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VELES

COMBATING USURY

Presentation of Proposals

Yerevan 2018

The recommendations were prepared by «Veles» human rights non-governmental organization within the framework of the project of ***«Combating Corruption - Strengthening Democracy»*** funded by the National Endowment for Democracy.

«Veles» human rights NGO was registered on February 13, 2014. Before the state registration the members of the organization had acted as an initiative group. The organization has chosen such widespread phenomena as a target of the struggle in the society as corruption and its miserable manifestations, such as usury, fraud, shadow turnover of funds obtained through corruption, money laundering, and others.

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TABLE OF CONTENTS

Legal gaps encountered during case studies

1. The importance of determining the originated source of money loaned by usurers

The Criminal Code of the Republic of Armenia defines elements of crime of usury in the following way:

1. *Usury is loaning money or property at an interest rate more than twice exceeding the one of the Central Bank of the Republic of Armenia, as well as making deals with individuals on extremely unfavorable conditions of which the other party took advantage, is punished with a fine in the amount of 300-500 minimal salaries or with imprisonment for up to 2 years.*

2. The same act,
1) as a result of which the aggrieved found oneself in a dire financial situation,
2) committed as profession,
3) committed using the minor age of the aggrieved or retarded mental development,
is punished with a fine in the amount of 400-600 minimal salaries, or with imprisonment for up to 4 years.

Preparation of litigation materials on usury, as well as the investigation into criminal cases, is carried out on grounds of logic that there exists a corpus delicti if the facts obtained in a particular case are substantiated by the simultaneous existence of all the provisions of the above-mentioned article. In fact, such an approach stems from the legislative regulations of the Republic of Armenia.

According to Article 3 of the RA Criminal Code, the only basis for criminal liability is a crime, that is, committing an act that contains all the features of elements of crime set forth in the Criminal Code.

Consequently, such investigation of criminal cases fits within the legal logic and does not constitute a material mistake in the investigation of specific crime elements.

However, due to peculiarities and nature of legal relationships defended by elements of crime of usury we can find that there should be a different approach to the investigation of these elements of crime. This claim is based on the following grounds.

The definition of the disposition of elements of crime of usury states about the receipt of interest against the money lent or the property determined by the species attribute, twice exceeding the settlement rate of the bank interest rate defined by the Central Bank of Armenia.

The analyses of criminal cases on usury well-known to us show that in the case of the overwhelming majority, the size of the amount subject to usury is rather large. People affected by usury lose homes, commercial space, other property units and valuable assets.

In such cases, besides financial problems of the person suffered from any alleged usury, obviously well-off situation, both of property and financial, of the other party, the person who has lent money to the injured party, is always remarkable. In most cases, these are either officials, or former officials, or those who are in a family or friendly relationship with them.

Objectively, questions are raised in these cases: "How has a person gained such riches?" or "How can the fact be explained that a person living in the same state is deprived of his/her house and all other possessions, and the alleged perpetrator for his/her financial problems accumulates houses and real estate?".

Moreover, people whose names are mentioned in the cases as ones practicing usury act in the same manner within other cases, as a rule. In recent years, there have been frequent cases relating the citizens who appealed to "Veles" human rights NGO for defense when not a single person is a sufferer from the one claimed as a usurer but the same person is complained by groups, each of whom the alleged usurer has lent large amounts of money and gained large interests.

During the investigation of usury-related criminal cases criminal prosecution authorities never refer to the question as to who the real owner of the loan is, which the source of the origin of the lent money is, or whether the owner of the money can substantiate the appearance in a legitimate manner of such amounts.

These are questions that arise during the investigation of the majority of usury cases but in no case these issues are subject to discussion. But it is important to examine the above-mentioned issues because the answers to those questions may identify both new people not presented themselves as involved in the lending party, and new crimes.

For instance, when investigating cases related to usury, to the real owner of the money loaned, the source of origin of the money loaned, or when discussing the issue of legitimacy of acquisition of the money, it may reveal features of such crimes as swindling, squandering or embezzlement, legalization of property gained through criminal proceeds (money laundering), abuse of official powers, illegal acquisition, obtaining a bribe, etc.

According to Article 178 (1) of the RA Criminal Code, swindling i.e. ***theft in significant amount or appropriation of somebody's property rights*** *by cheating or abuse of confidence…*

According to Article 179 (1) of the RA Criminal Code, squandering or embezzlement is ***theft of somebody's property*** *entrusted to the person* ***in significant amount…***

According to Article 190 (1) of the Criminal Code, financial or other ***transactions with obviously illegally obtained financial resources or other property for the purpose of using such funds or property for entrepreneurial or other economic activity****, to conceal or distort the essence, origin and whereabouts of these assets or rights pertaining to them, their placement, movement or actual identity…*

According to Article 308 (1) of the RA Criminal Code, abuse of official authority or duties by a state official ***for mercenary interests, personal, other interests or group interests****, which caused essential damage to the legal interests of citizens, organizations, public or state rights (in case of property damage, the amount exceeding three hundred minimal salaries or its value at the time of the crime)…*

According to Article 310 (1) of the RA Criminal Code, unlawful enrichment, ***increase of property and (or) reduction of liabilities substantially higher than its legitimate returns and are not reasonably***

justified by a person who has a duty to file a declaration prescribed by the Law of the Republic of Armenia on Public Service, and if features for other crime as bases for illegal enrichment are absent…

According to Article 311 (1) of the RA Criminal Code, taking bribes by a state official, personally or through a proxy, in the form of money, property right, securities or other property benefits, for implementation or not implementation of actions within his authority, in favor of the briber or briber's representative, by using official position, to commit or not to commit such actions for permission, service favoring or connivance…

As the above-mentioned crimes as well as other crimes defined by the RA Criminal Code may be available in cases when in cases on usury a large amounts of money has been loaned and the source of those amounts do not have any reasonable justification.

