

ASSESSMENT OF THE MIGRATION LEGISLATION IN THE REPUBLIC OF ARMENIA

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FOREWORD

Since the early 1990s, when the collapse of the Soviet Union and its economy along with the lack of proper border controls led to a chaotic pattern of emigration out of Armenia, migration management has been a priority for the newly independent Republic of Armenia (RA). Emigration for humanitarian reasons eventually turned into mostly economic migration, and to such an extent that current remittances from RA citizens abroad to Armenia play an essential role in the economic life and development of the Republic.

As the country recovers, there is a need to develop sound policies which would allow for labour mobility, but, at the same time would give opportunities to those who choose to return to Armenia. Dealing effectively with these issues requires careful analysis of the current realities and development trends, based on a deep and thorough understanding of the situation with migration management at large, and economic or labour migration in particular.

The purpose of this study is to evaluate once again the migration-related legislation in Armenia, analyzing and highlighting the gaps in that area and recommending ways of improving the legislation that have already been tested in other countries and from which it is possible to learn lessons.

The results of a study on labour migration from Armenia in 2002-2005 were published in the beginning of 2006.¹ This research included an analysis of the situation and recommendations for effective management of migration and labour migration processes, as well as for combating irregular migration. It will be a useful instrument not only for policy makers in developing a labour migration policy and strategy, but also for academics, international organizations, NGOs and potential migrants, to accurately assess the realities and find possible solutions to the relevant problems.

¹ The study was conducted by the Advanced Social Technologies NGO in cooperation with the OSCE Office in Yerevan. The study focused, in particular, on issues like unemployment, household income, rates, trends of labour migration in recent years and causes and consequences of labour migration for Armenia.

EXECUTIVE SUMMARY

The purpose of this review is to present possible ways of improving the institutional and legislative framework governing international migration issues in the Republic of Armenia, with a focus on labour migration. The study is based on the Armenian government's priorities, as outlined in the 2004 Concept Paper on State Regulation of Population Migration.² The analysis focuses on three main areas:

- a) management of migration flows to and from Armenia, and harmonization of border management with international standards;
- b) labour migration;
- c) data collection, protection and monitoring.

The report also introduces best practices from other countries, especially from the Czech Republic, that in the recent past have reformed their migration regime.

Management of International Migration and State Borders

The Armenian legislation governing international migration is not unified under one legal act. The various aspects of migration are governed by a series of laws and governmental decisions. The most important of these laws is perhaps the Republic of Armenia Law on Foreigners³, which covers entry, stay and residency of foreigners in the Republic of Armenia, their transit through the Republic of Armenia and their exit from the Republic of Armenia, as well as other issues connected with foreigners.

The RA Law on Foreigners covers the peculiarities of labour-related issues of foreigners in the Republic of Armenia. However, such issues concerning RA citizens abroad and related migration issues are not fully and explicitly addressed in any legal act currently in force, although some references, often indirect, can be found in the RA Labour Code⁴ and in the RA Law on Employment and Social Security in Case of Unemployment.⁵

This study questions whether sufficient democratic control is present in the system related to migration, and whether or not the lack of transparency in the existing system may give rise to the abuse of authority.

Several state agencies deal with various aspects of international migration, but responsibilities among these agencies are at times overlapping.

² See : <http://www.dmr.am/ADMR/ORENSD%7E1/hajetcang.HTM>

³ Republic of Armenia State Bulletin 24.01.07./6(530), Article 109. The RA Law on Foreigners was passed by the RA National Assembly on December 25; it was signed by the RA President on January,16, 2007 and entered into effect as of February,3, 2007. From the same date, the RA Law on the Legal Status of Foreign Citizens in the Republic of Armenia became void (HO-110, passed on June 17, 1994 – See RA Supreme Soviet Bulletin 1994/12 and amendments in RA State Bulletin 31.10.01./33(165), Article 802, HO-231)

⁴ RA State Bulletin 21.12.04./69(368) Article 1385

⁵ RA State Bulletin 07.12.05./75(447) Article 1427. The RA Law on Employment and Social Security in Case of Unemployment entered into effect on January, 1, 2006

Two possible designs for an administrative framework are recommended by this study, based on the experiences of European Union countries. The first option is to create a special state agency that would be solely responsible for the coordination of activities in the field of international migration. The second option would be to establish a detailed division of responsibilities in the area of international migration among all the existing agencies and establish standardized, transparent procedures⁶.

In the area of entry and residence regimes, it is noted that defining the status of the Border Guards is essential for the effective protection of the state border. In many countries, border control is demilitarized and fully civilian, while in others, as in Armenia, border control is assigned to the military or national security services. Demilitarization or civilianization of border guards is encouraged by the international community in line with best international standards. According to the International Center for Migration Policy Development (ICMPD⁷), the definition of security increasingly moves away from traditional military definitions of security towards the concept of human security. Border control systems established as military systems are undergoing transformation. The Soviet-like border control areas have been dismantled and demilitarization of the systems is being carried out in many countries. It is suggested that this experience is discussed and evaluated, with the aim of full demilitarization of the Border Guards.

It is also advisable to have border guards specifically trained to deal with migration-related tasks. Such training should be organized after an assessment of training needs and existing capacities.

The authors of the report think that the so-called “exit visa” requirement for RA citizens departing from the country should not be encouraged. The Armenian practice of combining the passport and the national identity card into one document is not consistent with international requirements for travel documents. This practice may inhibit people’s freedom of movement.

The authors of the report carefully examine the provisions of the RA Law on Foreigners that deal with registration of foreign citizens and specify who has to register and with which state agencies.

Labour Migration.

The Law on Foreigners that regulates labour migration of foreigners in Armenia provides an opportunity for conducting coherent policies. However, overseas employment of RA citizens is unregulated. The passage of the draft Law on Regulation of Overseas Labour (LROL) could contribute to this regulation. The draft law addresses concerns regarding compliance with international human rights standards.

⁶ This study gives a detailed account of the second option’s implementation in the Czech Republic

⁷ ICMPD; Border Control in a New European Landscape, (2001). ICMPD is an organization dealing with border management and other migration related issues in many countries

The draft LROL envisages the inclusion of private companies in the overseas employment program through a licensing scheme. The authors support the establishment of such procedures that would allow private recruitment companies to participate in the program from the outset. In order to do so, the RA Law on Licensing would have to be amended.

It is also necessary to consider formulating a comprehensive policy concerning remittances, in order to maximize the benefits of migration. This policy should include regulation of the requirements for the financial institutions and the migrants, as well as capacity building activities in order to properly enforce the requirements, and formalization of money transfers.

Overall, in the field of labour migration, the report recommends that responsible Armenian bodies consider the draft Law on Regulation of Overseas Labour and establish the relevant mechanisms envisaged in the draft law.

Data protection

Data collection and monitoring are closely related to the management of international migration, since they are necessary precursors to the formulation of appropriate policies. The RA Law on Foreigners has defined mechanisms for the protection of migration-related data as required by the RA Law on Personal Data⁸, even though it is clear that they need to be spelled out in detail in appropriate government procedures. This would regulate the access of various responsible bodies to the Police database. Perhaps, it would be appropriate to include a provision to that effect in the RA Law on Foreigners.

The Armenian government is advised to consider signing and ratifying the European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data⁹.

The protection of personal data is currently a prerequisite for carrying out cross-border data exchanges. This is an issue of particular importance with respect to data-sharing on labour migrants, visa policies, illegal migrants or expelled persons. An inadequate legal framework for data protection may result in Armenia's isolation, endangering efforts aimed at minimizing irregular migration.

⁸ RA State Bulletin 14.11.02./49(224) Article 1149, HO-422-N, RA State Bulletin 28.06.06./33(488) Article 708 HO-95-N

⁹ <http://conventions.coe.int/Treaty/rus/Treaties/Html/108.htm> Конвенция о защите частных лиц в отношении автоматизированной обработки данных личного характера, СДСЕ № : 108

INTRODUCTION

International migration inevitably poses serious challenges to countries of origin, destination or transit. These challenges are complex, including protection of migrants' human rights, delineation of administrative responsibility for migration issues, collection and management of data on migrants, and combating trafficking in human beings. Such topics often induce heated public debates, and they require careful government oversight.

The structure of this study is based on the principles and priorities outlined in the Concept Paper on State Regulation of Population Migration, adopted by the RA Government in June 2004, which included the following priorities:

- Ensuring manageability of migration to and from Armenia, improving and harmonizing the management of borders with international standards.
- Civilized integration of Armenia into the international labour market, state protection of the rights and lawful interests of labour emigrants.
- Preventing irregular migration from Armenia and supporting voluntary return and reintegration of irregular Armenian migrants abroad.
- Maintaining and developing relations with the Diaspora communities, developing and implementing measures to encourage repatriation.
- Creating a database that provides information necessary for monitoring and analyzing the migration situation in Armenia.¹⁰

Research and preparation for this report included a thorough analysis of Armenian legislation and several personal interviews with government officials and migration experts.¹¹ Comparison of the Armenian legislative and administrative mechanisms with those functioning in other countries, particularly in the Czech Republic, also yielded insights into possible gaps in the Armenian migration law. This analysis focuses on voluntary, “non-forced” migration; therefore, it does not include issues related to refugees or internally displaced persons.

¹⁰ RA Government Session Record, Decision 24, June 24, 2004. The full set of priorities in the 2004 Concept Paper also includes the following: preventing smuggling and trafficking of human beings from Armenia and developing victim protection arrangements; further improving the system of protection offered to foreign citizens and stateless persons in Armenia on humanitarian grounds; creating conditions to support the integration of refugees and forced migrants who have established long-term residence in Armenia; developing and implementing measures to predict possible massive flows of forced migrants towards Armenia and preventing outflows of ethnic Armenians.

¹¹ The list of interviewees is included in Annex I.

I. MANAGEMENT OF INTERNATIONAL MIGRATION AND STATE BORDERS

According to the 2004 Concept Paper on State Regulation of Population Migration, the first priority of the RA government in the area of migration is to ensure the manageability of emigration and immigration and to harmonize the management of borders with international standards.¹² How successfully migration is managed depends on a multitude of historical, socio-economic and geographical factors. Consistent government policies based on these factors can significantly improve the migration processes. This study is divided into three main parts that correspond to the following topics:

- a) the legislative framework regulating entry, exit, and residence of foreigners in the territory and the regime that applies to Armenian nationals who leave the country;
- b) the administrative framework and efficiency of efforts geared towards the implementation of legislative provisions;
- c) the monitoring of migration processes (including data analysis) and legal responses to migration violations.

1. LEGISLATIVE FRAMEWORK

1.1. INTERNATIONAL LEVEL

The Constitution of the Republic of Armenia states that "International treaties that have been ratified are a constituent part of the legal system of the Republic of Armenia. If a ratified international treaty introduces norms other than those stipulated in the laws, then the norms of the treaty shall prevail."¹³ Armenia has undertaken various international obligations, the most significant of them being the United Nations (UN), the Council of Europe, and the Commonwealth of Independent States (CIS) obligations.

1.1.1. United Nations

Armenia has acceded to the basic human rights conventions within the framework of the United Nations relevant to migration issues, which guarantee minimum standards of treatment for non-citizens and migrants. These treaties are: the International Covenant on Civil and Political Rights¹⁴ (along with the Optional Protocol¹⁵); the International Covenant on Economic, Social and Cultural Rights¹⁶; the International Convention on the Elimination of

¹² Republic of Armenia Concept Paper on State Regulation of Population Migration, Section 3, Point 1

¹³ Republic of Armenia Constitution, Art. 6, Part 3

¹⁴ Collection of the Republic of Armenia International Treaties. Treaties Signed Within the Framework of the United Nations. RA Ministry of Foreign Affairs Official Bulletin N 4(12), 20.12.2004, pp. 64-78. The Covenant has entered into effect for the Republic of Armenia as of 23 September 1993.

¹⁵ Ibid., RA MFA Official Bulletin N 4(12), 20.12.2004, N 4(12), 2.12.2004 (This appears twice) , pp. 79-81. The Optional Protocol has entered into effect for the Republic of Armenia as of 23 September 1993.

¹⁶ Ibid., RA MFA Official Bulletin N 4(12), 20.12.2004, pp. 82-90. The Covenant has entered into effect for the Republic of Armenia as of 13 December 1993.

All Forms of Racial Discrimination¹⁷; the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment¹⁸; and the Convention on the Rights of the Child¹⁹. Among the rights the conventions enumerate are the right to freedom of movement for anyone lawfully in the territory of a state, the right to leave any country including one's own, the right to nationality, and the right not to be extradited if it would place one in danger of torture.²⁰

1.1.2. Council of Europe (CoE)

Armenia became a member of the Council of Europe on January 25, 2001 and has ratified or acceded to more than 50 of CoE treaties. From the perspective of international migration, the following conventions are most relevant:

- The Convention for the Protection of Human Rights and Fundamental Freedoms (Treaty 005)²¹
- The European Convention on Extradition (CETS 024)²²
- The Framework Convention for the Protection of National Minorities (CETS 157).²³

The European Convention for Protection of Human Rights and Fundamental Freedoms is a very important piece of legislation in the area of human rights protection, most importantly because it established the European Court of Human Rights (ECHR).²⁴ All individuals under the jurisdiction of a member state, including migrants, have the right to bring claims to the ECHR.

The Convention for Protection of Human Rights and Fundamental Freedoms contains other provisions relevant to international migration. Article 3 prohibits any form of torture or inhumane treatment, and Article 6 guarantees the right to a fair trial, including the right to be informed about charges in a language the accused understands. Article 13 of the Convention guarantees the right to an effective remedy before a national authority if any rights or freedoms set forth in the same Convention have been violated. Finally, Article 14 guarantees that the rights and freedoms of the Convention will be applied without discrimination on any

¹⁷ Ibid., RA MFA Official Bulletin N 4(12), 20.12.2004, pp. 53-63. The Convention has entered into effect for the Republic of Armenia as of 23 July 1993.

¹⁸ Ibid., RA MFA Official Bulletin N 4(12), 20.12.2004, pp. 116-126. The Convention has entered into effect for the Republic of Armenia as of 13 October 1993.

¹⁹ Ibid., RA MFA Official Bulletin N 4(12), 20.12.2004, pp. 127-143. The Convention has entered into effect for the Republic of Armenia as of 22 July 1993.

²⁰ International Covenant on Civil and Political Rights (1966), Art. 12; Convention against Torture (1984), Art. 3; Convention on the Rights of the Child (1989), Art. 3

²¹ Collection of the Republic of Armenia International Treaties. Treaties Signed Within the Framework of the Council of Europe. RA MFA Official Bulletin N 5(13), 20.12.2004, pp.25-39. The Convention has entered into effect for the Republic of Armenia as of 26 April 2002.

²² Ibid., RA MFA Official Bulletin N 5(13), 20.12.2004, pp.53-62. The Convention has entered into effect for the Republic of Armenia as of 25 April 2002.

²³ Ibid., RA MFA Official Bulletin N 5(13), 20.12.2004, pp.110-116. The Convention has entered into effect for the Republic of Armenia as of 1 November 1998.

