



**OFFICE OF THE HUMAN RIGHTS DEFENDER
OF THE REPUBLIC OF ARMENIA
PUBLIC RELATIONS UNIT**



It is evident that the administrative fine for not wearing a mask or failure to wear it properly and depriving a person of liberty are acquiring a punitive nature: The Human Rights Defender of Armenia

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The conduct of the Police with regard to fining persons for not wearing a mask or failure to wear it properly and their apprehension to Police departments become concerning and, from a systemic point of view, result in incorrect developments.

1. Evidentially, the aim of the requirement of wearing a mask as an individual protective measure is the prevention of or the fight against the novel coronavirus (COVID-19) pandemic. The activities of any state authority or official with legal functions in that regard should be directed toward this fundamental objective.
2. The current police practice of apprehending a person for not wearing a mask or for failure to wear it properly or, in other words, depriving a person of liberty and of imposing an administrative fine, takes unacceptable forms.
3. The minimal rights for an apprehended person or a person deprived of liberty are not ensured, the mandatory requirement for properly informing about reasons for deprivation of liberty is violated, issues are recorded in the documents with regard to apprehension, etc.
4. Cases of unlawful conduct of a police officer approached to a citizen, uncertainties in communications with citizens, apprehensions in an unacceptable manner, and cases of disproportional use of force are recorded.

In all cases it is unacceptable when a police officer applies a legal pressure against a citizen with a mask for not having an identification document. In itself, not having an identification document cannot be an independent ground for imposing liability or applying legal pressure.

5. This new practice formed since the declaration of the State of Emergency further aggravates existing systemic issues within the system of apprehension.

All of this, in turn, causes additional tension in the state along with the difficulties that have arisen due to the coronavirus pandemic.

6. It is evident that the administrative fine for not wearing a mask or failure to wear it properly and depriving a person of liberty are acquiring a punitive nature. It is unacceptable and is a dangerous approach from the point of view of the human rights system. In fact, these activities should be aimed at supporting the prevention of the new coronavirus pandemic, contributing to ensuring the atmosphere of solidarity in the country: this is the guiding principle that needs to be followed.

7. On the other hand, it is obvious that police officers themselves have become the "legal victims" of the existing uncertain regulations. The legislation in this area never attained the required level of certainty and predictability for both the citizen and the police officers. There should be detailed rules or guidelines for police officers with regard to their work under the conditions of the coronavirus pandemic.

8. Apprehension should in fact be a measure of last resort and should be used only in exceptional cases when the police officer has exhausted all other legal means available for him and when it is required in a particular situation. The police officer should also take an individual approach in carrying out his activities, given the peculiarities of a particular case.

9. Every police officer should clearly realize that apprehension is deprivation of liberty, that they are representatives of the state obliged to guarantee the rights of the person they approached or the person in respect of whom they intend to apply legal pressure (to apprehend, to impose a fine, etc.). If necessary, the police officer should provide the citizen with a mask rather than considering apprehension as the main and even the primary alternative.

10. In each case, the police officer should explain to the citizen the essence of the requirement for wearing a mask, the consequences of not wearing a mask or wearing a mask improperly. The police officer should also have a proper knowledge of the characteristics of the offense, for which he applies a legal pressure. Police officers should undergo a training on minimum requirements, so that they are able to explain to the citizen both the legal and health consequences of not wearing a mask, and if necessary, provide the necessary support.

11. Finally, disciplinary proceedings initiated each time as a result of police officers' actions cannot yield real results without addressing the systemic issues described.

In these conditions, the disciplinary proceedings simply acquire an episodic and ineffective significance in terms of solving the issues recorded in concrete cases and become illusory in terms of solving the systemic problems accumulated over the years.

12. All these observations are based on the complaints addressed to the Human Rights Defender, our visits to the Police Departments, as well as the results of the observations. Within the proceedings initiated at the Human Rights Defender Office for each case, concrete actions are undertaken aimed at protecting the rights of citizens.

13. I specifically underline that this statement does not relate to the issue of what preventive value the mask has. This statement is also not intended to assess the need for wearing a mask, including indoors or outdoors.

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