Yet, criminal prosecution authorities in the Republic of Armenia have not changed their workstyle for many years and have not addressed the above-mentioned issues in the case of litigation. Within the case of one of the citizens who appealed to the "Veles" human rights NGO, the above-mentioned question was not even addressed, even when to justify his arguments the victim insisted on that the person who had made a deal with him did not own such riches.

Investigation of usury cases in this way testifies that the state simply closes its eyes to the above-mentioned challenges, by this basically supporting unjustified enrichment and illegal accumulation of riches and showing tolerance towards these vicious acts.

With regard to the above-mentioned issue, the proposal of the "Veles" human rights NGO is that the criminal prosecution authorities in the Republic of Armenia should change the practice of investigating criminal cases on usury and, while doing that they should make a reference to the source of the amounts loaned, and especially in those cases when the loaned amounts are large and the legality of the origin of these amounts gives rise to a reasonable suspicion.

Moreover, the current legislation of the Republic of Armenia does not in any way limit criminal prosecution authorities with respect to the source of the amount of money borrowed and the facts of other crimes committed by a person during the investigation of criminal cases. On the contrary, the criminal prosecution body will fulfill the legislative requirement for a comprehensive, full and objective investigation of the case as provided for by the Criminal Procedure Code of the Republic of Armenia, as well as the requirement to detect perpetrators and the crime as well as the circumstances of its execution in each case of the detection of features of the crime.

According to Article 17 (3) of the RA Criminal Procedure Code, the body of criminal prosecution is obligated to undertake all measures prescribed by this Code for a comprehensive, full and objective investigation of the case circumstances, to reveal all the circumstances both convicting and absolving the suspect or accused, and also the circumstances reducing and aggravating their responsibility.

According to Article 27 of the RA Criminal Procedure Code, the body of inquest, the investigator and the prosecutor are obligated within their jurisdiction to institute the criminal case in each case of discovering the elements of crime, to take all measures envisaged by law to reveal the crime and to discover the criminals.

In the course of the preliminary investigation of the same criminal case, a new criminal case may not be initiated if the same person has been found to have committed other crimes, if the criminal case has already been initiated, it is possible to carry out a full investigation.

2. *The problem of non-payment of taxes on income from loans issued by usurers*

The definition of criminal crimes of usury set forth in the Criminal Code of the Republic of Armenia states that usury is not lending money at the interest rate but gaining interest rates which exceed twice the bank interest rate set by the Central Bank of the Republic of Armenia.

According to the above-mentioned formulation of the Criminal Code of the Republic of Armenia, the RA Civil Code provides an opportunity for concluding a contract of loan on condition that interest is gained.

According to Article 879 (1) of the RA Civil Code, unless otherwise provided by the contract of loan, the lender shall have the right to receive interest from the borrower on the amount of the loan. In the contract of loan, the amount and procedure for calculation of interest must be clearly established. The amount of interest may not exceed twice the accounting rate of bank interest established by the Central Bank of the Republic of Armenia.

When defining such arrangements and allowing the lender to receive interest from the borrower, the legislation of the Republic of Armenia, does not define arrangements relevant to the above-mentioned provisions, as a result of which interest-bearing persons actually carry out entrepreneurial activity, gain revenues and may not pay to the state any tax from such revenues.

When carrying out similar activities, banks and credit organizations based in the Republic of Armenia pay taxes to the state from revenues from interest payments. In the same way, when investing in banks, depositors receive interest accrued on the invested amount based on a bank deposit contract, these amounts are also taxed.

In fact, all entities, who receive interest as a deposit, receive interest from the amounts loaned and from the gained interest pay interest to the state. And those who receive income from similar transactions are privileged and do not pay taxes to the state only because their activities and revenues stay in the shadow.

The mentioned problem can be identified by its nature with the feature of crime of illegal entrepreneurship as defined by the RA Criminal Code.

According to Article 188 (1) of the RA Criminal Code, entrepreneurial activities without state registration (except for the cases provided for by law) or without special permit (license), when such a special permit (license) is mandatory, accompanied with infliction of a large damage to the citizens, commercial organizations or to the state…

This issue becomes especially important when the amount of interest-bearing loans is large. In the case of large sums, the lender's activities are almost identical to banking activities.

In connection with the above-mentioned issue, the "Veles" human rights NGO suggests that such regulations should be developed by the RA Civil Code according to which those loan contracts, based on which interests are to be calculated, are to be under the state's control through an accounting or a registration method, in order to tax revenues gained on the bases of those contracts.

It is proposed that the RA Civil Code should establish a provision according to which interest-bearing loan contracts, which will not be registered (or accounted) in the manner prescribed by law, will be considered void transactions.