²⁴ Convention for Protection of Human Rights and Fundamental Freedoms (European Treaty Series 005), Rome, (1950).

grounds, including birth and other status, which potentially targets migrants or stateless persons.²⁵

Armenia is also a party to the Convention Protocols, some of which contain further measures pertaining to migration. Protocol 4 ensures freedom of movement, prohibits collective expulsion of aliens, and states that no restrictions shall be placed on movement and the freedom to choose a residence except under compelling circumstances such as national security or public order.²⁶ Protocol 7 ensures that procedural safeguards exist for the expulsion of foreigners.²⁷

The European Convention on Extradition governs the conditions and criminal offences that may justify extradition among member states, and is therefore an important instrument with regard to migrants who may be accused of crimes, whether in their host states or abroad. The Convention permits extradition for criminal offences that call for criminal punishment exceeding one year, but restricts extradition for political or military offences or offences for which amnesty has been granted. Member states also may refuse to extradite their own nationals, a right that Armenia reserved when it signed the Convention in 2001.²⁸

Relevant to migration in Armenia is the Council of Europe's Framework Convention for the Protection of National Minorities signed in Strasbourg on February 1, 1995. It is the first legally binding multilateral instrument concerned with the protection of national minorities in general.²⁹ The Framework Convention leaves the definition of 'national minority' to member states, but the clear language of Article 16 requires the states to refrain from measures that would alter the proportions of the population in areas inhabited by national minorities or are aimed at restricting the rights stemming from the Convention.

On May 16, 2005, Armenia signed, but has not yet ratified, the CoE Convention on Action against Trafficking in Human Beings³⁰. The Convention aims at protecting the human rights of the victims of trafficking and promoting international cooperation on action against trafficking, whether national or transnational.³¹ The Convention, while focusing on protection of and assistance to the trafficked victims, also addresses some migration-related issues. Among these issues are the prevention of irregular movement and border control, which also includes the responsibilities of the Parties to disseminate accurate information on the conditions that enable legal entry into and legal stays in their territories.³² The Convention

²⁵ Ibid., Art. 3, 6, 13 and 14. The right to the free assistance of an interpreter also applies for the duration of the trial if the accused cannot understand or speak the language used in court.

²⁶ RA MFA Official Bulletin N 5(13), 20.12.2004, pp.42-44. Protocol 4 of the European Convention on Human Rights and Fundamental Freedoms has entered into effect for the Republic of Armenia as of 26 April 2002. Also see European Convention on Human Rights and Fundamental Freedoms and its Protocols, Protocol 4. Also see Протокол N 4 к Конвенции о защите прав человека и основных свобод "Об обеспечении некоторых иных прав и свобод помимо тех, которые уже включены в Конвенцию и Протокол N 1 к ней" (Страсбург, 16 сентября 1963 г.) <http://www.echr.ru/documents/doc/>

²⁷ Ibid., RA MFA Official Bulletin N 5(13), 20.12.2004, pp.47-49. Protocol 7 of the European Convention on Human Rights and Fundamental Freedoms has entered into effect for the Republic of Armenia as of 1 July April 2002. Also see European Convention on Human Rights and Fundamental Freedoms and its Protocols, Protocol 7. Also see [Протокол N 7 к Конвенции о защите прав человека и основных свобод \(Страсбург, 22 ноября 1984 г.\) http://www.echr.ru/documents/doc/](http://www.echr.ru/documents/doc/).

²⁸ RA MFA Official Bulletin N 5(13), 20.12.2004, p 61

²⁹ Also see <http://conventions.coe.int/Treaty/rus/Treaties/Html/157.htm>

³⁰ <http://conventions.coe.int/Treaty/EN/Treaties/Html/197.htm>

³¹ Council of Europe Convention on Action against Trafficking in Human Beings, (2005), Chapter I.

³² Ibid., Chapter II, Art. 5, Point 4.

prioritizes strengthening border control for preventing and detecting trafficking, making sure [by commercial carriers] that passengers possess necessary travel documents, and strengthening cooperation among border control agencies.³³ Security and control of travel or identity documents, issued by the Parties, is another migration management measure, mentioned in Article 8 of the Convention. The right of the victims of trafficking to have access to the labour market of the destination country is stated in Article 12 of the Convention. Their right to a renewable residence permit is mentioned in Article 14 on Residence Permit. Repatriation/return and reintegration of victims of trafficking in their country of origin, according to Article 16 of the Convention, should be organized in close cooperation between countries of destination and origin. These repatriation programmes, involving relevant national and international entities and NGOs, should be reflected in the legislation of the Parties.³⁴

1.1.3. Commonwealth of Independent States (CIS)

Armenia is a party to the following migration related agreements within the CIS framework: the Agreement on Cooperation on Labour Migration and Social Protection of Migrant Workers³⁵, signed on April 15, 1994, in Moscow, and the Agreement on Cooperation between CIS Countries against Irregular Migration³⁶, signed on March 6, 1998, in Moscow.

The 1994 CIS Agreement on Cooperation on Labour Migration and Social Protection of Migrant Workers is a general political document that lacks important legal detail on most of the provisions it addresses and on implementation mechanisms.

As a follow up to the 1994 CIS Agreement on Labour Migration, Armenia has signed bilateral agreements with the Russian Federation, Georgia, Ukraine and Belarus on social protection of the citizens working in the territories of these respective countries.³⁷ In reality, however, none of these Agreements are operational, not only because there has been no

³³ Ibid., Art. 7, Points 1-6.

³⁴ Ibid., Art. 16, Point 5.

³⁵ Collection of the Republic of Armenia International Treaties. Treaties Signed Within the Framework of the Commonwealth of Independent States. RA MFA Official Bulletin N 3(11), 20.12.2004, pp.229-233. The Agreement has entered into effect for the Republic of Armenia as of 26 February 1996.

³⁶ Ibid., RA MFA Official Bulletin N 3(11), 20.12.2004, pp. 485-491. The Agreement has entered into effect for the Republic of Armenia as of 20 June 1999. See also Moscow Agreement on Labour Migration and Social Protection of Labour Migrants, Moscow, 1994, and Agreement on Cooperation between CIS Countries on Irregular Migration, Moscow, 1998

³⁷ 1. Collection of the Republic of Armenia International Treaties. RA MFA Official Bulletin Volume 1, N1(1), 12.06.2002, pp. 367-369. Agreement between the Government of the Republic of Armenia and the Government of the Russian Federation on Work and Social Protection of Citizens of the Republic of Armenia on the Territory of the Russian Federation and Citizens of the Russian Federation on the Territory of the Republic of Armenia, signed in Yerevan, on 19 July, 1994. The Agreement has entered into effect for the Republic of Armenia as of July 19, 1994.

2. Collection of the Republic of Armenia International Treaties. RA MFA Official Bulletin Volume 1, N1(1), 12.06.2002, pp. 644-648. Agreement between the Government of Armenia and the Government of Ukraine on Work and Social Protection of the Citizens of the Republic of Armenia and Ukraine Working Abroad, signed in Kiev, on 17 June, 1995. Ratified by the RA National Assembly on March 4, 1997, by the decision H-169-1. The Agreement has entered into effect for the Republic of Armenia as of 12 March, 1997.

3. Collection of the Republic of Armenia International Treaties. RA MFA Official Bulletin Volume 3, N3(3), 12.06.2002, pp. 235-239. Agreement between the Government of the Republic of Armenia and the Government of the Republic of Belarus on Temporary Employment and Social Protection of Citizens Working Abroad, signed in Minsk, on 19 July, 2000. The Agreement has entered into effect for the Republic of Armenia as of 24 May, 2001.

consistent implementation, but also because the agreements have not been updated with recent and on-going changes in the legislation of the parties.

The 1998 CIS Agreement on combating irregular migration focuses on border control, return of irregular migrants, exchange of information and national legislation among partner states, as well as harmonization of the national legislation with international commitments. Some of the Agreement's provisions have already been put into practice. For instance, a Charter on a joint database for irregular migrants and persons whose entry to the member states is forbidden has been adopted.³⁸ Other areas identified by the Agreement remain to be addressed. This is particularly true on the exchange of national legislation. One of the obstacles in this process is the fact that many legal documents concerning combating irregular migration have not been translated into Russian yet.

1.1.4. International Labour Organization (ILO)

Armenia has also ratified the following important international documents of the International Labour Organization on labour migration and related matters:

- On October 3, 2005, the RA President signed the revised 1949 ILO Convention No. 97 on Migration for Employment (with Protocol)³⁹. This Convention provides the basis for a normative framework.
- On October 3, 2005, the RA President signed the ILO Migrant Workers (Supplementary Provisions) Convention (C 143) of 1975.⁴⁰ This Convention provides a basic framework for national legislation and practice on labour migration.

These two ILO Conventions require the states to actively facilitate fair recruitment practices and transparent consultation with their social partners, reaffirm non-discrimination, establish a principle of equality of treatment between nationals and regular migrant workers in their access to social security, conditions of work, etc.

1.1.5. Important International Documents that have not been Ratified yet

- Armenia has still not ratified the following important UN and CoE international documents on labour migration or related matters: the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families⁴¹, which entered into effect as of 1 July 2003. This Convention contains provisions on the fundamental human rights of

³⁸ Agreement on Cooperation between CIS Countries against Illegal Migration, Art. 7.

³⁹ See RA State Bulletin 26.10.05./67(439), Article 1251, N-213-3, the Revised 1949 Convention No. 97 on Migration for Employment (with Protocol). In accordance with Article 15, Part 1 of the revised Convention No. 97, the Republic of Armenia has announced its commitment to implement the provisions of the Convention and all of its Protocols without any changes, on the whole territory of the Republic of Armenia.

⁴⁰ See RA State Bulletin 26.10.05./67(439), Article 1250. ILO Migrant Workers (Supplementary Provisions) Convention of 1975 (C 143) N-212-3. This document has entered into effect for the Republic of Armenia as of 5 November, 2005.

⁴¹ International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (U.N. Doc. A/45/49 (1990)), http://www.ilo.org/public/english/employment/skills/hrdr/instr/un_9.htm

labour migrants and their family members, focusing on specific issues related and of interest to workers when employed in countries other than their own.

- Council of Europe Convention on the Legal Status of Migrant Workers, signed on November 24, 1977, in Strasbourg. The provisions of this Convention are based on the principle “that the legal status of migrant workers who are nationals of Council of Europe member states should be regulated so as to ensure that as far as possible they are treated no less favorably than workers who are nationals of the receiving State in all aspects of living and working conditions.”⁴² The Convention covers issues related to recruitment of prospective migrant workers, rights of exit and admission, work contract, work permit, family reunion, transfer of savings, social security, taxation on earnings, return home, etc.

1.2. NATIONAL LEVEL

Armenia does not have a comprehensive law covering all migration issues. Prior to 2007, the normative framework regulating migration issues related to foreigners was outdated and, in many aspects, did not comply with internationally accepted and efficiently used models and with some provisions of the RA Constitution. Various aspects of migration in Armenia are governed by separate laws and government decisions. Often, these laws tend to leave significant discretion to the implementing authorities and raise questions about the feasibility and efficacy of democratic oversight over migration issues.

The most salient migration issues are:

- Legal regulation of visas, entry and residency;
 - Legal regulation of citizenship;
 - Legal regulation of the RA citizens’ status abroad;
 - Legal regulation of refugee issues and political asylum;
 - Legal regulation of labour migration.
-
- **Issues of visas, entry and residency** are regulated by the RA Law on Foreigners.⁴³ The systemic and structural analysis of the law, as well as comparative analysis vs. the previous Law on the Legal Status of Foreign Citizens (HO-110, passed on June 17, 1994)⁴⁴ indicates that the 2006 law

⁴² Европейская конвенция о правовом положении рабочих-мигрантов СДСЕ №:093, <http://conventions.coe.int/Treaty/rus/Treaties/Html/093.htm> . The Convention entered into effect as of 1 May, 1983. Also see European Convention on the Legal Status of Migrant Workers, Introduction Section.

⁴³ See RA Law on Foreigners. The law was drafted in accordance with Point 259 of the list approved by the RA Government’s Decision No. 173 on Approving the List of Actions Required for the Implementation of the RA Government’s 2002 Working Plan, passed on 25 February, 2002. The previous Law on the Legal Status of Foreign Citizens, HO-110, passed on 17 June 1994, no longer complied with modern international requirements and standards.

⁴⁴ See RA Supreme Soviet Bulletin 1994/12, the already invalidated Law on the Legal Status of Foreign Citizens in the Republic of Armenia, June 17, 1994, HO-110.

contains some more up-to-date approaches to entry and residency matters and is based on basic international standards on these issues. A series of issues related to entry and exit, as well as issuance of passports and residence documents are regulated by the RA Charter of the Passport System.⁴⁵ **The issue of citizenship** is regulated by the RA Constitution and the RA Law on Citizenship of the Republic of Armenia.⁴⁶ The Constitution, which was amended in 2005, removed the ban on dual citizenship of Armenian citizens.⁴⁷ The respective Article of the amended Constitution does not go into details and reads in one single sentence as follows: “The rights and responsibilities of the persons having dual citizenship shall be defined by the law.” The legal regulation of dual citizenship is provided by the aforementioned RA Law on Citizenship of the Republic of Armenia.

- Special procedures are provided in the Government Decree on Measures for the Implementation of the Provisions of the Law on Citizenship of the Republic of Armenia.⁴⁸
- **The status of RA citizens abroad** is regulated by the RA Law on Consular Service.⁴⁹ **The issue of refugees and political asylum** is regulated by the RA Law on Refugees⁵⁰ and the RA Law on Political Asylum.⁵¹ A series of government regulations – such as the Government Decree on Stipulating the Procedure for Free Movement and Settlement of Refugees or the Government Decree on Stipulating the Procedure for Granting Certificates to Persons Seeking a Refugee Status in the Republic of Armenia⁵² – specify procedures for various refugee related matters. There is still no comprehensive legislative package on **domestic and foreign labour migration**. Issues related to labour migration of foreigners are regulated by the RA Law on Foreigners. The Labour Code and the Law on Employment contain some references to migration. The draft Law on Regulation of Overseas Employment is the primary instrument aimed at regulating labour migration from Armenia after it gets adopted. Various legal codes prescribe rules for enforcement of migration

⁴⁵ Republic of Armenia Government Decision No. 821, 25 December 1998, on Approving the Charter of the RA Passport System and the Description of the Passport of a Citizen of Republic of Armenia, which was amended by the RA Government Decisions N 544 of 31.10.1999 (RA State Bulletin 03.09.99./24(90)), N 536 of 16.06.2001 (RA State Bulletin 04.07.01./19(151) Article 493) and N 1887-N of 19.12.2002 (RA State Bulletin 18.12.02./56(231) Article 1322).

⁴⁶ RA National Assembly Bulletin 1995/8, RA Law on Citizenship of the Republic of Armenia with amendments (RA State Bulletin 15.12.97./28 HO-157, RA State Bulletin 13.11.99./28(94) HO-5, RA State Bulletin 28.04.01./12(144) Article 287 HO-157, RA State Bulletin 26.04.02./13(188) Article 266 HO-313, RA State Bulletin 21.12.03./62(297) Article 1229 HO-33-N, and RA State Bulletin 14.03.07./15(539) Article 317 HO-33-N.

⁴⁷ Constitution of the Republic of Armenia, Art. 30.1.

⁴⁸ RA Government Decree N 192 of 26.05.1996, on Measures for the Implementation of the Provisions of the Law on Citizenship of the Republic of Armenia, with amendments by RA Government Decision No 1623-N of 07.11.2002, RA State Bulletin 06.11.02./47(222) Article 1099.

⁴⁹ RA National Assembly Bulletin 1996/11, RA Law on Consular Service, with amendments made by Law HO-171, 27.12.1997, RA State Bulletin 11.01.98./1.

⁵⁰ RA State Bulletin 01.04.99./8(74) RA Law on Refugees, HO-288, with amendments by the 05.03.2001 Law HO-152 (RA State Bulletin 11.04.01./11(143) Article 238), the 19.03.2002 Law HO-314 (RA State Bulletin 2002/13 (188)), and the 03.03.2004 Law HO-49-N.

⁵¹ RA State Bulletin 31.10.01./33(165) Article 800, HO-229 RA Law on Political Asylum.

