



European
University
Institute

ROBERT
SCHUMAN
CENTRE FOR
ADVANCED
STUDIES

CARIM EAST – CONSORTIUM FOR APPLIED RESEARCH ON INTERNATIONAL MIGRATION

Co-financed by the European Union

The Republic of Armenia's Legal Framework for Readmission, Return and Reintegration

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CARIM-East Explanatory Note 13/82

Legal module

June, 2013



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1. Relevant terms

Return: There is no legal definition of “return” in RA legislation. Nevertheless, the term is widely used in RA laws, decisions of the RA government, the RA Prime Minister’s decisions, and departmental normative acts. For example, the Constitution of the Republic of Armenia¹ declares that every citizen and everyone legally residing in the Republic of Armenia has the right to return to the Republic (Art. 25). According to Article 37.1 of the RA Law “On Consular Service”² the head of the consular post is responsible for issuing the return certificate to RA citizens, people with refugee status granted by the Republic of Armenia, and stateless people with the right to reside in the Republic of Armenia.

Voluntary return: The definition of this term is given in the RA Law “On Refugees and Asylum”.³ According to Article 4 of this law voluntary return is the return of an asylum seeker or a refugee to his/her country of citizenship or country of permanent residence, which is implemented with the assistance of the designated state body of the RA Government, i.e. the State Migration Service.

Assisted (voluntary) return: Assisted (voluntary) return is a question of facilitating the issuance of necessary travel documents and visas to enter the country of citizenship or permanent residence to persons who submitted applications for voluntary repatriation (asylum seekers and refugees). It also covers possible third, transit countries. The definition of assisted (voluntary) return is given in the Decision of the Government of the Republic of Armenia No. 48-N⁴ which was adopted 21.01.2010, and which entered into force 13.02.2010.

Return certificate: In accordance with the Decision of the RA Government No. 297-N⁵ of 24 March, 2011 “On Approving the description of the return certificate of the Republic of Armenia and order of providing the return certificate ” the certificate of return to the Republic of Armenia is a travel document, which enables various persons to return quickly to the RA, crossing borders, in the case of a lack of legal documents. These various persons include the citizen of the Republic of Armenia, individuals recognized as refugees or those who have sought asylum in the Republic of Armenia and people having the right to reside in the Republic of Armenia. (Point 1 of Annex 2 approved by decision). People illegally staying abroad and having no legal documents are also provided with return certificates in order to ensure their return to the Republic of Armenia. This is based on the agreement on the readmission of persons staying without authorization concluded with corresponding countries (point 4).

The Decision of the Government of the Republic of Armenia No. 156-N⁶ “On the recognition of the Travel Document of the International Criminal Police Organization” (INTERPOL) states that the travel document (electronic passport) of INTERPOL is recognized. This document allows individuals to cross the state borders into Armenia. Those individuals granted with such passports are released from the obligation to get an entry visa.

¹ Entered into force 13 July 1995; Amendments: 5 December 2005, see Official source: Official Journal of Armenia, 05.12.2005 (Special publication)

² Adopted 29.05.1996, entered into force on 15.06.1996. Official source: Journal of Parliament of Armenia 1996/11

³ Official Journal of Armenia, No. 2 (668), 14.01.2009. The Law on Refugees and Asylum was amended on 3 March 2011 and amendments came into force on 9 April 2011 (OJA No.5(821), 30.03.2011)

⁴ Decision of the Government on establishing the procedure for facilitating the issuance of necessary travel documents and visas to enter the country of citizenship or permanent residence, or possible third, transit countries to persons who submitted applications for voluntary repatriation (asylum seekers and refugees). Official source: Official Journal of Armenia (OJA) No. 5(739) 02.03.2010

⁵ Adopted 24.03.2011, entered into force on 16.04.2011, official source: Official Journal of Armenia 2011.04.06/19(822)

⁶ Adopted 16.02.2012, entered into force 01.03. 2012, Official sources: Official Journal of Armenia (OJA) No. 11(885), 29.02.2012

Expulsion: The forcible removal of a foreigner from the Republic of Armenia in case of absence of legal grounds for his or her stay or residence in the Republic of Armenia. This term is stipulated in the Law of the Republic of Armenia On Foreigners,⁷ point 3.

Collective expulsion: According to point 3 of the Law of the Republic of Armenia on Foreigners, collective expulsion is the expulsion of a group consisting of at least two foreigners. There is no decision adopted based on objective and reasonable considerations, which takes into account the personal data and special situation of each member of the group.