The RA Civil Code regulates in the mentioned manner legal relations related to the state registration of the rights arising from transactions with immovables.

According to Article 135 (1) of the Civil Code of the Republic of Armenia, the right of ownership and other property rights to immovable property, limitations on these rights, their arising, transfer, and termination are subject to state registration. Subject to registration are: the right of ownership, the right of use, mortgage, servitudes, and also other rights to immovable property in cases provided by the present Code and other statutes.

According to Article 302 (1) of the Civil Code of the Republic of Armenia, nonobservance of a requirement of state registration of rights arising from a transaction shall entail its invalidity. Such a transaction is considered void.

Setting such a regulation will enable the subjects of civil turnover to make revenues received from the interest payments visible and controllable for the state. At the same time, the mentioned regulation will solve the issue of risk of tax fraud from the state, as parties of any transaction themselves will be interested to submit the contract for the state registration (or accounting), otherwise the transaction will be void, withholding the rights set forth in that transaction, including the right to claim the borrowed amount and the interest.

The advantage of the proposed mechanism is that the state is not subject to great resources for its implementation. As mentioned above, the settlement of the invalidity of a transaction is a guarantee that all loan contracts with interest rates will be voluntarily submitted to the state registration (accounting) and the government will not need to make additional expenses for the process.

The next advantage of the proposed mechanism is that there are terms of the interest calculation and thus parties that have entered into a loan contract will not have the opportunity to bypass the said requirement of the law, as the circumvention of the law requires, in all cases, the risk of recognizing the transaction void.

In addition to setting out the above-mentioned regulations, it is proposed to consider whether the proceeds of the loan contract accounted or registered in the manner prescribed by the case are in the state's view or the person receives income and he/she does not pay taxes to the state from this income. At present, such practice is not applied in the investigation of criminal cases.

The proposal is addressed to the National Assembly of the Republic of Armenia. It is proposed to make a change in the RA Civil Code. Depending on the content of the change, in parallel, there may be a need for a sub-legal act (acts) (e.g., a procedure for registering interest-bearing loan contracts). Such a sub-legislative act should be adopted by the Government of the Republic of Armenia.

3. The importance of identifying elements of other crimes in the behaviour of a usurer

The next proposal of the "Veles" NGO is that when preparing materials on usury and investigating related criminal cases, the prosecution authorities should consider the issues of carrying out illegal business by a lender and his/her concealing taxes from the state as a subject for a compulsory examination.

Deeds of persons involved in usury are entrepreneurial activity by their nature. People carry out provision of interest-bearing loans, the main goal of which is to earn profits.

According to Article 2 of the Civil Code of the Republic of Armenia, entrepreneurial activity is independent activity by a person conducted at his/her own risk pursuing as a basic purpose the extraction of profit from the use of property, sale of goods, work performance, or rendering of services.

If to specify more the entrepreneurial activities carried out by persons acting as lenders in usury cases, the latter actually carry out loans providing activities of banks and credit organizations. And in this respect, activities carried out by persons acting as lenders in usury cases can be actually identified with activities subject to licensing. And it can be said especially about those people the amount of loans lent by interest-bearing rates reaches millions of Armenian drams.

Article 43 of the Law of the Republic of Armenia on Licensing defines the list of activities subject to licensing. The list includes the fields of banking and financial organizations (banking activities, organization of pawnshops, activities of investment companies, etc.) as types of activity subject to licensing.

According to Article 4 (1) of the RA Law of the Republic of Armenia on Banks and Banking, the bank is a legal entity which has the right to carry out banking activity on the basis of the licenses issued in accordance with the procedure prescribed by the law.

According to Part 2 of the same Article, banking transactions include taking deposits or offering to take deposits and allocating them on behalf and at the risk of the deposit's collector, through loans, deposits and /or investments.

To carry out any banking activity in the territory of the Republic of Armenia without a license of banking activity provided by the Central Bank ***is prohibited****.*

Individuals engaged in actual banking activities are in fact engaged in prohibited activities and, by doing so, they cause significant financial losses to the state because, as unlike entities engaged in banking activities in the legal field, these individuals carry out their activities without paying a state fee for licensing.

For instance, the state annual fee rate for issuing licenses, patentss (permits) for banking activities is 3,000,000 AMD, and 500,000 AMD for credit activity.

Based on the aforementioned logic, in actions of persons engaged in usury it is possible to record attributes of crimes as envisaged by Article 188 of the Criminal Code of the Republic of Armenia.

According to Article 188 of the RA Criminal Code,

1. Entrepreneurial activities subject to license or prohibited by law without state registration, accounting (except for the cases provided by law) or without special permit (license), accompanied with infliction of large damage to the citizens, or commercial organizations or to the state, is punished with a fine in the amount of 500 to 1000 minimal salaries, or with an arrest for the term of 1 to 3 months, or imprisonment for the term of up to one years, or deprivation of the right to hold certain posts or practice certain activities for up to 1 year.
2. The same act accompanied with infliction of large damage to the citizens, commercial organizations or to the state is punished with a fine of the amount of 1000 to 2000 minimal salaries, or deprivation of the right to hold certain posts or practice certain activities from 1 to 2 years.
3. The same act accompanied with:
1) infliction of particularly large damage to the citizens, commercial organizations or to the state,
2) committed by an organized group, is punished with imprisonment for the term from 2 to 6 years, with deprivation of the right to hold certain posts or practice certain activities from 1 to 3 years.
4. In this Article, a considerable amount is considered to be the amount of 500 to 1000 minimum salaries established at the time of the crime, and the large amount of the minimal salaries of 1000 to 2000, and a particularly large amount, exceeding 2000 times of minimum salaries established at the time of the crime.