⁵² RA State Bulletin 23.07.01./23(155) Article 534, RA Government Decision N 594 of 04.07.2001.

legislation, including the Criminal Code, the Code of Administrative Offenses, and the Criminal Procedure Code. Other aspects of migration are regulated by the Law on Language⁵³, the Law on State Duty⁵⁴, the Law on State Border⁵⁵, the Law on Border Troops⁵⁶, the Law on Licensing⁵⁷, the Law on Prevention of Diseases Caused by the HIV Virus⁵⁸, the Law on Personal Data⁵⁹, and the Law on Foreign Investments⁶⁰.

The key feature of the Armenian legislation on migration issues is that many procedures and administrative processes are left to be defined by subsidiary legislation, including government decrees, presidential decrees or charters establishing different agencies or commissions.

Another problem with the Armenian migration legislation is whether it is subject to sufficient democratic oversight. While draft laws undergo several hearings in the National Assembly and are reviewed by various committees, governmental decisions and other sub-legal acts (for example charters establishing state agencies) do not undergo this scrutiny. Therefore, the existing framework is deficient in transparency. The unclear division of responsibilities among various state bodies also enables them to formulate and carve out their own - often overlapping - mandates.

It should be noted that the practice of leaving the specific details stemming from basic laws to subsidiary legislation, as a rule, presages the formulation of a sustainable, efficient legal and administrative framework. However, while this approach can be effective in the short-term, there should be an understanding of the need to devise clear legislation, ensure proper democratic oversight, and define and delineate lines of command and authority.

2. ADMINISTRATIVE FRAMEWORK

Although administrative responsibility for international migration issues is typically complex even in the developed states of the European Union, the administrative framework in Armenia is particularly complicated. The authority to oversee migration management issues in Armenia is either poorly defined or confused by overlapping policy mandates between different bodies. Even discerning the status and extent of these mandates can be challenging.

⁵³ RA Supreme Council Bulletin 1993/8 RA Law on Language, 17.04.1993, HO-52 and RA State Bulletin 08.06.05./35(407) Article 632, 03.05.2005 HO-95-N.

⁵⁴ RA State Bulletin 11.01.98./1, RA Law on State Duty, 27.12.1997, HO-186. For the incorporated version of the RA Law on State Duty as of April 7, 2007, go to <http://www.laws.am>

⁵⁵ RA State Bulletin 25.12.01./41(173) Article 999, RA Law on State Border, 20.11.2001, HO-265.

⁵⁶ RA State Bulletin 25.12.01./41(173) Article 1000, RA Law on Border Troops, 20.11.2001, HO-266.

⁵⁷ RA State Bulletin 08.8.01./26(158) Article 581, RA Law on Licensing, 30.05.2001, HO-193. For the incorporated version of the RA Law on Licensing as of April 7, 2007, go to <http://www.laws.am>

⁵⁸ RA State Bulletin 28.02.97./3, RA Law on Prevention of Diseases Caused by the HIV Virus, 03.02.1997, HO-103. For the incorporated version of the law as of April 7, 2007, go to <http://www.laws.am>

⁵⁹ RA State Bulletin 14.11.02./49(224) Article 1149, RA Law on Personal Data, 08.10.2002, HO-422-N. Also, RA Law on Amending the RA Law on Personal Data, 23.05.2006, HO-95-N.

⁶⁰ RA Supreme Council Bulletin 1994/14, Law on Foreign Investments, 31.07.1994, HO-115. For amendments, see RA State Bulletin 30.10.00./24(122) HO-86 and RA State Bulletin 31.01.07./8(532) Article 167, HO-66-N.

2.1 OVERVIEW OF THE INSTITUTIONAL SYSTEM

The following are the principal agencies that participate in administrative decision-making on international migration issues or are responsible for those issues as part of their mandate:⁶¹

- The Ministry of Labour and Social Issues (MLSI) (Department of Labour and Employment): labour migration,⁶²
- The Ministry of Territorial Administration (MTA): Developing migration management policy and coordinating its implementation, developing state policy on labour migration and its organization.⁶³
- The Migration Agency (currently within the structure of the Ministry of Territorial Administration (MTA) based on Governmental Decision N 633-N of 19 May 2005): design and implementation of projects aimed at management of migration and refugees issues⁶⁴.
- The Ministry of Foreign Affairs (Legal Department, Consular Department, Migration Desk): visa and passport issuance, relations with Armenians abroad.
- Border Guards (National Security Service, reporting to the Prime Minister): border management and control.
- Visa and Passport Department (OVIR)⁶⁵, within the structure of the Police, reporting to the Prime Minister: irregular migration, visa issuance at the borders, registration of foreigners on the territory, issuance of exit stamps (passport validation) for RA citizens.
- The Office of the President: granting citizenship.

In practice, the substantive division of responsibilities between agencies remains unclear. Several actors often claim to have implementing power over various migration issues, which can lead to bureaucratic infighting and ineffectiveness. Perhaps the greatest confusion lies between MLSI and the MTA, both of which claim responsibility over labour migration issues. The MTA's charter indicates that it is the designated executive body for the implementation of the RA policy on migration, labour migration and refugee matters.⁶⁶ Previously, a government-approved concept paper on migration conferred upon the Department for Migration and Refugees (DMR) the power to articulate an action plan and schedule the implementation of the terms of the concept paper.⁶⁷ Adding to the confusion is the Law on

⁶¹ This list contains the main bodies dealing with migration issues, although other agencies or departments also deal with some migration related issues.

⁶² RA State Bulletin 11.12.02./54(229) Article 1282, Government Decision No 1823-N, 14.11.2002, Annex 1, whose Point 8 has been edited by Decision N 301-N of 09.03.06. For an excerpt, see Annex 4 of this study.

⁶³ RA State Bulletin 17.06.05./38(410), Article 712. Government Decision Nr. 633 of 19 May, 2005. Annex 1: Charter of the Ministry of Territorial Administration, Point 7. For an excerpt, see Annex 2 of this study.

⁶⁴ Ibid., Government Decision Nr. 633 of 19 May, 2005. Annex 2, Point 2: Divisions of the Staff of the Ministry of Territorial Administration; Annex 3: Charter of the Migration Agency at the Ministry of Territorial Administration, Part III, Functions of the Agency. For an excerpt, see Annex 3 of this study.

⁶⁵ OVIR is a Russian abbreviation that stands for “*Otdel viz i registracii*”, ie Visa and Registration Department.

⁶⁶ Government Decision Nr. 633 of 19 May, 2005, Annex: Charter of the Ministry of Territorial Administration, Point 7

⁶⁷ Concept Paper on Migration Regulation, 25 June 2004. Minutes of the Meeting endorsing the State Program on Migration Regulation, Clause 2

Employment and Social Protection in Case of Unemployment that suggests that overseas employment regulation be conferred upon MLSI.⁶⁸

Similar conflicts exist with regard to other issues. For instance, responsibility for visa issuance is divided between the Ministry of Foreign Affairs and the Police (formerly the Ministry of Internal Affairs). Their overlapping authority is obvious in the Law on Foreigners, where Part 3 of Article 10 states that “the Republic of Armenia entry visas shall be issued by diplomatic or consular missions of the Republic of Armenia in foreign countries; at the state border of the Republic of Armenia or, if necessary, in the territory of the Republic of Armenia, entry visas shall be issued by a designated state agency with authority in the Republic of Armenia police sector, or a designated state agency with authority in foreign affairs.”

On some issues, the demarcation of responsibilities is clearer. For instance, on citizenship issues, the President of the Republic of Armenia is the main decision-maker. The President determines whether citizenship may be granted or terminated, and also stipulates the procedure for reviewing citizenship applications.⁶⁹

2.2. POTENTIAL ORGANIZING PRINCIPLES OF THE ADMINISTRATIVE FRAMEWORK

It is worth considering the adoption of one of two possible designs for an administrative framework, based on European experience. Both models are based on a conceptual divide between authorities charged with coordination of migration policy and those charged with implementation.

Model 1. Centralized coordinating authority

The first model establishes a state entity, by a special law or government decision, responsible for the coordination of development and implementation of Armenia’s international migration policy. While it is logical that a number of agencies will be responsible for implementing the migration policy, the centralized agency would have the ultimate power to coordinate the activities among other agencies, and prepare background materials for political decisions taken in the legislative field. This model has proved successful in Belgium, where the Department of Immigration is the central agency responsible for international migration and foreigners in the country. This model seems to be closer to the current Armenian model.

Model 2. Transparent, detailed division of authority: the Czech Republic case

The second model suggests that the administrative apparatus be organized in such a way that authority and responsibilities be divided among existing agencies, rather than with a special umbrella agency. The experience of the Czech Republic illustrates that even without a special agency responsible for coordinating activities in the field of international migration, clear division of responsibilities can lead to a coherent, efficient migration policy. Having working groups and inter-governmental proceedings ensures that concerned parties jointly identify discrepancies or administrative dissonance before new legislation is proposed.

In the Czech Republic, various measures guarantee that administrative responsibilities do not overlap. The first is the Act on the Establishment of Ministries and other Central State

⁶⁸ Law on Employment and Social Protection in Case of Unemployment, Art. 14 and 15, Part 2

⁶⁹ Law on Citizenship, Art. 26.

Administration Bodies (the Authority Law), adopted in 1969 and amended more than fourteen times, most recently in 2004. Additionally, the Government Legislative Council examines proposed legislation and ensures that it does not contradict existing legal acts. Finally, each ministry has a special legislative department for coordinating implementation measures. Two procedures are in place to ensure that government policy is implemented with proportional participation from responsible agencies. Each ministry employs intra-departmental procedures that require all branches within the ministry to contribute on any given issue relevant to their respective activities. Also, there exists an inter-departmental mechanism, usually in the form of working groups, which incorporates all relevant ministries and state authorities and coordinates particular issues.

The following institutions are the main actors in the realm of international migration in the Czech Republic:⁷⁰

1. The Ministry of Interior's Asylum and Migration Policy Department (OAMP) and Police

The Ministry of Interior is responsible for international migration and asylum, both at the legislative and implementation levels. Pursuant to the Act on Residence of Aliens, the Ministry executes the state policy in the field of immigration.⁷¹ Within the Ministry, issues related to migration and asylum are exclusively handled by the OAMP and Refugee Facility Administration. The Ministry receives applications for residence permits only in those cases, where asylum proceedings have been completed, and it makes decisions on such applications as an administrative body of first instance. The Ministry is also required to publish a list of border crossings, categories of persons entitled to use the crossings, and negotiate international agreements related to migration.

The Ministry of Interior in the Czech Republic includes the Police.

Border clearance and protection, and foreign residents fall under the responsibility of the Alien and Border Police Service (hereinafter the Alien Police). Alien Police units ensure compliance with the Act on Residence of Aliens, requiring foreign residents to register with the authorities.

The Alien Residence Investigation and Control Departments are also charged with detecting and preventing irregular migration, cross-border criminal activities and violations of the alien residence regime.⁷²

2. Ministry of Labour and Social Affairs

The Ministry of Labour and Social Affairs has primary authority in two main migration-related areas. The Ministry:

- a) defines categories of entities that may act as employers,
- b) sets out labour market access criteria for each category of foreign nationals.

The Ministry is also responsible for issues related to the integration of foreigners into society (chairing the inter-departmental commission on this subject), handled previously by the

⁷⁰ This section draws content from the 2003 Status Report on Migration in the Czech Republic, Ministry of Interior, Prague, 2004.

⁷¹ Czech Republic's Act on the Residence of Aliens and on Amendments to Other Acts, Act no 326/1999 Coll., also known as Law on Entry of Foreign Nationals or Law on entry of Foreigners.

⁷² It should be noted that the Criminal Service and its special Unit for Combating Organized Crime also participate in combating irregular migration and trafficking in human beings.

Ministry of Interior. The Ministry of Labour and Social Affairs also gained new responsibilities in 2002 with the Project on the Active Selection of Qualified Foreign Workers.

3. Ministry of Foreign Affairs

The Ministry of Foreign Affairs is responsible for residence permits granted to foreigners in the Czech Republic. It also issues visas through embassies and consulates.

4. Ministry of Industry and Trade

The Ministry of Industry and Trade regulates and issues trade licenses, influencing a significant portion of the entrepreneurial activities of natural or legal persons, including the business activities of foreigners.

5. Ministry of Justice

The Ministry of Justice is primarily responsible for extradition proceedings. The Ministry also drafts laws regulating prison services, matters that are highly relevant in the realm of migration. The courts coordinate with the Alien Police when Czech citizens or foreigners are prohibited from leaving the country based on court rulings. Finally, the Ministry of Justice is responsible for legislation concerning the Commercial Register, the establishment and status of commercial and cooperative companies, and other issues regulated by the Commercial Code.

6. Ministry of Education, Youth and Sports

The responsibilities of the Ministry of Education, Youth and Sports include providing foreign children with access to education, projects on vocational training for foreigners, and recognition of education acquired abroad (together with local universities).

3. ENTRY AND CHECKING PROCEDURES

3.1 VISA REQUIREMENTS

3.1.1. Three main ways of entering Armenia

The process of issuing or denying entry visas in Armenia is comparable to the widely used practices in other countries, while the process of denying entry visas and the definition of categories of visa-free visitors still need to be improved. However, it is important for government entities responsible for foreigners' entry to Armenia to be able to coordinate their efforts effectively in order to prevent the entry of unwanted individuals and allow the entry of legitimate visitors.

Foreign citizens seeking to enter Armenia can do so in three different ways. First, they may obtain visas through the RA Ministry of Foreign Affairs or through designated bodies of the RA Police⁷³. Second, they may enter the country without a visa, if they fall into one of the categories of persons who are not required to obtain entry visas. Finally, nationals of countries granted reciprocal visa-free regimes by agreements signed with these countries or, if necessary, by unilateral arrangements, may enter Armenia without a visa.⁷⁴

⁷³ RA Law on Foreigners, Article 10, Part 3

⁷⁴ Ibid., Article 9, Part 5

Foreign citizens who require a visa to enter Armenia may get it at a RA diplomatic or consular mission abroad, or at the border, or, if necessary, in the RA territory.⁷⁵ When a visa application is submitted to an embassy or consulate, the body responsible for issuing the visa is the Ministry of Foreign Affairs. When the application is submitted at a state border or in the RA territory, then the visa is issued either by the Police or the Ministry of Foreign Affairs.

Article 10, Part 1 of the RA Law on Foreigners establishes four types of entry visas issued in Armenia: visitor visas, official visas, diplomatic visas and transit visas.

An issue of potential importance to Armenia's entry regimes is the link between visas and the residency status. In the countries of the European Union, visas are typically tied to various forms of residency, decided before the visa applicant's arrival and completed after registration with the relevant state agency. This allows for more complete control over the influx of foreigners and prevents aliens from staying in the territory without proper residency status. In Armenia, visa status and residency status are two separate legal categories and neither is contingent on the other; a visa does not give its bearer additional benefits. Thus, it is possible to obtain an entry visa and stay in the country without securing residency status. Creating a link between visas and residency permits would shift to applicants the responsibility of reporting to and registering with the relevant authorities, which would simplify the process of recording their status and whereabouts.

3.1.2 Restrictions for Entering Armenia

It is accepted international practice to provide well-defined categories of persons who are not eligible for entry into a country. This usually applies to migrants with criminal records, people affiliated with terrorist activities, people who have previously violated immigration laws or lack financial means, as well as people whose entry is prohibited for health security reasons. Obtaining a visa is not a general right and a State may have just reasons for declining a visa application.

