



## REFERENCE

### ***On Actions Taken by the RA Chamber of Advocates in regard to Protecting the Rights of Advocates***

11 August, 2017

Yerevan city

**On 14 June, 2017** the Chairman of the RA Chamber of Advocates made an announcement on the following:

1. While entering the administrative building of the court the advocate and the belongings of the advocate may undergo an examination,
2. Discriminative approach is impermissible during the examination of the advocate or the belongings of the advocate,
3. While entering the administrative building of the court the advocate cannot be searched.

**On 27 June, 2017** Rapid Response Commission of the RA Chamber of Advocates released an announcement on requesting the advocates to notify the Commission in advance about the time and place of the court hearing for the purposes of recording and preventing the possible unfavourable incidents during the efforts of the court bailiffs towards the examination of the advocates, by way of ensuring the presence of representatives of the Chamber of Advocates.

In regard to the violent actions taken by the police officers towards advocates Lusine Sahakyan and Ara Zakaryan at the adjacent territory of the Court of General Jurisdiction of Avan and Nor Nork administrative districts on **28 June, 2017**, the Chairman of the RA Chamber of Advocates addressed the Head of the RA Police on the same day with the request to investigate the mentioned incident and call the guilty police officers to liability. On the same day the police assigned an official investigation on the incident.

**On 30 June, 2017** the Chairman of the Chamber of Advocates Ara Zohrabyan, Board Members Karen Mejlumyan, Harutyun Harutyunyan and Simon Babayan visited the administrative building of the Court of General Jurisdiction of Shengavit administrative district, where the court hearing as per criminal case number ԵԱԴԴ/0028/01/17 had to take place.

**On 30 June, 2017** the Chairman of the RA Chamber of Advocates applied in writing to the Head of the RA Judicial Department with a suggestion to furnish the administrative

buildings of the courts with such screening equipment which will eliminate or minimize the direct interference of court bailiffs during the examination of the advocates.

**On 12 July, 2017** the meeting of the Club was held at the RA Chamber of Advocates. The Chairman of the Chamber of Advocates, Board Members Melanya Arustamyan, Simon Babayan and Arayik Ghazaryan participated at the meeting. The issues regarding the examination, as well as the imposing of sanctions by the court, appointing of public defenders, calculating the sanction by the court on removing from the courtroom were discussed. The Board Members of the Chamber of Advocates, present at the meeting, abstained from the discussions of the disciplinary proceedings. As per the results of the discussions the Chairman of the Chamber informed at the meeting that he shall present the issue of examination to the discussion of the Board. Moreover, he will raise the issue of calculation of the court sanction of removal from the courtroom to the corresponding authority.

**On 20 July, 2017** the Chairman of the RA Chamber of Advocates applied to the RA Human Rights Defender Arman Tatoyan with the request to address the Council of Chairmen of the RA Courts to clarify the calculation procedure for the time (hours) stipulated for applying the court sanction “removal from the courtroom” under Part 2 of the Article 63 of the Judicial Code of the Republic of Armenia. The Human Rights Defender applied to the Council of Chairmen of the RA Courts.

**On 21 July, 2017** Board of the RA Chamber of Advocates made a decision in regard to the protection of the rights of the advocates, analyzed the mentioned incidents and decided:

1. *As to the examination of the advocates:*

1.1. *To record that:*

- *Advocates are the essential and irreplaceable subjects of the process of establishment of justice as per the criminal cases. The state officials shall demonstrate respectful attitude towards the advocates, whilst being guided by the presumption of advocate's integrity.*
- *The court bailiff shall have legal and factual bases for examining the advocates without any special equipment.*
- *The factual basis is referred to in the case when there is reasonable doubt that the advocate may be transferring objects prohibited by law.*
- *Discriminative approach is prohibited towards the advocates during the examination.*
- *The examination may not, in fact, turn into a search or create risks to the disclosure of advocacy secret or humiliating conditions for the advocate.*
- *The hindrance by the court and court bailiffs on the transfer of the objects necessary for professional activities of the advocate, including the drinking water in a safe container is impermissible.*

1.2. *Suggest the RA Judicial Department to:*

- *Conduct the examination by technical means (screening) without causing additional inconvenience to the advocates.*

- *In case of examining the content of the bag as per the factual basis (if the advocate has agreed to voluntarily show all objects, without disclosing the content of the documents), upon the request of the advocate, perform the examination in a separate room with the participation of the judicial officers of corresponding gender and witnesses to search, whilst composing a protocol on the results in two copies (one copy is provided to the advocate).*
- *Instruct the court bailiffs that in case of examining the bag or other object, the court bailiff is not authorized to: a) perform distinct search activities, including the opening of the bag or removing of the items in the bag, and b) examine content of any document.*

2. *Call on the advocates to demonstrate courage, uprightness and integrity in protecting the rights of their clients, while following the requirements of the Code of Conduct of Advocates.*

3. *Bear in mind that the advocate acting in accordance with the requirements of the Code of Conduct of Advocates is entitled to guarantees of the protection of advocacy activities under the law and to complete assistance of the Chamber of Advocates.*

4. *Assign the acting Head of the Staff of the RA Chamber of Advocates to send the following decision to the Head of the RA Judicial Department and ensure the publishing of the decision on the website of the RA Chamber of Advocates.*

**On 3 August, 2017** the representatives of the RA Chamber of Advocates and the RA Judicial Department discussed the issue of examination of the advocates by the court bailiffs. As a result of the discussions held the parties made a decision to appear with the following statement:

1. *The parties find the necessity for the protection of the life and health of the participants of the proceedings and other persons present at the courtroom as essential, especially as per the criminal cases where the persons are charged for crimes against human life and health, as well as crimes against public security.*

2. *The RA Judicial Department makes a statement that before obtaining special equipment the examination of the advocates and their belongings as per those cases, where it is necessary to ensure the protection of the life and health of the participants of the proceedings and other persons at the courtroom, shall generally be conducted in the following procedure:*

- *In case if the metal detector emits a signal during the examination of the advocate or the object with the advocate, the advocate shall be offered to leave the metal objects in a separate shelf and be again examined by the metal detector.*

- *In case if the metal detector again emits a signal during the examination of the advocate or the object with the advocate, during the examination of the content of the objects with the advocate (if the advocate has agreed to voluntarily show all objects without disclosing the content of the documents), upon the request of the advocate, the examination shall be performed in a separate room with the participation of the court bailiff of corresponding gender (upon the request of the advocate, a witness to search invited by him/her shall also participate), while composing a protocol on the results in two copies (one copy is provided to the advocate).*

- *When the court bailiffs examine the bag or other objects of the advocate, as it was performed previously and as it shall hereinafter be performed, they shall not conduct any distinct search actions and shall not examine the content of any document.*

*3. The following statement shall not limit the authorizations of the parties under the law, as well as the independence of the members of the RA Chamber of Advocates.*