According to this Article, the amount of the state duty subject to the state registration, as well as the special permit (license), shall be included in the calculation of damage caused to the state.

In addition to the fact that activities of people involved in usury should be considered as ones implemented without a license but to be licensed, elements of crimes listed in Article 205 of the RA Criminal Code also exist in their actions.

According to Article 205 of the RA Criminal Code,
1. Evasion from taxes, duties or other mandatory payments by means of entering obviously false data into ledgers or taxation documentation, in large amount;
2. Non-submission in the order and terms established by law of a report, a calculation, a declaration prescribed by law or taxes, fees, other obligatory payments, or any other mandatory payment obligations as basis of taxation:
is punished with a fine in the amount of 2000 to 3000 minimal salaries or with imprisonment for the term of 2 to 5 years.
2. The same act committed especially in large amounts, is punished with imprisonment for the term of 5 to 10 years with confiscation of property.

3. In the sense of this Article, a large amount is the amount not exceeding 15,000 minimum salaries established at the time of the crime, and the amount exceeding 15,000 minimum salaries established at the time of the crime is considered as a particularly large size.

Based on the circumstances of the case, the criminal prosecution authorities should determine in each specific case the specific features of crimes established by the Criminal Code of the Republic of Armenia, but to not paying taxes to the state, in any case, an appropriate estimate should be given.

Based on the circumstances of a case, criminal prosecution authorities should determine in each special case which specific features of crimes established by the Criminal Code of the Republic of Armenia exist in actions of a person, but implementation of entrepreneurial activity through non-payment to the state of taxes, in any case, should be appropriately assessed.

The proposal is addressed to the RA Police, the RA Investigative Committee and the RA Prosecutor's Office. It is suggested that the form of work should be changed within the current legislation of the Republic of Armenia, for which there is no need for a legislative amendment or a new legal act.

4. The necessity of defining legal guarantees for the protection of victims suffered from confiscation requirements cases of calculated interests accrued based on usury

The legislation of the Republic of Armenia does not stipulate any regulation which can directly prohibit a usurer to gain amounts of interests calculated on the basis of usurious activity. Even when a person's guilt has been approved and the person is subject to criminal liability for usury, the latter is not deprived of the right to claim interests accrued on the basis of the amounts he has lent.

A person suffered from usury should apply to courts with various suits trying to prove non-legitimacy of interest calculation and to be exempt from the obligation to pay those interests on the basis of a judicial act.

In order to protect the rights of victims suffered from criminal activity of usurers and to avoid from various judicial protractions, it is suggested defining in the RA Civil Code a legal regulation that would deprive a person convicted of usury from the opportunity to demand that the other party pay interest calculated on the basis of usury.

Such a legal regulation may also be set out in Article 213 of the RA Criminal Code or in the general part of the RA Criminal Code.

The proposal is addressed to the National Assembly of the Republic of Armenia.

5. The necessity of toughening the liability provided for usury by the Criminal Code of the Republic of Armenia

We also consider it mandatory to toughen the punishment envisaged by Article 213 of the Criminal Code of the Republic of Armenia.

The crime set forth in Article 213 (1) of the Criminal Code of the Republic of Armenia is punishable by a fine in the amount of 300 to 500 minimal salaries, as well as with imprisonment for a term of up to 2 years.

The crime set forth in Article 213 (2) of the Criminal Code of the Republic of Armenia is punishable by a fine in the amount of 400 to 600 minimal salaries, or with imprisonment up to a maximum of 4 years.

The application of such mild penalties for acts envisaged by the above-mentioned norms has no lawful justification. Such a punishment cannot serve for the purpose of punishment. A usurer who has made others lose home or ruined others' lives, for instance, will not be changed if he/she is charged a fine of 600,000 AMD. Or is it that a victim of a usurer will consider social justice restored if he/she sees that the one made him/her deprived of home or caused him/her financial problems and moral damage for years, is fined 500,000 Armenian drams?
The proposal is addressed to the National Assembly of the Republic of Armenia.

6. The importance of reviewing the RA Human Rights Defender's authorities

Article 2 of the RA Constitution Law on Human Rights Defender defines that the Defender is an independent official who follows the state and local self-governing bodies and officials and, in cases defined by this law, also the protection by organizations of human rights and freedoms, contributes to the restoration of violated rights and freedoms, the improvement of normative legal acts related to rights and freedoms.

Article 24 of the same law provides the Defender's powers during the examination or consideration of the complaint:

1) To visit freely a competent state or local self-governing body or an organization, including military units, as well as places of detention;

2) To request and receive from a competent state or local self-governing body or its official necessary materials, documents, information or clarifications as well as assistance during visits to these institutions regarding the Defender's assessment of a complaint or the matter under his/her own initiative.