Reasons for denying an entry visa in the Republic of Armenia are defined in Article 8 of the RA Law on Foreigners⁷⁶. They are divided into two groups:

1. The first group consists of reasons of administrative/legal or operative-investigative (which is a special type of the administrative/legal) origin;
2. The second group consists of restrictions imposed as a result of criminal/legal relations.

The legal/constitutional basis of these two groups lies in Article 43 of the RA Constitution, which allows fundamental human and civil rights and liberties to be temporarily restricted by a law, if it is necessary for national security and preservation of public order, crime prevention, protection of health and morality, constitutional rights and freedoms, and honor and reputation of others in a democratic society.

First group of restrictions. A foreigner may be denied an entry visa, if:

- a) he or she had been deported from the territory of the Republic of Armenia or had been deprived of their residency status, and it has been less than three years since

⁷⁵ Ibid., Article 10, Part 3

⁷⁶ The reasons for denying a visa, specified in Article 8 of the RA Law on Foreigners, equally apply to denying the requests to extend the validity of an already issued visa, to invalidating a visa or to barring a person's entry into the country.

the deportation or since the time when the decision on depriving him or her of the residency status had entered into effect;

- b) he or she had been subjected to administrative sanctions for violating the RA Law on Foreigners, and it has been less than a year since the decision on these sanctions was taken;
- c) there is credible information that the person is engaged in certain types of activities, or participates, holds membership in or establishes organizations, whose purpose is:
 - to cause damage to the Republic of Armenia's national security, to overturn the constitutional order or weaken the country's defense capabilities;
 - to carry out acts of terrorism;
 - to smuggle weapons, ammunition, explosives, radioactive materials, narcotics, psychotropic materials, or
 - engage in trafficking in human beings and/or illegal border crossings.
- d) he or she has a contagious disease that is a threat to public health, except for the cases when the person is entering the Republic of Armenia to seek treatment for that particular disease⁷⁷;
- e) he or she has included false information on his/her visa application or has failed to provide the required documents, or if there exists information that the purpose of his/her entry into the Republic of Armenia has other purposes than those stated on the application, or
- f) he or she poses other serious and valid threats to Republic of Armenia's national security or public order.

Second group of restrictions. A foreigner is denied a visa, if he or she has been convicted of a serious or particularly serious crime in the Republic of Armenia, as defined by the RA Criminal Code, and the conviction has not been lifted or expired.

Paragraph 2 of Part 2 and Part 4 of the same Article 8 provide for possible exceptions when an entry visa may be issued despite the existence of the reasons for denying a visa. According to Article 8, Part 4, in fully justified cases, a foreigner may be issued a visa, if:

- a) he or she had been deported from the territory of the Republic of Armenia or had been deprived of their residency status, and it has still been less than three years since the deportation or since the time when the decision on depriving him or her of the residency status had entered into effect, and
- b) he or she had been subjected to administrative sanctions for violating the RA Law on Foreigners, and it has been less than a year since the decision on these sanctions was taken.

Since the norm on these exceptions is not spelled out and/or further regulated in any other provisions, it means that the decision on the “fully justified cases” is taken by the entity that is responsible for issuing/denying the visa, in accordance with general procedures. However,

⁷⁷ The list of such contagious diseases is established by the Republic of Armenia Government. See RA Law on Foreigners, Article 8, Part 1 (d).

this raises a question about what objective criteria must the decision-making entity follow in defining whether it is a “fully justified case” or not? This leaves the issue to administrative discretion, and may even lead to the use of arbitrary criteria for turning down the application.

In addition, the provision that, having been subjected to administrative sanctions for violating the RA Law on Foreigners (if it has been less than a year since the sanctions were imposed) is a sufficient reason for denying a visa, may be regarded as a significant restriction. The wording of Article 201 of the RA Code on Administrative Offenses was changed on December 25, 2006, by the Law on Amendments to the RA Code on Administrative Offenses (Law HO-47). According to the first part of that Article, a foreigner shall be fined in the amount of 50 times the minimum RA wage for residing in the Republic of Armenia without a valid visa or residency status, or with invalid documents, as well as for violating the procedures of transit through the Republic of Armenia⁷⁸. The sanction described by this Article does not include deportation. Norms for deportation from the Republic of Armenia are described in Chapter 5 of the RA Law on Foreigners. This procedure is applied in those cases, when the foreigner refuses to leave the Republic of Armenia voluntarily in cases specified by the law. However, it is possible to have a situation when, after being subjected to a sanction specified in Article 201 of the RA Code on Administrative Offenses, the foreigner voluntarily leaves the Republic of Armenia (pursuant to Article 30 of the RA Law on Foreigners), and then applies for a visa within a year, in accordance with procedures described in the law. In such cases, according to Article 8, Part 1(b) of the Law on Foreigners, the general rule is that the visa application must be denied. But the special rule is that the existence of the “fully justified” circumstances for issuing a visa must be examined. In this regard, it is suggested to consider the possibility of defining more clearly in the law the grounds for using general vs. special rules for issuing/denying a visa. As an alternative, the possibility of liberalizing the regime of restrictions may be considered, according to which having been subjected to administrative sanctions for violating the Law on Foreigner two or more times would be considered as a sufficient reason for denying the visa, if the decision on the sanctions was taken less than a year ago. Finally, it is recommended to consider allowing visitors to enter without a visa based on the potential risk the visitors pose, rather than on political considerations. Countries with high rates of in-migration, such as the USA or EU states tend to establish visa regimes for countries based on the risk of their citizens eventually claiming asylum or becoming irregular migrants. By contrast, Armenia allows some foreigners entry based on international agreements such as the 1992 Bishkek Agreement, which enables citizens of CIS countries to enter Armenia without a visa (except for citizens of Turkmenistan).⁷⁹ This policy elevates political or geo-political alliances beyond the standard considerations of whether migrants should be allowed into Armenia without a visa.

3.1.3 Health certificates

Two principles should govern the question of health conditions that may prevent a foreigner from entering a given country. First, unless bound by an international treaty, the responsible state authority may limit entry for any condition or disease. However, a distinction should be drawn between contagious diseases and those that can be transmitted only consciously and

⁷⁸ The minimum wage is set at 20,000 drams, as of May 2007.

⁷⁹ Agreement on the No-Visa Movement of the Citizens of the CIS within its Members’ Territories, Bishkek, (1992).

deliberately, such as sexually transmitted diseases (STDs) or HIV. While a state authority can require special registration for people carrying contagious diseases, the issues of deliberate transmission of diseases are usually covered by criminal law. Second, when the state authority rules that a certain health condition endangers public health, it should require a certificate from all persons entering the country. Logically, if there is a threat to public health, the duration of stay is no longer relevant.

According to Article 8, Part 1(d) of the RA Law on Foreigners, a foreigner is denied a visa, his/her visa validity is not extended, his/her visa is voided or he/she is barred from entering the Republic of Armenia, if he/she has a contagious disease that poses a threat to public health, except in cases when he/she is entering the Republic of Armenia to seek treatment for such a disease. The list of these contagious diseases is established by the RA Government.

As it stands, foreigners entering Armenia for a period exceeding three months may be required to submit a health certificate, depending on whether the institution they are coming to study or work at requires one. The Law on Prevention of Diseases Caused by the HIV Virus requires foreigner citizens and persons with no citizenship, who are applying for a Republic of Armenia entry visa for a period of more than three months, to submit an HIV testing certificate, in accordance with procedures defined by the RA Government. This requirement is supplemented by the following provisions: “if no HIV testing certificate is submitted, foreign citizens and persons with no citizenship shall take an HIV test in the territory of the Republic of Armenia within one month.”⁸⁰ If the test results are positive, the infected person is subject to administrative deportation from the Republic of Armenia.⁸¹ However, in practice this provision does not seem operational.

Other countries have special provisions in the case of potential entrants who are suspected of carrying certain diseases. A medical certificate is generally required from students, or when a special medical condition is associated with the field of work of labour migrants. In the Czech Republic, a foreigner may be refused entry into the territory “if there exists a well-founded suspicion of a serious disease.”⁸² The medical conditions considered dangerous to public health are not left entirely to the discretion of embassy officials or border guards; the Czech Act on the Residence of Aliens makes explicit reference to public regulations issued by the Ministry of Health, which list specific health conditions that are sufficient to deny access to prospective entrants.⁸³

3.2. CHECKING PROCEDURES

All persons crossing the Armenian border are subject to entry and exit controls. Across Europe, the emphasis falls on entry rather than exit procedures because the State’s responsibility is to ensure security inside its own borders. There should be a qualitatively different approach to the issue of entry and exit control. Entry controls should usually be stricter than exit controls.

⁸⁰ RA Law on Prevention of Diseases Caused by the HIV Virus, Article 7, Parts 1 and 2.

⁸¹ RA Law on Prevention of Diseases Caused by the HIV Virus, Article 8.

⁸² Act 326/1999 Collection of Laws on the Residence of the Aliens in the Czech Republic, Art. 9, Para 2, Clause B.

⁸³ Act 274/2003 on Protection of Public Health, specifically § 68, and Regulation 274/ 2004 on Diseases Threatening the Public Health. The Regulation stipulates three types of diseases considered threatening to public health: A) diseases qualified by the International Health Order as dangerous or new infections (for example SARS), B) tuberculosis at certain stages, C) infectious diseases qualified by the regulation of responsible state authority.

3.2.1. Border Guards

The Armenian Border Guards administer the passport and (for those who require visas) visa scanning process, through which all foreigners entering Armenia must pass. The prominent role that the Border Guards play in the entry process underscores the importance of defining their status and capacity building for them to employ efficient and professional practices.

The Commander of the Border Guards is nominated by the Head of the National Security Service and appointed by the President. Pursuant to the bilateral agreement between Russia and Armenia, Russian Border Troops handle border control on the Turkish and Iranian borders.⁸⁴ The agreement also applies to the international airport in Yerevan and allows Russian Border Troops to check all international travelers.

The status of the Border Guards is a critical factor in its mode of operation and level of efficiency. In many countries, border control is a police function – demilitarized and fully civilian. In other countries, border control is assigned to the military or national security service. Former communist states traditionally include border control as a military function, and it is often army conscripts who staff the border checkpoints. This has proven extremely inefficient; the guards are not motivated to excel, and any special training they undergo is wasted the moment they complete the service and leave. Border control in most East European countries has been shifted from the army to the police. Ukraine employs joint controls, with professional Border Guards accompanied by soldiers in mandatory military service. Full demilitarization of the Border Guards in Armenia - or at least intensified training and establishment of a permanent core group of border guards - may improve efficiency and professionalism.

Greater efficiency may also be achieved through a flexible, selective approach to checking procedures. Applying uniform, rigid control mechanisms to all persons crossing a border is time-consuming and often unnecessary. EU states have chosen to invest in special training for border guards in order to ensure that their efforts focus more heavily on suspicious persons. This kind of differentiation of checking mechanisms – shifting the focus from screening all persons to only those displaying suspicious behavior – could free resources and increase the agility of Armenia’s Border Guards.

3.2.2. Inspection and appeal

The Armenian Government introduced a two-tier inspection system at entry posts in 2002. The system’s primary objectives include greater sophistication in the border management system, making border passage faster and more comfortable for bona fide entrants, and identifying and excluding those with illegal or invalid claims. The first stage includes document screening and other procedures for either allowing entry or exit or sending a subject for secondary inspection, which involves more rigorous screening of all qualifications for entry. In general, the procedure shifts the burden of identifying suspicious entrants away from initial screeners, conveying this function into a secondary inspection realm, where personnel

⁸⁴ Agreement between the Russian Federation and the Republic of Armenia on Status of Border Troops of the Russian Federation in the Territory of the Republic of Armenia and Terms of Functioning (1992).

have more specialized expertise.⁸⁵ Both inspection levels hold the same authority to grant or deny entry.

Although the two-tier system fosters greater efficiency in the entry process, it does involve a proliferation of actors at the secondary level. The Border Guards manage procedures at both stages of inspection, but they may engage expertise from other agencies, including the National Security Services and State Police, at the secondary level. The division of tasks and cooperation among these agencies is unregulated; clearly defining institutional responsibilities for checking procedures among involved agencies is advisable, especially because data on citizens and foreigners are vulnerable to disclosure at this stage.

Moreover, no procedure exists for appealing entry denials. By comparison, the UK Immigration Act provides for the right to appeal denial of entry to the Court, though only after arrival to home country, unless there is a claim for asylum or a claim under the European Convention on Human Rights, or if the entrant submits a valid work permit.⁸⁶ Canada's immigration legislation goes further, providing for the right to appeal, which is a basis for suspending expulsion.⁸⁷

3.2.3. Cooperation and joint control

When politically possible, joint controls usually prove to be more effective and financially less demanding than unilateral measures. Joint controls typically involve close cooperation with the border guards of neighboring states. They are also more practical in that they create a one-stop system of passage between two states. In Armenia, border cooperation is complicated by the presence of Russian Border Troops and political tensions with some of the neighboring countries. It is therefore important that information-sharing and respect for human rights form the basis for any further cooperation on Armenia's borders.

Cooperation among European countries serves as an example of effective border practice; however, this example should not be viewed without caution. Shared responsibility for border procedures is a core principle of the Schengen system, but the balance between protection of a country's borders and respect for human rights is difficult to strike. The Schengen Information System (SIS) entails both abolition of internal borders and closer cooperation in data-sharing among police forces in member-states. When sensitive issues such as threats to public order or national security differ, border cooperation of the Schengen model can exceed countries' expectations regarding data sharing and protection of citizens' privacy.⁸⁸

In Armenia, the fact that Russian Border Troops screen entrants and therefore have access to databases with information on migrants raises concerns about data protection. Even visitors who do not require visas - such as those from CIS countries - are screened by Russian Border Troops alongside Armenian Border Guards. The differing standards and practices that arise given this cooperation could erode the clarity of Armenia's entry procedures or standards. The efficiency gains from border cooperation should therefore be weighed against potential

⁸⁵ Republic of Armenia Governmental Decision on Implementation of Border Control through the System of Two-Tier Inspection, (2002). See www.dmr.am

⁸⁶ International Comparative Study of Migration Legislation and Practice (case study for Ireland), International organization for Migration, 2000.

⁸⁷ *Ibid.*, p. 35.

⁸⁸ See Ryszard Cholewinski, *Borders and discrimination in the European Union*, Immigration Law Practitioners' Association, London, Migration Policy Group, Brussels, 2002.

problems that may arise from the differing political priorities of the participants in the cooperative scheme.

4. EXIT

Armenian law establishes some standard restrictions on the rights of foreign nationals and Armenian citizens who seek to leave the country, including when the person is under criminal prosecution or is serving some kind of a penalty/sentence. Prior to the passage of the RA Law on Foreigners, the then-current RA Law on the Legal Status of Foreign Citizens in the Republic of Armenia of 1994 provided for a number of other restrictions, such as potential civil liability for foreigners. In the case of RA citizens, the “dual validity” system appears to be an unwarranted restriction on freedom of movement. The first of the aforementioned issues has already been resolved, while the issue of “dual validity” for RA citizens wishing to leave Armenia is a prime area for reform.

4.1. FOREIGN NATIONALS

Article 25 of the RA Constitution states:

“Anyone who is legally residing in the Republic of Armenia shall have the right to move freely and choose any place of residence within the territory of the Republic of Armenia.

Everyone shall have the right to leave the Republic of Armenia.

Every citizen and legal resident of the Republic of Armenia shall have the right to return to the Republic of Armenia.” The passage of the RA Law on Foreigners removed some restriction on the foreigners’ exit rights pertaining to civil liability, which were excessive or redundant.⁸⁹ Now there are two such restrictions. In particular, a foreigner is barred from exiting the Republic of Armenia, if, in accordance with procedures set out in the law:

- a) a decision has been made to involve him/her as an accused in a case, until the end of the investigation and trial, or until the criminal prosecution against that person is stopped,
- b) he/she has been sentenced to a punishment that may be served only in the Republic of Armenia, until the punishment is completed or until the person has been released from completing the punishment in accordance with procedures defined by the law.