Readmission: The definition of readmission is given in readmission agreements concluded with a number of countries. In general readmission is a way of returning a foreigner illegally residing in the territory of the given country.

Readmission means the transfer of a RA citizen, illegally staying in a foreign country or a foreigner with a residence permit in the RA, back to the Republic of Armenia.⁸

2. Readmission and reintegration

Readmission issues

Readmission agreements have been concluded with 13 countries since 2003.⁹ These agreements regulate the issues related to the organization of the readmission of people residing illegally in the territories of the countries party to readmission agreements. The agreements define: the order and terms of the readmission of citizens of the states party to the agreement; third-country citizens or stateless people; the list of documents proving their identity and citizenship; time limits for transfer and acceptance; transit; content of the application on readmission or transit; protection of personal data; authorized bodies of the parties, etc.

Decision N1360¹⁰ of the RA Government, 22 September 2012, defines the processing order of applications by RA state authorized bodies received from foreign states in the framework of the agreements on the readmission of persons staying in an unauthorized fashion. According to this decision the State Migration Service of the RA Ministry of Territorial Administration was recognized as the authorized state body for accepting and processing/considering the applications (point 2).

The negotiations on the EU-Armenia readmission agreement were completed in 2012. It is envisaged that the agreement will stipulate the obligations of the EU and Armenia related to: readmission issues; readmission procedure for citizens as well as citizens of the third countries and stateless people; citizenship proving mechanisms regarding the citizens of third countries and stateless people; time limits; means of transportation; and expenditure.

An action plan proceeding from the EU-Armenia readmission agreement was approved by the RA Prime Minister's Decision 1228-A.¹¹ The action plan in question defines a number of activities for the implementation of the agreement: for example, establishing an interdepartmental working group; extra staff for the State Migration Service of the Ministry of Territorial Administration as the authorized body implementing the agreement; organization of staff training in dealing with readmission cases.

⁷ Adopted 25.12.2006, entered into force 03.02.2007, Official sources: Official Journal of Armenia No. 6 (530), 24.01.2007, Amended 02.02.2010 (effective 13.02.2010)

⁸ For example the Agreement with the Federal Republic of Germany, which entered into force 20 April 2008; the Agreement with the Kingdom of Norway, which entered into force 26 June 2010

⁹ Latvia (2003), Danish (2004), Lithuania (2004), Swiss (2005), Germany (2008), Bulgaria (2008), Sweden (2009), Benelux (Belgium, Netherlands and Luxembourg 2010), Norway (2010), Czech (2011) and Russia (2011).

¹⁰ It was not published.

¹¹ Adopted on 12.12.2012, entered into force on 13.12.2012, was not published

Reintegration issue

Organization of the reintegration has been defined as an important issue in the “Concept for studying and prevention of irregular migration launching from the Republic of Armenia”.¹²

The third chapter of the Concept defines concrete steps for the organization of reintegration after return: employment programs directed/aimed at reintegration; consultation services for returned people; and negotiations regarding the organization of reintegration assistance to those returning to Armenia with the assistance of receiving countries.

The issues related to the return of the RA citizens from foreign countries, as well as support for their reintegration in their homeland are mentioned in part 8 of the Concept Paper on the Policy for the State Regulation of Migration in the Republic of Armenia.¹³ This paper provides for: the further improvement of internet based informational systems contributing to the return of the RA citizens; the organization of employment programs contributing to the reintegration of the returned citizens of the Republic of Armenia; as well as the introduction of new programs; the organization of advisory services for those returning to the Republic of Armenia; negotiations with the receiving countries on the organizing reintegration assistance to those returning to Armenia with the assistance of receiving countries.

2012-2016 National Action Plan for the Implementation of the Policy Concept for the State Regulation of Migration in the Republic of Armenia,¹⁴ was approved by RA Government Decision N1593, 10 November 2011. This agreement defines the main activities for: ensuring the implementation of the stipulated activities; responsible state bodies; time limits of implementation in years; as well as expected results.

