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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

**AMENDMENTS
TO THE LAW ON THE
HUMAN RIGHTS DEFENDER
OF ARMENIA**

LAW OF THE REPUBLIC OF ARMENIA

**ON MAKING AMENDMENTS AND ADDENDUM TO THE ~~LAW OF THE~~ LAW OF THE
REPUBLIC OF ARMENIA ON
THE HUMAN RIGHTS DEFENDER**

(Adopted by the National Assembly on June 1, 2006)

Article 1. General Provisions

The present law defines the procedure of ~~appointment~~ **election**¹ and dismissal of the Human Rights Defender, as well as the powers, the terms and the guarantees of his/her activity.

(Article 1 amended, 01.06.2006, LA-112-N)²

Article 2. Human Rights Defender

The Human Rights Defender (hereinafter - the Defender) is an independent and unchangeable official, who implements the protection of human rights and fundamental freedoms violated by the state and local self-governing bodies or their officials.

(Article 2 edited, 01.06.2006, LA-112-N)

Article 3. Election of the Defender

1. Every person having attained the age of 25, who is a citizen of the Republic of Armenia, is highly respected personality in the society, a resident of the Republic of Armenia for the preceding five years, and has an electoral right may be elected to the position of the Defender.

2. The Defender shall be elected by the National Assembly by at least three-fifth of total number of the deputies' votes, for a term of six years, from candidates, proposed by at least one-fifth of the deputies of the National Assembly.

The Defender should take the following oath upon his/her appointment:

"Having accepted the commitments of Human Rights Defender, I hereby swear being faithful to the Constitution and laws of the Republic of Armenia as well as to the principles of justice and social co-existence, to protect the human rights and fundamental freedoms of individuals and citizens.

I swear to act in impartial, conscientious and diligent manner".

3. The Defender shall assume his/her responsibilities on the day of expiration of the previous Defender powers. If the Defender's position is vacant at the moment of the new Defender's election, he/she takes office on the next day of his/her election.

4. Regular elections of the Defender are conducted within 40 days before the termination of the Defender's powers.

(Article 3 edited, 01.06.2006, NA-112-N)

¹ The text or words typed in italic or strikethrough are eliminated, and those highlighted are re-edited.

² Law of Armenia-112-Normative Act

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Article 5. Independence of the Defender

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3. The Defender's decisions are not considered administrative acts and are not subject to an appeal.

(Article 5, paragraph 3 added, 01.06.2006, NA-112-N)

Article 6. Termination of the Defender's Powers

1. The Defender's powers shall terminate on the same day of the sixth year following to his/her oath.
2. The Defender's powers shall be terminated before the expiry of his/her term of office only if:
 - 1) a verdict of the Court convicting the Defender enters into legal force;
 - 2) he/she renounces the citizenship of the Republic of Armenia or acquires citizenship of another country;
 - 3) after having submitted the statement on his/her resignation to the National Assembly he/she re-submits the statement no later than 10 days;
 - 4) the Defender is declared incapable, missing or deceased by an effective decision of the Court;
 - 5) he/she is dead;
3. The Chairman of the National Assembly shall inform the deputies in upcoming sitting about the termination of the Defender's powers before the expiry of his/her term of office in the presence of grounds envisaged by the paragraph 2 of the present article.
4. In case of termination of the Defender's powers before the expiry of his/her term of office, the new Defender shall be elected within one month after the position becomes vacant.

(Article 6 edited, 01.06.2006, NA-112-N)

Article 7. Complaints that are Subject to the Defender's Consideration

1. The Defender shall consider the complaints of individuals (including citizens) regarding the violations of human rights and fundamental freedoms envisaged by the Constitution, laws and the international treaties of the Republic of Armenia, as well as by the principles and norms of International Law, caused by the state and local self-governing bodies and their officials. The Defender cannot intervene into judicial processes. ~~He/she may ask for information on any case that is on the stage of trial and direct recommendations/comments to the court, as to guarantee the rights of citizens to fair trial as envisaged by the Constitution of the Republic of Armenia and norms of International Law.~~

He/she may demand information from the courts related to ensuring the applicability of the provisions of article 10, item 1; article 12, item 1, subitem 5; and article 17, item 1 of the present law.