⁸⁹ Article 15 of the old Law on Legal Status of Foreign Citizens provided for the following cases when a foreigner could be prevented from leaving the Republic of Armenia:

- if a criminal case has been initiated against the foreign citizen, or such a case has not been fully resolved;
- if the foreign citizen has been convicted of a criminal offense, or the sentence for a criminal offense has not been completed;
- if there is a court decision in a civil case that applies to the foreign citizen, or the instructions of the court in such a case have not been fulfilled, or the foreign citizen has not been exempted from fulfilling such instructions.

This final restriction pertaining to civil liability appears to undercut the principle of freedom of movement. Civil law regulates relationships between private parties, and the involvement of a foreign citizen in a civil case should not affect freedom of movement, a right enshrined not only in the Armenian Constitution, but also in various commonly accepted human rights instruments.

Common practice in other countries also does not include civil liability as an adequate basis for exit restriction. For instance, the Czech Act on Residence of Aliens specifies the repercussions for breach of a foreigner's duties on the territory, ranging from warning or fine to expulsion, but it does not include an ongoing civil suit as a basis for restricted movement.⁹⁰

Foreigners holding a residence permit usually are required to renew it or report regularly to relevant authorities for registration, but requesting a permission to leave the country contravenes the freedom of movement. In this regard, the removal of this excessive restriction on the foreigners' exit rights, which was provided for in the already invalid Law on Legal Status of Foreign Citizens in the Republic of Armenia, is a positive step.⁹¹ Article 17, Part 5 of the current RA Law on Foreigners says that when a foreigner with a permanent residence permit is absent from the Republic of Armenia for more than six months, he/she shall simply notify the RA Police about his/her absence.

4.2. ARMENIAN NATIONALS

Existing Armenian legislation does not stipulate special cases of exit restrictions for Armenian nationals. In general, such restrictions must be derived from the general requirements of law, because when restrictions are left to administrative discretion, this opens space for arbitrary application of such restrictions. The draft Law on Entry and Exit of the Republic of Armenia Citizens improves upon the existing exit system by providing an exhaustive list of grounds for restricting exit rights for Armenian nationals⁹². These grounds are limited to cases where criminal liability requires restriction of movement, the period of mandatory military service must be fulfilled, a minor seeks to leave without the consent of a legal representative, or a national does not possess valid documents. These grounds are consistent with commonly accepted international practices and leave little room for administrative abuse. The draft law also includes time limits on restriction of exit rights on each one of the specified grounds.

In Armenia, domestic identity document (so called national passport) can be "validated" for international travel. The validation stamp can be obtained from the local police passport department. This practice of "dual validity" draws great criticism. Indeed, most countries issue international travel documents for their citizens against an administrative fee which covers administrative expenses and does not deter applicants nor constitutes an obstacle to legitimate travel abroad. The Armenian practice of dual validity in practice may lead to restrictions of travel. Anecdotal evidence suggests that some young men who have not yet served in the army have been denied passport validation for travel abroad. The abolition of the

⁹⁰ Paragraphs 118 – 121 of the Act No 326/1999 on the Residence of Aliens in the Czech Republic specify conditions allowing for use of administrative expulsion (for example, when a foreigner representing a threat to national security or presenting forged travel documents, is issued administrative expulsion binding for 5 or 10 years, respectively; other breaches constituting grounds for administrative expulsion include invalid or non-existing work permits or travel documents, overstaying visa, etc.) Paragraphs 90 - 92 of the Act No 326/1999 on the Residence of Aliens that specifically stipulate conditions for a foreigner to leave the country do not include civil liability.

⁹¹ The old law said that foreign citizen with ordinary residence permits may not be absent from the Republic of Armenia for more than six months during a year, unless he/she has obtained written permission from the Ministry of Internal Affairs, stating that this absence does not exceed an uninterrupted one-year period and that state duties are paid on annual basis. The law also said that foreigners who have residence permits and wish to be absent from Armenia for more than six months had to seek permission from the Ministry of Foreign Affairs. See the already invalid Law on Legal Status of Foreign Citizens in the Republic of Armenia (1994), Article 28.

⁹² Draft Law on Entry and Exit of the Republic of Armenia Citizens, Chapter 3, Art. 9, 10.

dual validity provision is on the agenda of the Migration Agency and is reflected in the draft Law on Entry and Exit of the Republic of Armenia Citizens that does not seem to have many proponents among the National Assembly's legislators.

The Charter of the Passport System provides for different validity periods for Armenian passports in Armenia and abroad. According to the Charter, a passport inside Armenia is valid for ten years from the date of issuance, whereas the same document is valid in other countries for only five years. In order to retain the validity of Armenian passports abroad, Armenians must have them endorsed with a special stamp from the police or consular missions abroad every five years. AMD 1,000 duty for each year of validity is levied for each renewal.⁹³

The Armenian authorities consider that an Armenian passport without the validity stamp is valid only as an internal personal identity document and cannot be used for travel to foreign countries, where it would be invalid. The Migration Agency refers to the requirement to "validate" the passport for travel to foreign countries unofficially as an "exit visa," which amounts to a significant deviation from recognized standards on freedom of movement.⁹⁴ The Migration Agency maintains that the validating stamps enable authorities to restrict the exit of individuals who should not be permitted to leave Armenia. However, if there is a reason to restrict an individual's exit rights, the concerned courts should inform the Border Guards or the Police; the matter should not be contingent on a validity stamp in an identity document.

5. RESIDENCE PERMITS

Prior to the adoption of the RA Law on Foreigners, the system of residence permits in Armenia was characterized by extreme ambiguity and administrative inefficiency⁹⁵. With the passage of the new law, the significant changes related to the types of available residence permits, grounds for issuing, renewing or denying them, and rules for appealing the decisions on residence permits have brought the regulation closer to the internationally accepted practices. However, some unnecessary or excessive restrictions on fundamental human rights and bureaucratic mechanisms still remain in place. The process is confused by ambiguity over the parameters that define Armenian origin, an important consideration in issuing residence permits for foreigners with Armenian roots. An example of an unnecessary restriction is the impossibility of appealing a decision on a special residence permit in a court of law. The fact that, if a foreigner's application for a residence permit is denied on any of the grounds specified in Article 19 of the RA Law on Foreigners, he/she cannot reapply for a year, may be considered an excessive restriction.

The RA Law on Foreigners defines three types of residency: temporary, permanent and special.

⁹³ RA Law on State Duty, Article 14, Part 7.

⁹⁴ See the Republic of Armenia Concept of the Adoption of the draft Law on Entry and Exit of Citizens available at www.dmr.am.

⁹⁵ Contrary to common practice elsewhere, the residency status in Armenia was not tied to visa requirements. This created a separate bureaucratic hurdle that foreigners must clear if they wished to stay in Armenia for a period exceeding the available visa terms. Moreover, the administrative process for issuing residence permits was divided between the MFA and the Police, remaining unnecessarily distinct from the visa application process.

5.1. TEMPORARY PERMITS

Temporary residence status is granted to any foreigner, if he/she substantiates the circumstances requiring him/her to stay in the Republic of Armenia for a period of one year or more. Such circumstances include studying, possession of a work permit in accordance with procedures defined by the law, marriage to a RA citizen or to a foreigner legally residing in the RA, being a relative of a RA citizen or of a foreigner who has permanent residence permit for the RA, and engaging in entrepreneurial activities. Temporary residence status is granted for a period of up to one year, which may be extended for no more than one year at a time.⁹⁶ Decisions on denying temporary residence permit applications or temporary residence permit renewal applications may be appealed in a court of law.⁹⁷

5.2. PERMANENT PERMITS

Permanent residence status may be granted to any foreign applicant for a period of five years, with the possibility of renewal for another five years every time, if the applicant meets all of the three requirements set out in the law: proves the existence of close relatives in the Republic of Armenia, has an apartment and means of subsistence in the Republic of Armenia and has been residing in the Republic of Armenia for at least three years before applying for a permanent residence status. Permanent residence status can also be granted to foreigners engaged in entrepreneurial activities.⁹⁸ Not meeting these requirements is sufficient for denying the residence permit application. Decisions on denying temporary residence permit applications or renewal applications may be appealed in a court of law.⁹⁹ The criteria for approving or denying the applications for permanent residence status are clearly spelled out.¹⁰⁰ Applications for temporary or permanent residence status are to be submitted to the authorized state agency within the Republic of Armenia Police structure.¹⁰¹

5.3. SPECIAL PERMITS

Special residence status is granted for a period of ten years. It can be granted more than once. It is granted to foreigners who are Armenian by origin. Special residency may also be granted to other foreign citizens who “engage in economic or cultural activities in the Republic of Armenia.”¹⁰² However, the law does not specify what exactly amounts to economic or cultural activities. Persons wishing to receive a special residence status must apply to a Republic of Armenia diplomatic or consular mission, if abroad, or to the Police, if already in Armenia.¹⁰³ The law specifies that it is the RA President who is responsible for considering

⁹⁶ RA Law on Foreigners, Article 15, Parts 1 and 2.

⁹⁷ Ibid., Article 20, Part 1.

⁹⁸ Ibid., Article 16, Parts 1 and 2.

⁹⁹ Ibid., Article 20, Part 1.

¹⁰⁰ Ibid., Article 19.

¹⁰¹ Ibid., Article 17, Part 1.

¹⁰² Ibid., Article 18, Part 1 and 2.

¹⁰³ Ibid., Article 18, Part 3.

special residence permit applications and granting special residence permits. By law, the RA President's decisions on this matter are final and may not be appealed.¹⁰⁴

The notion of Armenian origin is a concept of fundamental importance to special residence status.

Although governments vary in their approaches to determining national origin, policies that explicitly outline the required conditions for nationality typically translate into efficient practices. Some governments may allow some form of residency based only on a migrant's self-declaration as someone of the national origin in question.¹⁰⁵ However, self-declarations of this sort typically do not entail significant benefits or privileges from the government. Other governments perceive an interest in keeping national origin policies flexible and therefore do not specify the standards for establishing nationality.

Finally, some governments articulate precise requirements for determining national origin (albeit with exceptions); Slovakia is exemplary here.¹⁰⁶ The Law on Expatriate Slovaks defines the recognition process for people of Slovak origin abroad and specifies the privileges resulting from that status.¹⁰⁷ The law gives a detailed description of the qualifications for this status, the documents necessary to support the applicant's claim, the procedure that is used to determine the applicant's status, and the administrative bodies that participate in the process.¹⁰⁸ Expatriate status allows for easier access to visas and residence permits.¹⁰⁹ By explicitly outlining the criteria for expatriate status and tying it to specific privileges, the Slovak law adequately addresses the political and administrative problems inherent in defining national origin.

According to explanation provided by the Ministry of Foreign Affairs, Armenian origin can be determined either by the name of the person in question or through official documentation provided by an Armenian Church or Diaspora community organization in the country of origin. This issue has been resolved by Article 13, Part 2(3) of the RA Law on Citizenship, according to which a person who has Armenian ancestors is considered to be of Armenian origin.¹¹⁰

¹⁰⁴ Ibid., Article 18, Part 5.

¹⁰⁵ For example the Czechs in Slovakia or Slovaks in the Czech Republic or Roma in both countries state their nationality purely on declaratory basis.

¹⁰⁶ Law 70/1997 of the Slovak Republic on Expatriate Slovaks and changes and amendments to some laws, (1997).

¹⁰⁷ In Art. 8, the law lists rights to be enjoyed by recognized expatriates, which include: applying for admission to any educational institution, applying for employment without a work permit and without permanent residence status in the Slovak Republic, applying for citizenship in the Slovak Republic for outstanding personality reasons. Expatriates on the territory of the Slovak Republic also can more easily acquire real estate, and others (people over 70) enjoy a number of fare reductions and other benefits.

¹⁰⁸ According to Art. 2, Slovak Expatriate Status can be granted to an individual without Slovak citizenship, if he/she has Slovak nationality or Slovak ethnic origin and Slovak cultural and language awareness. By ethnic origin, the law means any of the applicant's direct ancestors up to the third generation who possess Slovak nationality. The applicants prove their origin by submitting various documents (birth certificate, baptism certificate, registry office statement, etc.). The law entitles Slovak compatriot organizations to participate in the process by supporting applicant's claim.

¹⁰⁹ According to Art. 5 of the law, "Expatriates entering the territory of the Slovak Republic are not required to have written invitation or visa, if this is allowed by bilateral interstate agreements."

¹¹⁰ Amendments to the RA Law on Citizenship of the Republic of Armenia, RA State Bulletin 14.03.07./15(539) Article 317 HO-33-N.

However, the explanation provided by the Ministry of Foreign Affairs or the legislative formulations cannot be regarded as clear guidelines. Therefore, the procedure is largely arbitrary, which may lead to different interpretations. Nevertheless, because of the privileges attached to special residence status and the obviously political nature of determination of national origin, adoption of more transparent guidelines is advisable.

Another important aspect of the special residence status is that, by law, the RA President's decisions on this matter are final and may not be appealed. Article 18, Part 5 and Article 20, Part 1 of the Law seem to contradict Articles 18 and 19 of the RA Constitution. The aforementioned articles stipulate that the denial to grant a special residence status may not be appealed in a court of law, whereas Parts 1 and 2 of Article 18 of the RA Constitution say that "Everyone shall be entitled to effective legal remedies to protect his/her rights and liberties before judicial and other state bodies. Everyone shall have the right to protect his/her rights and liberties by any means not prohibited by the law." According to Part 1 of Article 19, "Everyone shall have the right to redress his/her violated rights". Also, on 16 November, 2006 the RA Constitutional Court passed a decision SDO-665 invalidating a provision in Article 160, Part 1 of the RA Civil Proceedings Code, according to which orders of the RA President, inter alia, were not subject to appeal in courts of general jurisdiction. Moreover, in its decision, the Constitutional Court had cited violation of the abovementioned Articles of the Constitution that guaranteed the right to legal remedy.¹¹¹

Finally, the fact that, if a foreigner's application for a residence permit is denied on any of the grounds specified in Article 19 of the RA Law on Foreigners, he/she cannot reapply for a year, may be considered an excessive restriction.¹¹² However, in cases described in Article 19(d) of the RA Law on Foreigners (when an application is denied because the applicant has a contagious diseases that is considered a threat to public health) or in Article 19(f) (when an application is denied because the applicant failed to submit all the required documents), instead of requiring to wait a year before reapplying, it would be more reasonable to allow the applicants to reapply after having recovered from the disease or immediately after the required documents are submitted.

6. REGISTRATION

Foreigners residing in Armenia for extended periods are required to register with the RA Police in accordance with procedures defined by the RA Government. This requirement is uniform for foreigners holding temporary, permanent or special residence permits.¹¹³ Another requirement of the law on this matter is that foreigners holding a permanent residence permit must simply notify the RA Police in writing in the case of absence of more than 6 months from the Republic of Armenia.¹¹⁴ There is no such requirement for holders of temporary or special residence permits, which is a reasonable privilege. If a permanent residence permit holder did not notify the RA Police of his/her intention to leave and has been absent from the Republic of Armenia for more than six months, then his/her residence permit is considered invalid and the foreigner in question is deprived of his residence status. However, the law on

¹¹¹ Go to <http://www.concourt.am/Voroshum/list2006htm> for the decision in the case on the constitutionality of Article 160, Part 1 of the RA Criminal Proceedings Code, brought by citizens S. Gasparyan and A. Zejnalyan.