3) To receive clarifications on matters arising during discussions of a competent state or local self-governing body or its official, except for courts and judges;

4) In the case of alleged violations of human rights and freedoms by the organizations referred to in Article 15 (1) of the RA Constitution Law on Human Rights Defender, to have the right to freely visit the mentioned organizations, request and receive from competent officials necessary information, clarifications, materials or documents on complaints or related issues.

5) To apply to competent authorities or organizations for the purpose of carrying out an expert survey of circumstances subject to clarification on the basis of a complaint or at his/her own discretion, and for obtaining conclusions drawn therein. Financial expenses related to the implementation of expertise and conclusions are made at the expense of the state budget.

6) To get acquainted with criminal, civil, administrative, disciplinary and other cases of violations to which acts have entered into legal force, as well as with those materials on cases in respect of which the initiation of criminal cases were refused or criminal proceedings were terminated, to receive those materials in electronic or other material data carriers.

7) To apply to bodies of the judicial power responsible for summarizing judicial practice to obtain advisory clarifications on legal issues arising in judicial practice, as well as present proposals on improvements of judicial practice.

The law also defines that the Defender is not entitled to intervene in court proceedings or in the implementation of exercising powers of judges within a specific case. The complaint addressed to the Defender shall not be discussed and debates commenced on the complaint shall be terminated even after the complaint has been lodged by *an interested person*, *on the same grounds and subject, a complaint has been filed with the court, or there is a final judicial act on the claim or the complaint on the same grounds and on the same subject.*

In fact, a person who has suffered from a number of rights abuses of usury, while applying to the RA Human Rights Defender for the restoration of his/her violated rights, he/she can expect legal assistance primarily through the receipt of certain clarifications on his/her rights.

Such a definition of authorities of the RA Human Rights Defender and giving the institution such a role in the state does not coincide even with the name of the institute. A person applying to the RA Human Rights Defender and seeking protection of rights can in no way receive legal assistance adequate to meet his expectations, as long as the Human Rights Defender of Armenia has the authorities of receiving clarifications and providing information to a person.

We believe that persons, including victims of usury, who appeal to the Human Rights Defender in Armenia, should have an opportunity of making use of more effective mechanisms for protection of their rights and, accordingly, in the RA Constitutional Law on Human Rights Defender it is necessary to extend the frames of the Defender's authorities, to give the latter and the staff authorities which will enable them to implement specific activites aimed at the protection of a person's rights. Considering the role of the Human Rights Defender institute in Armenia, we find it necessary to define by law clear tools for the fight against illegal actions or inaction of criminal prosecution bodies.
The proposal is addressed to the National Assembly of the Republic of Armenia.

7. Vicious practices related to work of the body conducting proceedings

Complaints of people who applied to the "Veles" human rights NGO are often connected with unnecessary delays and legal proceedings of their cases.
In order to demonstrate this problem vividly, we present a judicial process of a court case within the framework of which the rights of a citizen suffered from usury have been protected by the "Veles" human rights NGO.
On February 23, 2014, Zina Ashot Melikyan reported on usury cases to the Central Department of Yerevan City Police Department. On the occasion, a criminal case was initiated under Article 213 (1) of the RA Criminal Code.

On July 15, 2015, a decision on the case on termination of criminal proceedings and non-fulfillment of criminal prosecution was made.
Against the decision on criminal case No. 13127214 on termination of criminal proceedings and non- fulfillment of criminal prosecution of 15.07.2015, an appeal was submitted to Yerevan City Prosecutor on July 15, 2015.
Yerevan City Prosecutor did not make any decision on the appeal filed against the decision on criminal case No. 13127214.
On 25.09.2015, an appeal on criminal case No. 13127214 on termination of criminal proceedings and non- fulfillment of criminal prosecution of 15.07.2015 and on inaction of Yerevan City Prosecutor was filed to the RA Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan.
The Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan City examined the appeal and partially satisfied it by 10.05.2016 decision No. ԵԿԴ/0202/11/15, obliging with it Yerevan City Prosecutor's Office to eliminate the violation of rights of the appealant Zina Melikyan, recorded in the decision.
Yerevan City Prosecutor filed an appeal against the decision of the court of 10.05.2016.
On 12.10.2016, the RA Criminal Court of Appeal made a decision to reject the appeal filed by Yerevan City Prosecutor and to keep in force decision No. ԵԿԴ/ 0202/11/15 of 10.05.2016 of the First Instance Court.
The RA Deputy Prosecutor General filed a cassation appeal against the decision of 12.10.2016 of the RA Appeal Criminal Court.
On 22.02.2017, the RA Court of Cassation made a decision to refuse to accept into proceedings the cassation appeal of the RA Deputy Prosecutor General.

