poor quality.

CONCLUSIONS AND RECOMMENDATIONS

The non-governmental organizations that prepared this report, based on the results of the analysis, urge the Committee on Economic, Social and Cultural Rights to inquire on the following issues related to the recommendations presented below.

Recommendation 1. The government should adopt a national policy for public health. The policy should be rights-based, founded on international legal standards on recognition, protection and realization of everyone's right to health, contain an action plan, be formulated and implemented with meaningful participation of various groups of the society at all levels (community, national and international).

Recommendation 2. The Government shall ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

Ratification of the Protocol is of key importance for full realization of the right to health in Armenia.

Recommendation 3. Overcome the problems related to compliance with all the components of the right to health as defined by the CESCR GC 14, and in particular:

- Overcome the problem of inaccessibility of safe and potable drinking water in public education schools and in closed and semi-closed institutions across Armenia – both in urban and rural locations.
- Solve within the territory of Armenia the problem of waste removal and the problem of preservation of healthy and safe occupational and environmental conditions, particularly in sectors such as mining.
- Ensure accessibility of health-related education and information for everyone, solve the problem of non-satisfactory provision of knowledge on sexual and reproductive health and the lack of sex education in public education establishments.
- Guarantee availability of safe and potable drinking water and sanitation in public health and healthcare institutions.
- Solve the problem of safe and potable drinking water in the regions, guarantee an appropriate level of water purification and the presence of sewerage in every community, prevent inflow of the sewage to Lake Sevan.

Recommendation 4. The Parliament should adopt comprehensive standalone legislation on the prevention of discrimination. The legislation should provide mechanisms for addressing cases of discrimination in the sphere of physical and mental health and it should ensure equal access to health care.

Recommendation 5. The Government should ensure full legislative regulation of patient confidentiality, including provisions for educating the public, medical personnel and the media on the importance and the requirement of observing patient confidentiality.

Recommendation 6. Ensure availability of health services in areas of the RA Gegharkunik region, in particular: presence and proper operation of medical centers, including availability of quality and trained specialists and necessary equipment, and provision of all the necessary health services. Ensure proper operation of intra-community and inter-community transportation which is a necessary prerequisite for enjoyment of health services in terms of accessibility of medical services.

Recommendation 7. The Government should ensure physical accessibility of all healthcare institutions for all groups, including persons with disabilities, the elderly, and those with limited mobility.

Recommendation 8. The Government should provide non-discrimination and sensitivity training to the staff of health care facilities in Yerevan and the regions.

Recommendation 9. Eradicate the practice of making additional payments, entering into preliminary agreements and involvement of acquaintances as prerequisites to receive quality services.

Recommendation 10. Provide targeted solutions to regulate the issue of financial inaccessibility of health services, guarantee efficiency and high quality of the goods and services provided under the state-funded scheme.

Recommendation 11. Ensure accessibility of information on healthcare services, state programs, and the rights of patients and medical personnel for all social groups both in urban and rural communities. At the same time, enhance the culture and mechanisms for preservation of medical confidentiality.

Recommendation 12. Ensure monitoring, evaluation and improvement of the quality of the activities of and services provided by the healthcare facilities, with meaningful participation of all population groups and guaranteeing participatory involvement of the population and medical personnel in the processes of public discussion of issues and developing mechanisms for the solution thereof, both at the community and the state level.

ATTACHMENT 1. SAMPLING AND METHODOLOGY OF RESEARCH IN GEGHARKUNIK REGION

Field research was conducted in Gegharkunik region on realization of the right to the highest attainable standard of physical and mental health. This region was selected because two of the non-governmental organizations preparing this Report are based there and are knowledgeable of the region's problems. They are also active in promoting the right to health, and strive to implement right-to-health programs.

The analysis focused on residents of three of the 5 cities in the region, representing different social groups. Medical personnel in each of the 5 cities were also interviewed.

Qualitative analysis was part of the methodology for the research. Group interviews, dyadic interviews and in-depth interviews were conducted. The research did not aim to generate statistically representative results or to extrapolate those results onto the whole target group. Homogeneous sampling was applied for the group interviews, and purposive sampling for selection of the participants for in-depth interviews.

Within the course of the research, 4 group interviews, 5 in-depth interviews and 2 dyadic interviews were conducted. A guideline-questionnaire was used for conducting the interviews. The logic behind the development of the questionnaire-guidelines was to get maximum comprehensive information on the *four components of realization of the right to health (availability, accessibility, acceptability and quality of health facilities, goods and services)* as elaborated in General Comment #14 of the Committee on Economic, Social and Cultural Rights. The age group of the interviewees was in the range of 18 to 84.

The group interviews were conducted in the following cities of Gegharkunik region: Vardenis, Martuni and Gavar.

Group interviews were conducted with the following groups:

1) Refugee women, Vardenis city (1 group of 6 persons);

2) Men working in the mining sector, Vardenis city (1 group of 7 persons);

3) A group of women, Martuni city (1 group of 8 persons);

4) A group of elderly persons, Gavar city (1 group of 2 women and 2 men).

The dyadic interviews were conducted with the two following groups:

5) A group of migrant men, Gavar city (1 group of 2 persons);

6) A group of men with disabilities, Gavar city (1 group of 2 persons).

The in-depth interviews were conducted with representatives of medical centers in the cities of Gavar, Sevan, Martuni, Vardenis and Tchambarak. In Tchambarak, Martuni and Vardenis the interviews were conducted with medical centre directors, in Sevan with the Deputy Medical Centre Director, and in Gavar with the general practitioner. In Gavar we had a preliminary agreement to meet with the Medical Centre Director, but the latter could not attend due to a work trip to Yerevan on the same day and asked us to meet with the general practitioner.

In total, 29 persons participated in the interviews conducted among the population, including 18 women and 11 men. Five persons (4 men and 1 woman) participated in the interviews conducted with the personnel of medical centers.