¹¹² RA Law on Foreigners, Article 20, Part 4.

¹¹³ Ibid., Article 17, Part 4, and Article 18, Part 6.

¹¹⁴ Ibid., Article 17, Part 5.

registration is vague, which may raise questions about the utility of retaining any registration requirement at all. Thus, the law does not specify when and how the registration process occurs, nor does it indicate the consequences for failing to register. In particular, the uncertainty about registration deadlines and repercussions for failing to register may give implementing agencies an opportunity to adopt various interpretations of registration rules, which may lead to abuse and inefficiency.

It appears that many of the registration procedures are not implemented at all, or if they are, it is only because some foreigners voluntarily comply with them.

In many European countries, registration is coordinated with the residence permit process. Only after registration with the local alien police unit or other responsible body can a residence permit come into force. This practice places the responsibility for registration on the foreigner, encouraging administrative discipline and ensuring that the state has a reliable registration policy. Even when residence status is valid without registration on the territory, the duty to report to authorities typically is codified by law. In the Czech Republic, the reporting duty is explicitly included in the Act on the Residence of Aliens, which states that all foreigners (with predictable exceptions) must register with the local Alien Police Unit within three working days of arrival.¹¹⁵

7. CITIZENSHIP

7.1. RA CITIZENSHIP

The Armenian Law on Citizenship appears to be a mixture of the principles of *jus soli* (a person acquires a citizenship if born on the territory) and *jus sanguinis* (if a person's mother, father or child possesses Armenian citizenship, he/she may obtain it as well).¹¹⁶ A child who is born to parents who are both RA citizens at the time of birth, regardless of the place of birth, is eligible for RA citizenship.¹¹⁷ When one parent holds RA citizenship and the other is a foreign citizen at the time of the child's birth, the child's citizenship is determined on the basis of the written consent of both parents.¹¹⁸ RA citizenship may also be granted to any person over 18 years who has permanently and legally resided in the RA during the previous three years, can communicate in Armenian, and has knowledge of the RA Constitution.¹¹⁹ A person may be granted RA citizenship without meeting the aforementioned requirements if he/she a) marries a RA citizen or has a child who is a RA citizen, b) one or both of his/her parents had an RA citizenship before or were born in the RA and if he/she applied for RA citizenship within three years of his/her 18th birthday, c) is of Armenian origin, which means he/she has Armenian ancestors, d) had renounced his/her RA citizenship after 1995. An

¹¹⁵ Act of the Residence of Aliens, Art. 93. The duty to register excludes foreigners younger than 15 years of age, as well as diplomats and their family members and other special categories. Citizens of the European Union must register as well, although a different time scheme applies (within 30 days of arrival).

¹¹⁶ RA Law on Citizenship of the Republic of Armenia.

¹¹⁷ Ibid., Article 11.

¹¹⁸ In case of the absence of such consent, the child acquires RA citizenship if s/he was born on RA territory or if he/she would become a stateless person unless he/she acquires RA citizenship, or if the parents permanently reside on the RA territory.

¹¹⁹ RA Law on Citizenship of the Republic of Armenia, Article 13, Part 1, RA State Bulletin 14.03.07./15(539) Article 317 HO-33-N.

application for citizenship may be rejected if the applicant is engaged in “activity that harms national security, public order, health safety and morality of society, or others’ rights, freedoms and reputation.”¹²⁰

Applications to renounce RA citizenship may be rejected for various reasons, including a criminal charge against the applicant, a court decision that has yet to be enforced, or when termination of citizenship may harm Armenia’s national security interests.¹²¹

In general, the RA Law on Citizenship of the Republic of Armenia relies heavily on generic criteria—national security, public morality, state interests—that increase the risk of arbitrary interpretation and unequal application. Without elaboration on the meaning of these criteria either by a procedural law or judicial precedents, qualitatively different applications can arise that reduce the overall coherence of Armenian citizenship laws. More specifically, the current Armenian Law on Citizenship does not indicate which institution shall issue documents confirming an individual’s legal status in the country, nor does it specify which documents are necessary for acquiring and terminating citizenship. It would be advisable to amend the current law to include and disseminate such information in full detail.

According to the last provision in Article 30¹, Part 1 of the RA Constitution, the procedures for acquiring and terminating RA citizenship shall be defined by laws. According to Part 2 of the same Article, no one can be deprived of RA citizenship or of the right to change citizenship. This provision corresponds to the idea of direct prohibition of depriving of citizenship that is constitutionally formulated in various ways in democratic states.¹²² In this context, termination and deprivation are not only different legal concepts, but do not correspond to each other as a general and a particular, or a whole and a part. Despite this constitutional prohibition, Article 23, Part 2 of the RA Law on Citizenship of the Republic of Armenia states that RA citizenship is terminated in case of depriving one of his/her RA citizenship. This provision is detailed in Article 25 of the same law, which says that after having obtained citizenship, a person may be deprived of it if he/she has lived permanently in a foreign country and has not registered with an Armenian consular mission during the that time; if he/she had acquired Armenian citizenship on the basis of false documents; and if he/she has acquired citizenship of another country in violation of the RA citizenship legislation.¹²³ This discrepancy of the law with the RA Constitution needs to be addressed as soon as possible.

7.2. DUAL CITIZENSHIP

Many countries today tend to allow dual or multiple citizenships for their citizens. Children are increasingly born to parents holding different citizenships, and states do not take as seriously traditional notions that their citizens must be loyal to a single state.

According to the Constitutional amendments, dual citizenship *de jure* is no longer prohibited; *de facto* it is provided for in Article 13¹ of the RA Law on Citizenship of the Republic of Armenia.

¹²⁰ Ibid., Article 13, Part 6.

¹²¹ Ibid., Article 24, Part 2.

¹²² Germany’s Constitution, Article 16, Spain’s Constitution, Article 11, Part 2, and other constitutions.

¹²³ RA Law on Citizenship of the Republic of Armenia, Article 25.

Dual citizenship is an issue of particular salience in Armenia, given its sizeable Diaspora population. One of the Armenian government's stated priorities is to deepen its relationship with the Armenian Diaspora.¹²⁴ One way to do so has been allowing dual citizenship.

A new article (Article 13¹ – Dual Citizenship) was added to the RA Law on Citizenship of the Republic of Armenia, when the law was amended by Law HO-33-N. According to that Article, a person is considered to be a dual citizen of the Republic of Armenia, if he/she holds citizenship of another country (or countries), in addition to his/her RA citizenship. For the Republic of Armenia, this dual citizen is considered as a RA citizen only. The RA dual citizen enjoys all the rights afforded to RA citizens and bears all the obligations of RA citizens, except in the cases specified by RA international agreements or by laws.

The exceptions specified by laws can be found in the RA Law on Military Duty, RA Criminal Code, RA Code of Administrative Offenses, and the RA Elections Code.

Article 3¹ of the RA Law on Military Duty regulates issues of military duty for dual citizens. In particular, it says that a citizen of another country who has acquired RA citizenship is exempt from military service, if he has performed military service in another country's armed forces for no less than 12 months or alternative military service for no less than 18 months prior to acquiring his RA citizenship, except in countries specified by the RA Government. The law also says that RA citizens who acquire citizenship of any other country are not exempt from military service, regardless of whether they have served in another country or not.

A new article (Article 314¹) was added to the RA Criminal Code, establishing criminal liability for failure to notify the relevant RA Government entities of acquiring or receiving citizenship of another country within the timeframe specified by the law.

The following issues have been addressed with amendments to the Elections Code:

1. Elections in the Republic of Armenia shall be held only on the RA territory.
2. Persons, who are citizens of the Republic of Armenia and of another state at the same time, shall participate in elections in accordance with procedures defined by the RA Elections Code;
3. RA citizens who hold citizenship of another country may not be nominated as candidates for the presidency or for the National Assembly, and they may not be registered as candidates for these posts.¹²⁵

8. ENFORCEMENT

As enforcement measures aimed at ensuring the integrity of the migration system, Armenian legislation provides for deportation and two mechanisms for its implementation – detention and arrest, as well as criminal or administrative sanctions for violating migration rules, extradition or international cooperation against irregular migration.

¹²⁴ Concept paper on State Regulation of Population Migration.

¹²⁵ RA Elections Code, Article 1, Part 5, Article 2, Part 7, Article 65, Part 3, Article 97, Part 5.

8.1 DEPORTATION

Unlike the old Law on Legal Status of Foreign Citizenship in the Republic of Armenia, the RA Law on Foreigners addresses main issues related to deportation. In particular, the law contains detailed provisions on deportation and clearly indicates the sufficient grounds for deportation (Article 30) and circumstances that prohibit deportation (Article 32). The Law establishes that deportation cases are initiated by the Police, provided there are sufficient grounds for doing so (Article 31), and that these cases are subject to judicial hearing (Article 34, Part 1). The law establishes detailed deportation procedure, including financial responsibility (Article 34, Part 2, and Article 36, Part 5), the right to participate directly in the court hearing (Article 33), the possibility of appealing deportation decisions in a court of law, provisions on detention or release of persons subject to deportation for violating the RA Law on Foreigners, when sufficient grounds for deportation exist (Article 34, Part 2) and suspension of deportation in the case of an appeal (Article 35). It must be noted that the RA Criminal Code does not include deportation among available criminal sanctions.¹²⁶

8.1.1. Detention and Arrest

Article 6 of the RA Law on Foreigners covers issues related to the detention or arrest of foreigners for violating the RA Law on Foreigners. Unlike the old Law on Legal Status of Foreign Citizens in the Republic of Armenia, the Law on Foreigners contains detailed provisions on detention or arrest of foreigners and clearly defines the grounds for detaining persons who do not have a visa in the RA state border crossing points, the rules, the place, the timeframe, the deadlines for taking the case to a court, and grounds for granting a one year temporary residence permit in a court (Article 37). The Law also defines grounds for arresting a foreigner for the purpose of deportation, the rules, the place, the timeframe, the deadline for taking the case to court, the procedures for notifying the entity that represents the interests of the foreigner's country of origin in the Republic of Armenia (Article 38). During that time, the detained or arrested foreigner has sufficient rights to defend his/her own interests.¹²⁷

European states typically shift the responsibility for returning a person without proper documentation to commercial carriers, responsible by law on transporting only those with valid travel documents. Failure to comply with this provision results in a fine, and carriers are then required to return the individual to the country of departure at their expense.¹²⁸

8.2. LEGAL SANCTIONS

8.2.1. General Liability Issues

¹²⁶ RA Criminal Code, Article 49.

¹²⁷ In the Czech Republic, the Act on the Residence of Aliens lists in Art. 171 exceptions from the right to appeal to court, which include visa decisions, decisions on administrative expulsion, or decisions terminating residency if the alien resided illegally before the beginning of the proceedings.

¹²⁸ This practice led to closer cooperation between the carriers and the Police in training of airline personnel, preventing many illegal entries before boarding. The fines differ across European countries but they are generally quite high, reaching 2000 GBP per person in the UK, or 5000 GBP in the Czech Republic.

Both the RA Criminal Code and the Code on Administrative Offenses include migration-related violations for which foreigners and RA citizens alike may be sanctioned. The Criminal Code has jurisdiction over any illegal conduct while in the territory of Armenia, including that of foreigners, except for individuals with diplomatic immunity, in which case the issue of criminal responsibility “shall be resolved in accordance with the norms of international law.”¹²⁹ Similarly, the Code of Administrative Offenses applies to any person in breach of the rules regardless of citizenship, except when otherwise provided by international agreements.

Among the migration violations that the Criminal Code addresses are illegal border crossing; trafficking in human beings; illegal entrepreneurial activity; and forgery, sale or use of forged documents, stamps, seals and headers.¹³⁰

The Code on Administrative Offense provides penalties for foreigners, inviters and employers who have violated the RA Law on Foreigners. In particular, the Code establishes administrative penalties for the following:

1. for foreigners, resident in the Republic of Armenia without a valid visa or residence permit or with invalid documents, as well as for violations of transit procedures,
2. for inviters, for breaking their commitment to cover the costs of the invitee’s stay in the Republic of Armenia, including the possible healthcare costs and costs associated with the invitee’s departure from the Republic of Armenia,
3. for employers (in the case of legal entities, for their executive directors) for hiring foreigners without appropriate residence permit or work permit.

These amendments to Article 201 of the Code on Administrative Offenses were made by a December 25, 2006 law, in connection with the passage of the RA Law on Foreigners.¹³¹

The penalties that the Code provides can support the enforcement of its rules, and address enforcement of residence permits requirements and other migration related issues.

8.2.2. Extradition and Handover for Continuing to Serve the Sentence in a Form of Imprisonment

Extradition and handover for continuing to serve the sentence in a form of imprisonment in Armenia occur according to a format commonly utilized elsewhere. The RA Law on Foreigners indicates that “extradition of a foreigner takes place in accordance with procedures defined by the RA Criminal Proceedings Code and RA international agreements.”¹³² Armenia has such agreements with Bulgaria (1995), Georgia (2000), Latvia (2002), and the United Arab Emirates (2003).

Restrictions on extradition in Armenia are also typical. The RA Law on Foreigners prohibits extradition of foreigners if the crime they are charged with may be punished by a death penalty or if there are serious reasons to believe that they may be subjected to torture, cruel, inhuman or degrading punishment or treatment in the receiving country.¹³³ The Law on

¹²⁹ Republic of Armenia Criminal Code, Article 14, Part 5.

¹³⁰ Criminal Code of the Republic of Armenia, Articles 329, 132, 188, and 325.

¹³¹ RA State Bulletin, 24.01.07./6(530), Article 110.

¹³² RA Law on Foreigners, Article 40, Part 1.

¹³³ Ibid., Article 41.

Citizenship of the Republic of Armenia does not allow extradition of Armenian citizens.¹³⁴ The Criminal Code bars extradition of foreign citizens when there are serious reasons to believe that the extradited person may encounter discrimination on the grounds of race, nationality, or sex, or may be subjected to torture in the receiving country.¹³⁵ Extradition also may be turned down if the extradited individual may be subject to the death penalty in the receiving country.¹³⁶

¹³⁴ Law on Citizenship of the Republic of Armenia, Article.

¹³⁵ Republic of Armenia Criminal Code, Article 16, Part 3.

¹³⁶ Ibid., Article 16, Part 4.

II. LABOUR MIGRATION

9. LEGAL FRAMEWORK

Prior to the passage of the RA Law on Foreigners, the legal framework of the labour migration regime in Armenia was almost nonexistent. Meanwhile, Armenia continues to feel the effects of increased labour migration. This section will outline the relevant international treaties and domestic legislation and put forward some recommendations.

Armenia has signed several important international treaties on labour migration, such as a number of International Labor Organization Conventions (the Migration for Employment Convention of 1949 and the Migrant Workers (Supplementary Provisions) Convention of 1975), but it still has not signed a few other important international treaties on labour migration.¹³⁷ Armenia is a party to major international human rights conventions and is therefore bound to ensure the protection of human rights for those on its territory, including labour migrants. Armenia is also a party to several regional or bilateral agreements: the CIS Agreement on Cooperation on Labour Migration (1994) and the CIS Agreement on the Social Protection of Migrant Workers. The latter instrument, however, relies heavily on further bilateral endorsement of its principal agreements. Armenia maintains a number of bilateral agreements on labour migration with CIS partners such as Ukraine and Belarus.¹³⁸

10. LABOUR MIGRATION ARRANGEMENTS WITH THE CIS COUNTRIES

In 1994, the CIS countries entered into the Agreement on Cooperation on Labour Migration and Social Protection of Migrant Workers. For Armenia, this Agreement became effective on 26 February 1996. It includes a series of mutual commitments in the field of labour migration, specifically related to the social protection of labour migrants in other CIS countries. In particular, the Agreement provides for:

- mutual recognition of diplomas, qualification, certificates, documents certifying degrees, titles, qualifications;
- mutual recognition of work records and work experience records;
- equal treatment of migrant workers under a party's national labour legislation, including social benefits and special conditions granted to workers;
- veto on double-taxation;
- migrant workers' eligibility for social protection, insurance and medical treatment provisions under national legislation, except for pension benefits.