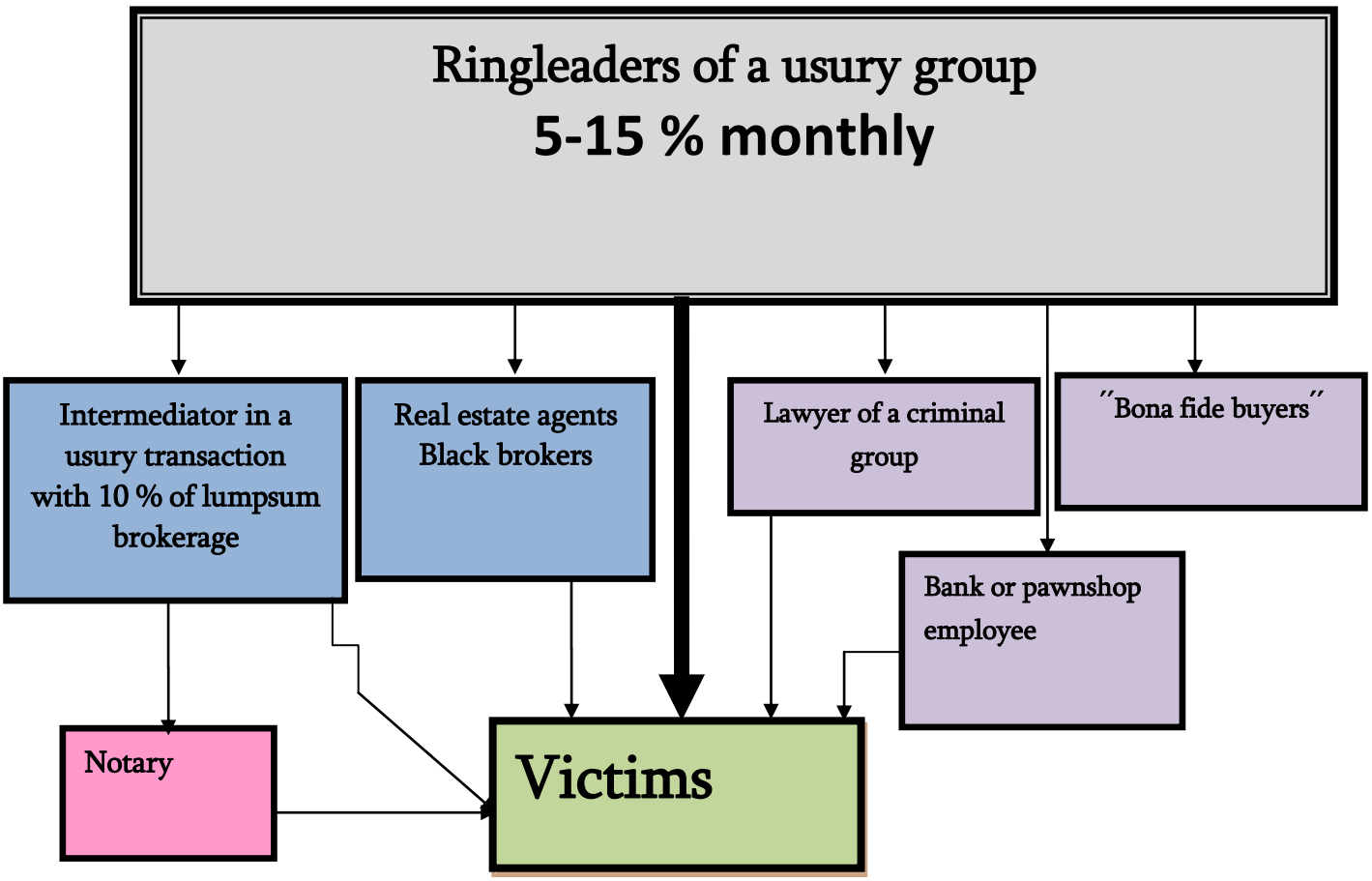
Acting Prosecutor of Yerevan L. Grigoryan, having examined the appeal filed by me on the decision of 15.07.2015 on the termination of criminal proceedings of criminal case No. 13127214 and non-fulfilment of criminal prosecution, investigated in the Investigative Section of Kentron and Nork-Marash Administrative Districts of the Investigative Department of the Investigative Committee of the Republic of Armenia, made a decision on 10.03.2017to leave the appeal without examination.

I submitted an appeal to the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of the Republic of Armenia against the decision of 15.07.2015 on criminal case No. 13127214 on the termination of criminal proceedings and non-fulfillment of criminal prosecution and the decision of the Acting Prosecutor of Yerevan City on leaving the appeal without examination.
On 03.10.2017, the Court of General Jurisdiction of Kentron and Nork-Marash Administrative Districts of Yerevan examined the appeal and decided to partially satisfy it. According to the decision of the Court, the term of the appeal filed by Zina Melikyan was kept, and the Court obliged Yerevan City Prosecutor's Office to eliminate the violations of rights of the appealant Zina Melikyan, recorded in the decision.
On 24.11.2017, Yerevan Prosecutor R. Aslanyan made a decision to reject the appeal.
An appeal was filed in the Court of General Jurisdiction of Kentron and Nork Marash Administrative Districts of Yerevan against the decision of 15.07.2015 on criminal case No. 13127214 on the termination of criminal proceedings and non-fulfilment of of criminal prosecution and the decision of 24.11.2017 on rejecting the appeal.