In terms of reintegration the following are envisaged:

- An analysis of what kind of information is of interest to potential immigrants and in which institutions such information is available (point 8.1.1) – the State Migration Service is the implementing state body here, 2012;
- Discussions among relevant state and non-state bodies: NGOs dealing with immigration on issues relating to web information systems /point 8.1.2./; the State Migration Service; the National Security Service; the Ministry of Labour and Social Issues; the Ministry of Defense; the Ministry of Education and Science; the Ministry of Foreign Affairs; the Ministry of Diaspora. These include the implementing state bodies, 2012-2013,
- A clarification of the nature of integration and improvement approaches of various information systems, technical peculiarities for realization of such approaches (point 8.1.3.). Here the State Migration Service, the Ministry of Labour and Social Issues, the Ministry of Defense, the Ministry of Education and Science, the Ministry of Foreign Affairs, the Ministry of Diaspora are the implementing state bodies, 2012-2013,
- The establishment of the legal grounds for the integration and improvement of various info systems containing information relating to return of citizens living abroad (point 8.1.4.). The State Migration Service, the National Security Service, the Ministry of Labour and Social Issues, the RA Police, the Ministry of Foreign affairs are all implementing state bodies, 2013.

Reintegration assistance to RA citizens returning to Armenia from foreign states is one of the priority tasks stipulated in 2012 RA Action Plan. The Joint Declaration on the Mobility Partnership between the European Union and Armenia was signed 27 October, 2011 and the first program implemented in the framework of the declaration was directed to the solution of this issue. Seven EU countries (France, Belgium, Bulgaria, the Czech Republic, Germany, the Netherlands and Sweden)

¹² RA Government Protocol Decision N51 of 29 December 2011, adopted on 29.12.2012, was not published.

¹³ Approved by the RA Government Protocol Decision N51 dated 30 December, 2010

¹⁴ Approved by the RA Government Decision N1593-N dated 10 November, 2011

took part in implementation of another program: “Strengthening Armenia’s migration management capacities with a special focus on reintegration activities”. The program’s budget was 3 million EURO, and its duration three years. The French office for immigration and reintegration (OFII) has managed its implementation since October 2012. The program will be aimed at the most urgent needs,¹⁵ identified through different surveys, of the returnees.

3. Return from the Republic of Armenia

3.1 Return from the border

Entry of foreigners into the territory of the Republic of Armenia is not allowed if they have arrived at a crossing point of the RA state border: without a passport, a document substituting it or with an invalid passport; or if they have been refused an entry visa there; or if they have not obtained an entry authorization from the relevant border control body. These individuals have to be returned as soon as possible to their country of origin or to the country, from which they arrived, by the same carrier. The only exception is when they have arrived in Armenia seeking refugee status or a right to political asylum (Article 6, point 3).

An entry visa is refused to a foreigner and the entry into the Republic of Armenia is forbidden under the following conditions: the foreigner has been expelled from the territory of the Republic of Armenia; or the foreigner has been deprived of residence status and three years have not elapsed since the entry into force of the decision on expulsion or deprivation of residence status (Article 8).

3.2 Voluntary departure

The foreigner must voluntarily leave the territory of the Republic of Armenia under the following conditions: the validity of his/her entry visa or residence permit has expired; the entry visa was considered as invalid; his/her application for residence status or on prolonging the validity of residence was rejected; or he/she was deprived of residence status. There is no time limit for voluntary departure. In accordance with Article 58 (point 2) of the Law on Refugees and Asylum there is a time limit only for refugees not granted asylum. A refugee not granted asylum must leave the territory of the Republic of Armenia voluntarily or involuntarily within six months of the final decision. If departure is not possible, the State Migration Service of Armenia shall grant asylum to the refugee and RA Police shall issue a Convention Travel Document.

3.3 Forced Return

The following mechanism on the expulsion of foreigners from the RA is envisaged by RA legislation. If a foreigner has failed to voluntarily leave the territory of the Republic of Armenia, the RA Police institutes and files with a court an action on expulsion (Article 31). Based on the examination of the relevant case, the court takes a decision on expelling or refusing to expel the foreigner (Article 34). Said foreigner may appeal the decision in court. If any appeal against a decision on expulsion is successful, the foreigner’s expulsion from the Republic of Armenia shall be suspended (Article 35).

¹⁵ 2 pieces of research recently conducted in Armenia have become a basis for this:

Research on potential and returning migrants in Armenia, conducted by the Caucasus Research Resource Centers program with financial assistance from the European Training Foundation;
Research on the Cross-Regional Information System (CRIS) on the Reintegration of Migrants in their Countries of Origin, by the Swedish Development and Cooperation office and the EUI-European University Institute, with the financial assistance of the “Advanced Social Technologies” NGO.