¹³⁷ For example, the International Convention on the Protection of the Rights of Migrant Workers and Members of their Families, and the European Convention on the Legal Status of Migrant Workers..

¹³⁸ Agreement between the Governments of the Republic of Armenia and Ukraine on Labour and Social Security of Citizens of the Republic of Armenia and Ukraine Working Abroad, signed 17 June, 1995; Agreement between the Governments of the Republic of Armenia and the Republic of Belarus on Temporary Labour and Social Security of Citizens Working Abroad, signed 19 July, 2000.

The Agreement authorizes quotas for labour migrants, subject to regulation by the bilateral agreements between parties.

11. WORK PERMITS

The Law on Foreigners defines “work permits” as a “permission” granted by relevant authorities, confirming that the foreign citizen, who possesses the permit, has the right to work in Armenia after receiving his/her entry visa.

The law establishes the grounds for the commencement, amendment and termination of employment relations with foreigners (Article 22), guarantees of their implementation (Article 11, Part 1, Article 27, Parts 1 and 2, and Article 29), the mechanisms and scope of prohibitions and restrictions, the procedures for signing employment contracts (Article 27), and liability of foreigners and employers for violating work permit rules. The Law also regulates the grounds for denying a work permit (Article 25) and court appeal procedures (Article 26). The Law also includes some exceptions when a foreigner can work in the Republic of Armenia without a work permit (Article 23).

In general, the new labour migration regime for foreigners can be considered as a balanced approach in the current economic development conditions.

However, analysis shows that some of the labour migration rules seem to limit significantly the employers’ commercial freedoms or the foreigners’ opportunities for exercising their right to work. Among them is the five-day period for appealing the decision to deny a work permit to a foreigner, as provided in Article 26, Part 2. This could be regarded as an unequal status in seeking a legal remedy.

As mentioned earlier, the RA Code on Administrative Offenses already provides for adequate penalties for violating the work permit regime in Armenia. However, the biggest shortcoming of the migration system is the problem of its enforcement.

11.1. THE WORK PERMIT SCHEME IN THE CZECH REPUBLIC

The Czech Republic regulates its provisions of employment of foreigners or the overseas employment of Czech nationals very specifically.¹³⁹ The Act on Employment regulates employment of foreigners and the Act on the Residence of Foreigners addresses the status of foreigners holding work permits. Other laws provide for certain aspects of overseas employment or employment of foreigners.¹⁴⁰ The Ministry of Labour and Social Affairs is responsible for the field of employment (including foreigners).

In principle, a foreigner or a stateless person may be employed in the territory provided that the employer has secured permission to do so and the foreigner was granted an individual work permit along with the relevant residence status. Permission to employ a foreigner is granted according to the rules (stipulated by the Administrative Code) of the local Labour Office. Permission as well as work permits are subject to a levy. The prospective employer can apply for permission to employ a foreigner only if the vacant post is reported to the Labour Office and is not taken by an applicant of Czech citizenship or a citizen enjoying an

¹³⁹ Interview with P. Bouskova of the Department of Foreign Employment, Ministry of Labour and Social Affairs of the Czech Republic, Prague, 2 December 2004.

¹⁴⁰ Act 435/2004 Coll. on Employment, Act 326/1999 on Residence of Aliens, 65/1965 Labour Code; Act 589/1992 on General Social Security, EC Regulation 1612/68, 311/76 and others.

equal status under the Law on Employment. The employer must offer the foreign employee the same wage as he would to a Czech citizen, and permission is granted only if the foreigner obtains a work permit from the Labour Office, possesses a valid visa (providing for work and residence at the time of prospective work), and holds a written contract for a fixed period of time. The employer is responsible for payment of the foreigner's social security.

The procedures for Czech citizens employed abroad are very different. They depend on the country in which the national intends to work because the employment rules are regulated by the relevant laws in the country of employment. All Czech citizens are obliged to participate in the National Social Security scheme. When working abroad, it is their duty to report their absence from the country and to initiate their withdrawal from the social security system. This field is also regulated by bilateral and multilateral agreements; for those who are not in the framework of the European Union these agreements are of lesser importance.

The Czech framework on foreign employment shows a strong emphasis on the prime role of the local Labour Offices. This practice is based on experience as well as the logical assumption that the local office knows the given regional or/and local labour market best, and is therefore most qualified to assess employment applications. Although it may not be as relevant for Armenia, it could be advisable for Armenian authorities to include this feature (authorizing the local Labour Offices to grant work permits and employment permissions) in the future Law on Employment or immigration.

In the area of labour immigration, the Czech Republic also recently introduced a special Pilot Project on Active Selection of Qualified Workers. The introduction of the project in 2002 was based on the estimated consequences of the changing age and demographic picture of the Czech labour force, and an effort to simplify the procedures for qualified migrant workers wishing to stay in the Czech Republic permanently. The key features of the Czech scheme on qualified workers include a point system that awards higher scores for education, professional experience, and marital status, and easier access to permanent residence status, cutting the required time period from ten to 2.5 years for participants in the scheme and their family members. The success of the project remains to be assessed. Arguably, the scheme does not search for job opportunities in the Czech Republic, nor does it provide special work permits or visas. Its main objective is to encourage those who already have secured employment in the Czech Republic to participate in the scheme in order to shorten the period required to obtain permanent residence. The reasoning behind such a provision is clearly to motivate highly skilled migrants to stay on the territory by simplifying the integration procedure. At the same time, the efficiency and cost-effectiveness of the project remain unclear.

12. ORGANIZATION OF OVERSEAS EMPLOYMENT

As a country with a skilled and educated workforce and significant rates of unemployment, Armenia is in need of relevant legal regulation of its overseas employment regime. Examples from other countries suggest that the regulation of this field may yield substantial results in obtaining overseas contracts for local labour and in ensuring a better legal environment for Armenian nationals in contracting countries. Such state programs are of course based on a comprehensive legal framework.

Currently, overseas employment is almost unregulated in Armenia. The former Department of Migration and Refugees (DMR) (Currently the Migration Agency of the Ministry of Territorial Administration) had responded to this gap by preparing a draft Law on Overseas Employment Management a few years ago. In early 2001, an IOM-invited international

expert, Tomas D. Achacoso, reviewed an early draft of the law during a special mission to Armenia. The expert provided a comprehensive analysis of the draft from the perspective of international best practices and human rights standards and submitted his recommendations on the draft.¹⁴¹

The DMR revised the draft significantly according to the expert's recommendations. The new draft Law on Regulation of Overseas Employment incorporates recommendations of the expert in the following cases:

- 1) The new draft stipulates the advisory nature of government notices to citizens to abstain from employment in certain countries where they may face political or other threats. The new draft notes that "these notices cannot be viewed as restrictions on one's right to visit the mentioned countries," removing a potential obstacle for the freedom of movement.¹⁴²
- 2) The new draft does not allow foreigners and stateless persons to participate in the overseas employment program from the RA.¹⁴³
- 3) The new draft removes the provision allowing the Government to establish a list of professions that can constitute overseas employees under the employment program.¹⁴⁴ This provision was regarded as discriminatory and contrary to the reality of a demand-driven labour market.¹⁴⁵
- 4) The expert also recommended taking measures to avoid double taxation so that labour emigrants are not taxed in Armenia, as they are likely to be taxed in the country of labour. The more recent draft law drops earlier provisions that called for tax and customs privileges for emigrant workers, possibly because legislators prefer to address this issue through international agreements rather than unilateral tax concessions.¹⁴⁶

The expert also recommended that Armenia sign the ILO Social Security Convention, which "would permit Armenia to request the country of employment ... (if the country is a signatory to the Convention as well) to enter into an agreement for the transfer of their workers' contributions to the Armenian social security system."¹⁴⁷ Finally, Achacoso's report strongly influenced the DMR's Concept Paper on Adoption of the Law on Regulation of Overseas Employment, which emphasizes the demand-driven character of the global labour market, the involvement of government agencies and diplomatic missions in marketing activities, and protection of the rights of labour emigrants as a primary task of the government in its overseas employment program.

¹⁴¹ T. Achacoso; Report of a Mission to the Republic of Armenia on Overseas Employment Management.

¹⁴² Draft Law on Regulation of Overseas Employment, Article 3, Paragraph 2 (b).

¹⁴³ The 2004 version of the draft Law on Regulation of the Overseas Employment, Article 2,

¹⁴⁴ Early draft of the Law on Regulation of Overseas Employment (2001), Article 7.

¹⁴⁵ T. Achacoso, Report of a Mission to the Republic of Armenia on Overseas Employment Management, Section on Draft Law on Overseas Employment Management, Paragraph 11, page 4.

¹⁴⁶ Prevention of double taxation is codified in the Agreement on Cooperation on Labour Migration and Social Protection of Migrant Workers between the CIS countries. Armenia also has entered into specific bilateral agreements with other countries providing instruments against forms of double taxation.

¹⁴⁷ T. Achacoso, Report of a Mission to the Republic of Armenia on Overseas Employment Management, Section on Draft Law on Overseas Employment Management, last paragraph, page 3.

12.1. THE LATEST DRAFT OF THE LAW ON REGULATION OF OVERSEAS EMPLOYMENT

Compared with the original draft (2001), the latest draft of the Law on Regulation of Overseas Employment (2004) emerges as a well-elaborated legislative proposal that remedies all major controversies of the early draft as well as concerns regarding compliance with international human rights standards. The latest draft law envisages the creation of a state program on management of overseas employment, provides distinct instruments in reaching its goals, and stipulates the basic principles of state policy in this field. The draft law is consistent with existing international commitments as well as with domestic legislation. The issue of licensing recruitment agencies, however, may conflict somewhat with the Law on Licensing.

The draft law does not contradict international human rights standards, but provisions in Article 10 may be viewed as awkward from a legal perspective. Clause 1 of the Article provides that “only persons who have reached 18 years may be involved in overseas labour.”¹⁴⁸ This statement seems to place jurisdictional restraints on other countries. This may be a problem of technical legal wording rather than intent. To avoid any doubt, the article needs to be modified to allow only those persons to be involved in overseas labour that are eligible to engage in labour contracts in both Armenia and the country of labour. Clause 3 needs to be modified to prohibit involvement in the state program on employment if conditions of employment in the country of labour violate the RA labour laws.

The law further elaborates on the instruments of the state program to be employed by the government and its respective agencies for the above purposes. These instruments include marketing and facilitation of overseas labour contracts by the government, its agencies and diplomatic missions of Armenia; protection of labour emigrants’ rights in foreign countries; provision of consultation to persons who wish to engage or have engaged in the overseas labour program; entering into supportive international agreements; and supervision of the overseas employment recruitment process through licensing and monitoring of contracts.¹⁴⁹

One of the major attributes of the latest draft is its strong emphasis on protecting labour migrants’ rights and interests. Important points include:

- Stipulation of the contractual nature of relations between parties involved in the organization of the overseas employment. This contract should consist of an agreement on provisions of services by the agency, agreement on overseas employment between the overseas employer and the labour migrant, and a contract between the agency and the overseas employer;
- Articulation of the obligations of employment agencies to prospective employees;
- Noting the obligations of the overseas employer to the employee and the employment agency.

Another essential attribute of the new draft law is its focus on licensing employment agencies. The draft envisages inclusion of private companies in the state overseas program. Participation of the private sector in overseas employment relations necessarily requires introduction of instruments through which the government can control and monitor the private sector’s actions. Effective monitoring of the process may help the government

¹⁴⁸ Draft Law on Regulation of Overseas Employment, Art. 10, Clause 1.

¹⁴⁹ Draft Law on Regulation of Overseas Employment, Chapter 2, (Jurisdiction of state units dealing with overseas employment management).

oversee the legality of contracts offered to its own citizens and also effectively ensure the protection of the migrants' rights. At the same time, licensing of private companies can be viewed as a way to fight illegal facilitation of labour contracts and trafficking.

From the enforcement perspective, licensing of private recruitment agencies enables identification of entities not complying with legal regulations. In this regard, the statement that the licensing scheme should contain a series of mandatory “conditions and limitations” that should help screen the potential agents of abuse seems to be justified.¹⁵⁰ Licensees should be required to prove their ability to assume financial responsibility for their activities as well as possible claims that may arise during employment. The expert therefore suggested the option of excluding private recruitment companies from the program at this stage. In particular, he wrote that, “the participation of the private sector at this time may not be the appropriate strategy for Armenia to pursue considering the high costs involved in the initial activities of a recruitment agency and maintaining certain minimum operations in order to be a viable business enterprise.”¹⁵¹ Thus, no alternative options are suggested. This report supports the establishment of procedures allowing private recruitment companies to participate in the system from the beginning; however, the Law on Licensing must be amended to allow for licensing private recruitment companies. Currently, the RA Law on Licensing does not envisage licensing of private recruitment companies or their activities in the sphere of overseas labour.

12.2. CURRENT STATUS OF OVERSEAS EMPLOYMENT REGULATION

The draft of the Law on Regulation of Overseas Employment so far has not been included in the agenda of the National Assembly. Thus, the outflow of labour migrants to other countries is still not sufficiently regulated. Labour emigration has become a priority for the National Assembly, as indicated by the Concept paper on State Regulation of Population Migration. The Concept outlines the strategy of the Government of Armenia on labour emigration aimed at integrating Armenia into the international labour market. The Concept highlights the primary tasks of the government in this field:

- Legislative regulation and state control of labour emigration;
- State protection of labour emigrants' rights and interests;
- Entry into bilateral agreements aimed at the procurement of overseas employment as well as social and legal protection for the citizens of Armenia;
- Facilitation of the repatriation of labour emigrants, especially qualified scientists, artists, and sportspersons as well as skilled labour.¹⁵²

This Concept meets the basic target principles necessary for the formulation of a draft program on overseas labour management and the draft law on Regulation of Overseas Employment. It is expected that the government will support the current improved draft law, and the state program on overseas labour is likely to be implemented.

¹⁵⁰ T. Achacoso, Report of a Mission to the Republic of Armenia on Overseas Employment Management, Section on Licensing, page 8.

¹⁵¹ T. Achacoso, Report of a Mission to the Republic of Armenia on Overseas Employment Management, Section on Licensing, page 8.

¹⁵² Republic of Armenia Concept Paper on State Regulation of Population Movement, Part 3, Priorities of State Regulation of Migration in the RoA and Measures to Achieve them, Point 2.

13. REMITTANCES

The volume of remittances in the world has increased in recent years. In 2003, remittance to developing countries totaled some US\$93 billion, exceeding development aid from all sources¹⁵³. In 2005 remittances exceeded USD 233 billion worldwide, and USD 197 billion of that amount went to developing countries¹⁵⁴. Remittances are expected to continue to grow, and maximizing the benefits of remittances should therefore be one of the key policy issues for receiving countries. The basic principles of governmental policy in this area should primarily include regulation of the requirements for financial institutions and migrants, capacity building in order to enforce such requirements, and the formalization of transfers.

Regulation of the requirements for banks, credit unions and other financial institutions, and for remitting migrants, should be based on legal provisions. These legal provisions should address the regulation of foreign exchange and should stipulate the following essential elements: foreign exchange license applications, the prerequisites and terms and conditions for the execution of certain foreign exchange transactions, and the procedure for handling counterfeit and altered money. The supervisory role of the Central Bank should also be ensured. The reporting duty must be based on legal provisions which indicate its scope, period, time limits, and manner.