(Article 7, paragraph 1 amended, 01.06.2006, NA-112-N)

Article 10. Complaints that are not subject to the Defender's Consideration

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1. The Defender may or may not consider complaints that are anonymous, and the complaints, submitted later than one year from the day, when the applicant had known or was supposed to know about the violation of his/her rights and freedoms as well as the complaints, which, in Defender's opinion, are not indicative of violations of human rights and fundamental freedoms or do not contain a claim.

(Article 10, paragraph 2 edited, 01.06.2006, NA-112-N)

Article 12. Examination of the issues raised in complaints

~~1. After making decision to accept the complaint the Defender shall have the right with the purpose of examining the issues raised in the complaint:~~

1. The Defender shall have the right:

(Article 12, paragraph 1 amended, 01.06.2006, NA-112-N)

Article 15. The Defender's Decisions

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~~3) to apply to the Constitutional Court of the Republic of Armenia on the issues of violations of human rights and fundamental freedoms:~~

- 3) to terminate the discussion of the complaint based on the principles envisaged by the law, if during the discussion of the complaint the grounds not to discuss the complaint or to terminate the discussion are revealed:

(Article 15, paragraph 3, item 3 edited, 01.06.2006, NA-112-N)

Article 19. The Defender's Immunity

During the term of his/her office and afterwards the Defender shall not be prosecuted and criminal proceedings cannot be instituted against him/her because of the activities deriving from his/her status, including the opinions, expressed at the National Assembly, if it is not libel or insult. The Defender cannot be involved as an accused person in a case, cannot be arrested and the question of administrative responsibility in a judicial order against him/her cannot be initiated without the consent of the National Assembly. The Defender cannot be arrested without the consent of the National Assembly, except the cases when the arrest is taking place at the moment of committing a crime. The Chairman of the National Assembly shall be informed immediately in such cases.

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(Article 19 edited, 01.06.2006, NA-112-N)

~~Article 22. THE DEPUTY Defender~~

- ~~1. The Defender shall have a Deputy, who shall be appointed upon the Defender's proposal, in accordance with the same procedure and conditions, envisaged by the present law. He/she shall have the same guarantees for independence and activity as the Defender.~~
- ~~2. The Deputy Defender shall perform the responsibilities of the Defender upon his/her instruction during the absence of the Defender or in case of early termination of the Defender's powers. In this case the Deputy Defender shall enjoy all the rights, social guarantees and personal immunity, envisaged for the Defender.~~
- ~~3. Other competencies of the Deputy Defender shall be defined by the Defender.~~

(Article 22 repealed, 01.06.2006, NA-112-N)

Article 24. Financing of the Defender's Activities

1. The activities of the Defender and his/her staff shall be financed from the State Budget, which must ensure their regular activity.
2. The budget of the Defender and his/her staff is the part of the State Budget, which is financed through a separate line item.
3. In accordance with the envisaged legislation and in the timeframe, envisaged by the RA law on Budget System, the Defender submits the budget financial application (estimate) of the Defender and his/her staff for upcoming year to the authorized state body for involving it in the State Budget draft.
4. If the budget financial application (estimate) of the Defender and his/her staff for upcoming year is approved by the Government, it shall be included into the State Budget draft. In the case of objection it is submitted to the National Assembly together with the State Budget draft.

The Government submits the substantiation for the objection of the budget financing to the National Assembly and the Defender.

5. The Defender shall manage the financial means by himself/herself.
6. The Defender shall submit financial and budget statements in accordance with Article 17 of the present law and the budget legislation of the Republic of Armenia.

(Article 24 edited, 01.06.2006, NA-112-N)

Article 26. The Expert Council

1. To benefit from advisory assistance, the Defender may establish an ~~Expert Council~~ Expert Councils, composed of individuals with respective background in human rights and fundamental freedoms.
2. Members of the Expert Council shall be invited by the Defender.

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3. **The Expert Council shall not exceed 20 members.**
 4. **Members of the Expert Council shall be involved on a voluntary basis and shall perform their activities without any compensation.**

(Article 26, paragraph 1 amended, 01.06.2006, NA-112-N)