On February 15, 2018, Yerevan City Court of General Jurisdiction made a decision on the complete rejection of the appeal.
An appeal was filed against the mentioned decision of the court, which is currently being examined in the proceedings of the RA Criminal Court of Appeal.
In fact, for three years the Prosecutor's Office has been busy writing writs, fighting against "Veles" human rights NGO in courts, filing appeals and responding to appeals. The Court records a violation of the right of a person, after which the Prosecutor's Office makes a decision which, in its nature, contains a violation of the same right of a person. Then, the above-mentioned circle continues again, and, for the protection of his/her rights, the person has to be in judicial processes constantly.
In the presented particular case, there is no substantial issue or circumstances of crime being discussed within the framework of the proceedings. Over the years, the court has been discussing "a story of an envelope". The investigator had sent the decision to the citizen through a common letter, thus the date of its delivery was not registered in any document of the postal service. Due to this, the Prosecutor's Office considered that the person had missed the deadline for filing a complaint against the investigator's decision, and for three years the Prosecutor's Office has been fighting in order Zina Melikyan's appeal to be considered expired and not be investigated.
If the Prosecutor's Office had provided the same time and resources to proper investigation of the crime report submitted by Zina Melikyan, the case of usury and the perpetrators would have likely been discovered. Instead, the state is busy with a dispute about the date of receipt by the victim of usury of a certain envelope, with presenting an appeal and cassation claims of tens of pages.
And in parallel to this incomprehensible behavior, the examination of the facts presented by Zina Melikyan loses its meaning. For many years, the Prosecutor's Office's stance concerning the date on the envelope will result in the expiration of the dates of criminal liability of persons committed usury in the case.
This kind of work style of the RA Prosecutor's Office is not a unique case. This kind of work of the Prosecutor's Office in the fight against criminality and in the protection of violated rights of individuals is of a regular nature.
Another example: let us present the process of the case of citizen Gayane Tumasyan. The "Veles" NGO has been carrying out the protection of her interests, too. For many years, the "Veles" NGO has been struggling in courts to make the Prosecutor's Office investigate the crime report filed by Gayane Tumasyan, through examining the circumstances listed in the report and give the presented actions precise legal assessment. Even after the RA Criminal Court of Appeal had recorded a violation of Gayane Tumasyan's rights and obliged the body conducting the proceedings to eliminate the violation of the rights of Gayane Tumasyan, yet the Prosecutor's Office continued to carry out the investigation within the framework of an article which had nothing to do with the presented facts. Obviously, the Prosecutor's Office simply created a situation where Gayane Tumasyan would again appeal to the court for the protection of her rights, again 1 or 2 years would pass to explain the Prosecutor's Office some simple facts, and all that time would actually work in favour of the person practicing usury, the terms of limitation of criminal liability for the usurer terminated, and the discovery of the circumstances of the criminal case would become more difficult and even impossible.
We find that it is necessary that in the legislation simpler procedures or shorter terms should be established for such cases, so that the Prosecutor's Office will not be able to delay the process of the case for years with the methods used by it.
The proposal is addressed to the National Assembly of the Republic of Armenia.

Attachment 1

An Organised Usurer Criminal Group



Tumasyan's case

Gayane Tumasyan was deprived of her property as a result of illegal activities of the same former official. With a small fatherless grandchild she was left homeless. She was threatened numerous times by different members of the grouping which is involved in this case. Yeritsyan himself had threatened to burn the grave of her 19-year-old son, which he later really did. Insistently supported by our organization she managed to initiate proceedings. «Veles» NGO has been representing Tumasyan's interests in law enforcement bodies and in the courts. Due to our efforts it should be reexamined by the investigation bodies and «Veles» NGO will be involved in these procedures obliging law enforcement bodies to conduct a throughout and objective investigation for revealing the illegal activities of the former officials and holding him responsible.

02.02.2014 Gayane Tumasyan made a report to Police on Yeritsyan's illegal activities

24.02.2014 The Police rejected Gayane Tumasyan's report

10.03.2014 «Veles» NGO made a complaint against the Police decision and our complaint was satisfied. A criminal case was initiated against Yeritsyan due to our complaint

08.05.2014 the criminal case initiated against Yeritsyan was illegally closed by the prosecutor's decision

17.07.2014 «Veles» NGO appealed to the court against the decision of the prosecutor's decision

05.11.2014 The court satisfied our appeal and mentioned all the violations against Gayane Tumasyan made during the investigation

16.11.2014 The prosecutor appealed to the Court of Appeal against the decision of the court to reopen the case against Yeritsyan

15.01.2015 we won the case at the Appeal Court and the case against Yeritsyan reopened

11.05.2015 prosecutor's office again closed the case totally ignoring court's decision

25.05.2015 we complained to prosecutor with demand to implement court's decision

27.07.2015 the prosecutor rejected our appeal

02 .09.2015 we appealed to the court against prosecutor's decision

04.11.2015 our appeal to the court against prosecutors decision was denied

16.11.2015 we made an appeal to the Appeal Court against the court's decision from 04.11.2015 and our appeal was denied

04.12.2015 Gayane Tumasyan made a claim to General Prosecutor's office once more mentioning about the illegal activities and fraud done against her by Yeritsyan

11.03.2016 we made a report to General Prosecutor on the item that Tumasyan's claim was ignored

28.04.2016 we appealed to the court against Prosecutor's inactivity

27.06.2016 the court satisfied our appeal and fixed the Prosecutor's inactivity in its decision

11.07.2016 the Prosecutor complained against the court's decision to the Appeal Court

09.08.2016 we held another victory against the Procuracy and the Appeal Court also fixed their inactivity

15.09.2016 at last the criminal case was opened against Yeritsyan

17.10.2016 the case was closed even without interrogating Yeritsyan

07.11.2016 we claimed to Prosecutor against illegal closing the criminal case

14.11.2016 our complain to Prosecutor was rejected

28.11.2016 we appealed to the court demanding to eliminate the violations against Tumasyan

16.08.2017 (after 11 court hearings) our complain was rejected by the Court

04.09.2017 we appealed to the Appeal Court against the decision of the court from 16.08.2016

10.01.2018 we won the case at the Courts of Appeal and at last the case was returned to the investigation stage

18.05.2018 the case against Yeritsyan reopened and now is on investigation.