Regulation of foreign investment and remittances aims to maximize transparency, which attracts increasing attention worldwide, especially with regard to efforts to counter money laundering. Nevertheless, it should be noted that a flat prohibition of all informal systems used in sending remittances may send these frameworks even deeper underground. Government policies should aim at striking a balance between appropriate levels of regulation (aimed at minimizing financial abuse) and promoting cost-efficient and accessible transfer services. Also, regulatory and supervisory policies should not inhibit transfers by driving up costs and reducing access to financial services and products. Finally, it is important to match regulatory requirements with local and national capacities in order to ensure enforceability.

Formalization also represents a long-term benefit for the state economy by engaging the remitter in formal financial frameworks that offer other services such as savings, credits or insurance options. This type of practice has a potential to change the financial behavior of the remitter (or receiver). The government should also consider promoting temporary migration, which implies that migrants will return home after a limited stay abroad. Ideally, this would bring in new skills that have been acquired abroad, countering the “brain drain” effect of permanent migration.¹⁵⁵

Issues of export and import of foreign currency are highly relevant to the subject of remittances. In Armenia, the Law on Currency Regulation and regulations of the Central Bank control the foreign exchange regime. In particular, the Regulation of the Central Bank on Currency Control provides for unrestricted entry of foreign currency by either residents or non-residents. Individuals may take up to the equivalent of USD 10,000 in foreign currency

¹⁵³ The World Bank Group. International Migration: Knowledge for Change.

¹⁵⁴ The World Bank’s Global Economic Prospects 2006.

¹⁵⁵ International Conference on Migrant Remittances: Development Impact, Opportunities for the Financial Sector and Future Prospects, Department for International Development (DFID), The World Bank, London, UK, October 2003. Final Report is also available at: http://www.livelihoods.org/hot_topics/docs/RemitConfFinal.doc

when they leave the country. Amounts exceeding USD 10,000 must be transferred through specialized, licensed money transfer agents.¹⁵⁶

13.1. REMITTANCES IN THE CZECH REPUBLIC

In the Czech Republic, asset flows are regulated by the Foreign Exchange Act, the Act on the Czech National Bank and by relevant Decrees.¹⁵⁷ The Foreign Exchange Act authorizes the Czech Ministry of Finance and the Czech National Bank to make revisions to the regulations by decrees. According to the Foreign Exchange Act, cross-border payments and transfers may be executed only through foreign exchange entities that have banking or single licenses or foreign exchange licenses. The National Bank grants foreign exchange licenses. The law also indicates where reporting duties lie for the payments. The provisions of the Foreign Exchange Act are the most important regulation of foreign exchange assets as they pertain to both Czech residents and others.

The reporting duty requirement is applied both in terms of the amount and type of the payment. Every entity must report to the National Bank any transfer from or to the territory exceeding CZK 1,000,000 (approximately EUR 30,000). Each payment must be given a certain code referring to the purpose of the payment.

The Czech National Bank is entitled to control and sanction all licensed entities. Anti-money laundering provisions, first introduced in 1996, became more coherent when the Act on Selected Measures against Legitimization of Proceeds from Criminal Activities and consequent amendment of the Code of Criminal Procedures in 2001 and Criminal Code were introduced.¹⁵⁸ Additional measures will be taken in the future in order to comply with the European Union Directive on Money Laundering.

The administrative framework in this sphere includes the Czech National Bank, the Ministry of Finance, and the Czech Securities Commission. Apart from their primary role as financial regulators, these institutions are also responsible for monitoring the compliance of banks, insurance companies and intermediaries, all of which they regulate under the law. It is the responsibility of banks and other licensed entities to monitor and report any suspicious transactions, and the National Bank oversees the schemes these financial institutions use to do so. If a suspicious transfer is detected, the bank contacts a special unit at the Ministry of Finance that decides on the consequent measures to be taken according to the law.

Admittedly, banks are not the only channels used for money transfers. There are a number of other instruments used for payment transfers to or from the Czech Republic, such as cooperative entities, the post office, money transferring businesses such as Western Union, or unlicensed money transferring entities. However, banks are the most transparent institutions and the aim of encouraging their use is to increase formalization of payments through strict licensing and enforcement.

14. MONITORING

¹⁵⁶ The reform of currency regulation law envisages the elimination of the USD10,000 threshold.

¹⁵⁷ Foreign Exchange Act, 219/1995 Coll., 26 September 1995. Decree 351/2003, Decree 34/2003 Coll., and Decree 434/2002 Coll.

¹⁵⁸ Act 61/1996 on Selected Measures Against Legitimization of Proceeds from Criminal Activities, 15 February 1996.

The eighth priority of the 2004 Concept Paper on the State Regulation of Population Migration is to create a database that provides information for monitoring and analysis of the migration situation in Armenia.¹⁵⁹ Methodologically, monitoring is very closely related to the management of migration, and it is arguably a necessary condition for defining appropriate policies.

In many countries, a number of State bodies gather all sorts of information on foreigners. Visa-requiring foreigners submit applications through the Ministry of Foreign Affairs. When entering the territory, foreigners are subject to scanning or checking processes. Inside the country, State agencies monitor and report information on foreigners, depending on the scope of their activity. The development of such an information system can be financially demanding as well as time consuming, but it is essential to bear in mind that only proper compilation of information and assessment can provide the basis for effective decisions.

According to Article 8 of the RA Law on Foreigners, personal information on the following foreigners is kept in a database maintained by an authorized state agency in the Republic of Armenia national security sector:

- whose visa request (or request to extend the validity of visa) has been denied,
- whose visa has been invalidated,
- who has been barred from entering the Republic of Armenia as a *persona non grata*.

Office of the RA President, the authorized agency in the RA national security sector, RA Police and RA Ministry of Foreign Affairs submit information to the aforementioned database. The database is accessible by the abovementioned government agencies, the authorized body that controls the borders and, in cases specified by the law, the courts and criminal prosecution authorities. The procedures for submitting information to the database and using the database are established by the RA Government.

According to Article 10, Part 7 of the RA Law on Foreigners, the agencies that are responsible for issuing visas submit the information received from visa recipients to the appropriate database kept by the Police.

According to the last paragraph of Article 11, Part 6 of the RA Law on Foreigners, the procedures for approving and filing the invitations are established by the RA Government. However, nothing is mentioned on a single database for collecting the information included in the invitations.

According to Article 17, Part 4 and Article 18, Part 6 of the RA Law on Foreigners, foreigners who have temporary, permanent or special residence permits are to be registered by the Police, in accordance with procedures defined by the RA government.

According to Article 36, Part 3 of the RA Law on Foreigners, the Police must register the deported persons, and information about them must be submitted to the database mentioned in Article 8, Part 6 of the Law.

Thus, there are three databases of personal information created on four different grounds, maintained by two government agencies, with the help from other agencies mentioned in the

¹⁵⁹ Republic of Armenia Concept Paper on the State Regulation of Population Migration, Priorities of State Regulation of Migration in the RA and Measures to Achieve them, Point 8.

Law. Access to the database on personae non grata is mainly regulated by the Law, whereas access to the remaining databases requires regulation on the part of the Government.

It seems that there is no legal act regulating the mechanism of collection and sharing of this data, which would be advisable to have.

In order to maintain public order and prevent foreigners from abusing residence requirements, registration of foreigners on the territory with the local Police units is crucial. Only with transparent requirements and clear rules regarding the registration of foreigners can the Police carry out its necessary functions. At this point, it seems that the National Security Service has the best access to the information on foreigners in the territory, but with no legal act specifying the responsibility of the National Security Service with respect to the data on foreigners, it can be argued that data on migrants is still vulnerable.

The Czech system of data collection on foreigners can serve as a good example. The current Czech electronic system was introduced in 2004, essentially combining different information databases of local Police departments across the country. Responsibility for assessment of the data lies with a special unit for collection and processing of migration data, part of the Directorate of the Alien Police in the Ministry of Interior. This unit relies on information submitted to the database by all 77 local Police units across the country. A database maintained by one special unit ensures that relevant information is distributed back to local units that may otherwise be unaware of migration developments in other parts of the country. It also ensures that a comprehensive state policy can be developed. Before the centralized database and specially designated monitoring unit were introduced, the Czech local Alien and Border Police units did not necessarily inform each other of the movements of migrants unless their presence posed some threat to security. Now, the unit can combine information from all regions, allowing it to detect possible migratory paths and provide the government with background information.

Access to the main database on foreigners is restricted to a limited number of personnel who use specific logins and passwords, making access to the database traceable. The Inspection unit of the Ministry of Interior as well as the Inspection of the Office for Personal Data Protection can request an explanation and justification for accessing the database.¹⁶⁰

It would be advisable for the RA Government to pay special attention to the area of data protection and back-checking of the usage of the database, as it develops the required procedures. This may be done by recording any access to the database and by subsequently checking the justification for its access. It would also be advisable not only to create a database and instruments ensuring data protection with respect to foreigners in Armenia, but also to adopt protection measures for cooperation with other countries vis-à-vis data sharing. The Agreement on Cooperation between the CIS Countries, to which Armenia is a party, aims to counter irregular migration, but it does not contain any concrete data protection measures; rather, it simply declares the parties' commitments to information exchange and the maintenance of a registry and database on irregular migrants.

III. DATA PROTECTION

15. LEGAL FRAMEWORK

¹⁶⁰ These inspections are carried out irregularly. If a police officer is unable to justify his search in the database he can face relatively high fines.

In Armenia, the Law on Personal Data governs the issue of data collection and protection. The law prescribes that “state and local self-government bodies...may utilize personal data only in cases provided for by the legislation.”¹⁶¹ Article 42 of the RA Law on Foreigners says that in the process of processing, the personal data on foreigners and other persons found in the database of foreigners recognized as *personae non grata* (described in Article 8, Part 6 of the Law), the database on foreigners who received entry visas (described in Article 9, Part 4), or data acquired during registration of invitations (Article 11, Part 6), registration of foreigners with temporary and permanent residence permits (Article 17, Part 4), registration of foreigners with special residence permits (Article 18, Part 6), as well as registration of foreigners who have been deported (Article 36, Part 3), shall enjoy the protection afforded by the RA Law on Personal Data.

It is expected that the procedures that are to be developed by the government will contain clear mechanisms for personal data protection.

15.1. HUMAN RIGHTS PERSPECTIVE

Human rights treaties refer to the protection of privacy as a basic human right. Article 12 of the Universal Declaration of Human Rights reads: “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.”

The UN General Assembly adopted special guidelines in 1990 concerning computerized personal data files, agreeing on several principles that are to be upheld by member states.¹⁶² The General Assembly indicated that these principles should be made applicable in the first instance to all public and private computerized files as well as to manual files by means of an optional extension subject to appropriate adjustments.

The European Human Rights Convention touches on data protection because of its relevance to freedom of expression.¹⁶³ The Council of Europe also encourages countries to make joint efforts to ensure that the flow of information does not interfere with the basic right to privacy. In 1981, the Council of Europe adopted the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.¹⁶⁴ It should be noted that the Convention, which came into force in 1985, is the first binding international instrument that protects individuals against abuses of personal data and regulates the trans-border flow of personal information. It bans the processing of “sensitive data” on an individual’s race, politics, health, religion, sexual life, or criminal record in the absence of proper legal safeguards. The Convention also guarantees the right to know whether information has been stored and, if necessary, to have it corrected. It would be advisable for the Armenian Government to consider signing the European Convention for the Protection of Individuals with regard to

¹⁶¹ Law on Personal Data, Article 7, Paragraph 1. The term ‘utilize’ for the purposes of the Law on Personal Data includes collection, input, modification, protection, share and disposal of data as defined by Article 3.

¹⁶² United Nations Guidelines concerning Computerized Personal Data Files, General Assembly, (1990).

¹⁶³ Convention for the Protection of Human Rights and Fundamental Freedoms (1950) as amended by Protocol No. 11, Article 10, Paragraph 2.

¹⁶⁴ Convention No 108 on the Protection of Individuals with regard to Automatic Processing of Personal Data (1981).

Automatic Processing of Personal Data and seeks ways to implement its provisions in national legislation.

15.2. DATA PROTECTION IN THE CZECH REPUBLIC

Again, we take the example of the Czech Republic as a point of comparison for general rules and principles governing data protection. The Czech Republic introduced its first data protection regulations in 1992, relying heavily on the provisions of the European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.¹⁶⁵ However, a major deficiency in the law was that it did not establish an implementing agency, preventing it from achieving its intended result.

At the same time, the field of data protection was not left entirely unregulated. There were certain procedures specified in legal provisions of other laws (for example the Law on Police or regulations of the Interior or Health Ministries). Legislators introduced a new law on personal data protection in 2000 that offers precise definitions of concepts such as personal data, sensitive data or anonymous data, and personal data processing or collection.¹⁶⁶ It clearly outlines the scope of the administrative framework, including the establishment of the Office for Personal Data Protection. It specifies the obligations of all subjects collecting data (including individuals) and the procedures related to data collection and protection. The law also provides sanctions and authorizes the Office for Personal Data Protection to register data collectors and to control their activities.

There are three factors that ensured that the current law would be introduced. First, international human rights treaties created obligations with respect to protection of privacy. Second, Czech leaders wanted to comply with the law of the European Union, including the European directive on personal data protection.¹⁶⁷ The integration of this directive into Czech national legislation was one of the many conditions to EU accession. Third, and most importantly from the Armenian perspective, personal data protection has become a prerequisite to carrying out cross-border data exchange. In the field of international migration, this is of special importance with respect to sharing data on common visa policies, illegal migrants or expelled persons.

There is a danger that an inadequate legal framework for data protection may result in exclusion of Armenia from data sharing schemes with other countries, which could have severe consequences in the effort to minimize irregular migration. The EU (including the Czech Republic) and many countries outside it assiduously regulate conditions for cross-border transfers of personal data. This could mean that Armenia may not be able to obtain requested information from such states if authorities assess that Armenia cannot guarantee sufficient protection of transferred data.

¹⁶⁵ The 256/1992 Law on Protection of Data in the Information Systems was in fact one of the last legal acts passed by the then Federal Assembly of the Czech and Slovak Federal Republic.

¹⁶⁶ Act on Protection of Personal Data and on Amendment to Some Acts Act 101/2000, April 4, 2000.

¹⁶⁷ EC Directive 95/46, 24 October 1995.

IV. RECOMMENDATIONS

1. The possibility of further consolidation of immigration and emigration legislation should be considered. This will remove contradictions and inconsistencies in the laws and other legal acts, as well as clarify the sometimes overlapping administrative responsibilities of different government bodies.
2. A transparent administrative framework should be introduced with clear delineation of responsibilities for the various state agencies and departments involved in migration regulation. In particular, there should be a clear division of functions between the Ministry of Territorial Administration and the Ministry of Labour and Social Issues.
3. The new Law on Foreigners gives the authority to develop specific procedures for registering foreigners in Armenia to the RA Government. It would be reasonable to define the main principles of such procedures by law.
4. In the immigration and emigration legislation on work permits, it would be advisable to clarify the procedure overseeing work permits.
5. It would be advisable to speed up the adoption of the Law on Regulation of Overseas Employment.
6. An amendment needs to be made in the RA Law on Foreigners or the RA Law on Personal Data to include additional provisions related to collection of data on foreigners and data sharing among various state agencies and other countries.
7. The Armenian government should consider signing the 1981 European Convention for Data Protection of Individuals with Regards to Automatic Processing of Personal Data.

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