The RA Police implements the expulsion decision. If the foreigner cannot afford to cover expulsion costs, these are covered by the RA state budget. Cases when expulsion is prohibited are also laid down.

If the return of a foreigner to the country of origin is impossible within 90 days, the RA Police shall issue a temporary permit to the foreigner until the departure of the foreigner from the Republic of Armenia. However, the temporary term shall not exceed one year (Article 37, point 5).

The expulsion of a foreigner residing in Armenia is prohibited: if he/she is a minor, and his/her parents legally reside in Armenia; if he/she has a minor under his/her care; or if he/she is above 80 year of age (Article 32, point 2).

The readmission agreements do not regulate issues related to the legal status of third-country nationals readmitted by Armenia.

3.4 Detention

If it is impossible to return a foreigner to a country of origin or to a country where he or she came from, foreigners may be detained in a transit area or in another place, in a special facility provided for that purpose (Article 37, point 1). This is applied to: foreigners who have arrived at a crossing point of the state border of the Republic of Armenia without a passport, with an invalid passport; foreigners who have been refused an entry visa at a crossing point of the state border of the Republic Armenia; and foreigners who have not obtained an entry authorization from the body carrying out border control.

A foreigner may be arrested and detained in special facilities¹⁶ if there are sufficient grounds to suspect that he or she will abscond. The foreigner is then kept there until the case is examined in the court or till the expulsion takes place and has legal effect. An arrested foreigner may be detained in a special facility till the decision of the court, rendered as a result of the examination of the case on expulsion takes legal effect, but for no longer than 90 days. Arrested asylum seeker may be kept in special facilities for up to 72 hours, after which he/she is moved to the temporary reception center, envisaged for asylum-seekers.¹⁷ If the court decided to deny the expulsion, the RA Police is obliged to provide temporary resident status (Article 34, point 3).

3.5 Access to asylum procedures

Every foreigner has access to asylum procedures. If a foreigner applies for asylum he/she cannot be expelled from RA territory prior to the final decision on his/her asylum application. The foreign citizen or stateless person cannot be expelled, returned or extradited to another country where there are substantial grounds for believing that he/she would be in danger of being subject to inhuman or degrading treatment or punishment including torture (Article 9, points 2 and 3, RA Law on Refugees and Asylum).

The RA Law “On Refugees and Asylum”¹⁸ regulates issues related to voluntary return and non-expulsion (*non-refoulement*) of rejected asylum-seekers to their country of origin.

Article 9 of the RA Law “On Refugees and Asylum” defines the *non-refoulement* principle.

¹⁶ Special accommodation for foreigners at border crossing points and transit areas in order to establish their identity. See Decision of the Government of the Republic of Armenia No. 127-N from 7 February 2008 on the operation and conditions in special facilities for the detention of foreigners at the border crossing points and in transit areas.

¹⁷ See RA Law “On Refugees and Asylum” chapter 1, point 2

¹⁸ Official Journal of Armenia, No. 2(668), 14.01.2009. The Law on Refugees and Asylum was amended on 3 March 2011 and amendments came into force on 9 April 2011 (OJA No. 18 (821), 30.03.2011)

Article 60 of the RA Law “On Refugees and Asylum” gives a detailed set of procedures for the voluntary return of refugees and asylum seekers. The RA Ministry of Foreign Affairs, international organizations (e.g. UNHCR, IOM), as well as other NGOs also participate in the process of the voluntary return of refugees and asylum seekers to origin countries.

The Government of the Republic of Armenia decision No. 48-N defines the procedure for facilitating the issuance of necessary travel documents and visas to enter the country of citizenship or permanent residence, or possible third, transit countries to persons who submitted applications for voluntary repatriation (asylum seekers and refugees).

According to the Order N 05-N¹⁹ of the RA Minister of Territorial Administration dated 6 May, 2010 the following documents were approved:

- A sample application form for assistance in obtaining the travel documents and visas necessary for entering the country of citizenship or permanent residence or possible third, transit countries to persons who submitted applications for voluntary repatriation (asylum seekers and refugees)
- A sample written consent form regarding the voluntary repatriation of the asylum seekers or refugees to the country of citizenship or permanent residence.

¹⁹ Adopted on 06.05.2010, entered into force on 11.06.2010, Official source: Bulletin of the RA departmental acts 2010.06/13(365)