Attachment 3

Melikyan's case

Melikyan's family consists of four women. This family also took a sum of $16,000 USD to start a business. In two years it grew and became $200,000 USD through false document forging, threats, pressure, fraud, etc. The family lives in constant fear; they have recordings of numerous threats in which the abovementioned official presents himself as a general of the army and threatens to use a weapon against them but to stay still unpunished. Melikyan's appeal should be examined in the court of appeal next month. «Veles» NGO will continue representing Melikyan's rights in the court.

23.02.2014 a claim against Yeritsyan was made by Melikyan's family

10.03.2014 a criminal case was initiated against Yeritsyan

15.07.2015 the case was illegally closed

25.07.2015 we made a complaint to Prosecutor against the investigator's decision to close the criminal case

25.09.2015 we claimed to the court on inactivity of Procuracy who ignored our complaint

10.05.2016 the court satisfied our appeal and obliged Procuracy to eliminate violations

20.05.2016 Procuracy appealed to the Appeal court on the court's decision

12.10.2016 we held another victory at the Courts of Appeal against Procuracy

08.12.2016 Procuracy appealed to Cassation Court against our victory at the Court of Appeal

22.02.2017 we held a victory at the Cassation Court against Procuracy

10.03.2017 inspite the court decisions which are sure obligatory for all the bodies the Procuracy illegally did not reopen the criminal case as demanded in the courts decisions and made an illegal decision not to reopen the criminal case against Yeritsyan

03.04.2017 we appealed again to the court against the Procuracy

03.10.2017 (more than 10 court hearings) we won the case

24.11.2017 another illegal decision made by Procuracy not to reopen the criminal case against Yeritsyan

28.12.2017 we appealed to the court against violations of Procuracy with demand to eliminate them and reopen the criminal case against Yeritsyan

15.02.2018 our complaint was denied by the court

14.03.2018 we have appealed to the Appeal Court demanding elimination of violations against Melikyan's family and with legal request to reopen the criminal case against Yeritsyan

Attachment 4

Stepanyan's case

David Stepanyan is one of the victims of illegal activities of Hovhannes Yeritsyan, the former head of Civic Aviation. He borrowed $900.000 USD from him and paid back $1.450.000 USD in total only as percentage ($216.000 per year). Stepanyan was threatened not only by Yeritsyan (who feared him saying that the part of the money lent to him was a KGB general's), but also by the former Member of the Parliament, a friend of Yeritsyan. In the result he got nervous breakdown and was put in hospital, having a heart operation. «Veles» NGO has been representing Stepanyan's interests in law enforcement bodies and in the courts. Due to our efforts it should be reexamined by the investigation bodies and «Veles» NGO will be involved in these procedures obliging law enforcement bodies to conduct a throughout and objective investigation for revealing the illegal activities of the former officials and holding him responsible.

12.02.2016 David Stepanyan applied to «Veles» NGO for legal assistance

01.04.2016 with our legal aid David Stepanyan made a complaint to General Prosecutor

06.05.2016 David Stepanyan's complaint was rejected

23.05.2016 our organization made a complaint on rejection on Stepanyan's complaint

01.06.2016 our complaint was satisfied and a criminal case was opened and the investigation began. We were representing Stepanyan's interests at investigation

10.11.2016 the case was illegaly closed based on the investigators decision

22.11.2016 our organization made a complaint to prosecutor's office against the investigators decision from 10.11.2016

01.12.2016 the prosecutor's office rejected our complaint. We applied with the rightful demand to reopen the case against Yeritsyan based on Stepanyan's claim

27.12.2016 we applied to the court against the prosecutor's illegal rejection

There were several court hearings at court and we won the case and 14.03.2017 the court made decision and abolished prosecutors decision

29.03.2017 the prosecutor made an appeal to Appeal Court against the decision to reopen the criminal case against Yeritsyan

After five hearings at the Appeal Court 20.07.2017 we won the case and prosecutor's complaint was rejected by the Court of Appeal and was made a decision to reopen the criminal case against Yeritsyan

15.08.2017 the prosecutor made an appeal to Court of Cassation with demand to close Yeritsyan's criminal case but was also rejected

29.01.2018 the case against Yeritsyan reopened and now is on investigation.

Within the framework of the project of *"Combating Corruption -Strengthening Democracy"* which is aimed at public awareness and has been implemented in financial support with the ***National Endowment for Democracy***, social video clips in two languages were made[1], which are entitled «The Kleptocrats» with Part 1 and Part 2, as well as a bilingual video clip telling about core corruption causes of emigration.[2]

[1] https://www.youtube.com/watch?v=3JM2zN5kAL0&t=6s
https://www.youtube.com/watch?v=Ez3ZBjF4NV8

[2] https://www.youtube.com/watch?v=JBWmTJfc4lM