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### ***Legal aspects of the fight against human trafficking in the Republic of Armenia***

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## International legal basis

The Republic of Armenia joined a number of international and regional legal instruments combating human trafficking:

- United Nations Convention against Transnational Organized Crime<sup>1</sup> and its Protocols<sup>2</sup> against the Smuggling of Migrants by Land, Sea and Air and to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children
- United Nations Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography<sup>3</sup>
- Council of Europe Convention on Action against Trafficking in Human Beings dated 16 March 2005<sup>4</sup>
- Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography of United Nations Convention on the Rights of the Child (entered into force on 30.07.2005);
- Hague Convention on the Protection of Children and Co-operation in Respect of Inter-Country Adoption (Hague Adoption Convention) (entered into force on 01.06.2007);
- European Convention on Extradition dated 13.12.1957 (entered into force on 25.04.2002);
- European Convention on Mutual Assistance in Criminal Matters dated 20.04.1959 (entered into force on 25.04.2002);
- Interdepartmental Agreement on Co-operation of Implementation of Criminal Crimes dated 12.09.1998 (entered into force on 01.05.1999)
- Minsk Convention “On Civil, Family and Criminal Law Issues Legal Assistance and Legal Relationships” dated 22.01.1993 (entered into force on 21.12. 1994);
- Chisinau Convention “On Civil, Family and Criminal Law Issues Legal Assistance and Legal Relationships” dated 07.10.2002 (entered into force on 19.02.2005);
- Agreement on the Cooperation of the CIS Member States in Combating Trafficking in Persons, Human Organs and Tissues (entered into force on 04.09.2006);

In December 2009, the Republic of Armenia signed a Memorandum<sup>5</sup> of Understanding with the United Arab Emirates on combating human trafficking. The Memorandum relates to the issues on combating human trafficking, the protection of victims and provides the necessary assistance to them.

## Domestic legislation

According to domestic legislation human trafficking is considered a crime against human beings. Taking into consideration that Armenia ratified the Council of Europe Convention on Action against Trafficking in Human Beings the RA Criminal Code was brought into compliance with the requirements of the Convention. Articles 132, 132.2 and 132.3 of the RA Criminal Code set out the criminal responsibility for trafficking in and exploitation of human beings.

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<sup>1</sup>Decision of the RA National Assembly N-333-2, adopted 25.03.2003, entered into force 19.04.2003, Source RA Official Bulletin 2003.04.09/18(253)

<sup>2</sup>Decision of the RA National Assembly N-334-2, adopted 25.03.2003, entered into force 19.04.2003, Source RA Official Bulletin 2003.04.09/18 (253)

<sup>3</sup>Decision of the RA National Assembly N-177-3, adopted 28.02.2005, entered into force 02.04.2005, Source RA Official Bulletin 2005.03.23/19 (391)

<sup>4</sup>Decision of the RA National Assembly N-067-4, adopted 20.03.2008, Source RA Official Bulletin 2008.04.09/22 (612)

<sup>5</sup>Adopted on 05.12.2009, entered into force 05.12.2009, Source Official Bulletin of the RA MFA 2009.12.30/11(19)

Article 132 (entitled “Trafficking in Human Beings or Exploitation”) of the RA Criminal Code sets the legal definition of human trafficking and the responsibility for committing such a crime. According to the aforementioned Article human trafficking is: the recruitment, transportation, transfer, harboring or receipt of persons for the purposes of exploitation, slavery or a condition equal to slavery or by means of forced labour or forced services .

In accordance with Article 132.2 of the Criminal Code the recruitment, transportation, transfer, harboring or receipt (trafficking) of a child, fully or partially realizing the nature and significance of the committed act due to his/her mental disorder is considered a criminal offence. Article 132.2 sets also the responsibility for using services rendered by victims of trafficking.

According to the second paragraph of Article 8 of the RA Law “On Foreigners”,<sup>6</sup> the issuance (extension of the term) of an entry visa is refused, the issued entry visa is revoked, and the entry into the Republic of Armenia is blocked under certain conditions. These conditions are if a foreigner carries out activities, participates in, organizes or is a member of a human trafficking organization and/or an illegal border crossing organization.

In the context of combat against labour trafficking it is worth mentioning that the RA Labour Code<sup>7</sup> contains articles prohibiting forced labour, violence against the employment of children under 14 years old.

RA Government Decree N 318-N<sup>8</sup> “On State-Guaranteed Free Delivery of Medical Aid and Service”, dated 4 March, 2004 was amended by RA Government Decree N 1003-N<sup>9</sup> dated 3 September, 2009. According to the aforementioned amendment victims of human trafficking were included in the list of socially insecure (needy) and separate (special) groups of people. These have the right to receive state-guaranteed free medical care and services in accordance with the state health target annual programs funded from the Armenian state budget.

RA Government Decree<sup>10</sup> N 1385 –A (dated 20 November, 2008) was an approved national referral mechanism for victims of human trafficking. It defines a co-operative framework through which state actors fulfill their obligations to protect and promote the human rights of trafficked persons and to co-ordinate their efforts in a strategic partnership with civil society. National referral mechanisms mainly aim at providing services to the victims of human trafficking. These services include accommodation, professional medical and psychological assistance, counseling and the availability of education.

26 November, 2009 the RA Government adopted Decree<sup>11</sup> N 1358-N, which regulated the financial issues of providing psychosocial rehabilitation services to trafficking victims within state allocated funds.

The RA Government Decree<sup>12</sup> N 58-N, 15 January 2004, approved the Concept Paper on the prevention of the illegal transportation of people from Armenia, human exploitation and trading. It also approved the 2004-2006 National Action Plan on its implementation. The National Program covered fields such as: the improvement of legislation on human trafficking in the country; a survey on the extent of human trafficking within and outside the country; the implementation of preventive measures; the implementation of programs aimed at assisting and protecting the victims of human trafficking.

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<sup>6</sup> 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)

<sup>7</sup> Adopted 09.11.2004, Source: the RA Official Bulletin 2004.12.21/69(368)

<sup>8</sup> Adopted 03.09.2009, entered into force on 17.09.2009, Source: the RA Official Bulletin 2004.04.07/20(319)

<sup>9</sup> Adopted 03.09.2009, Source the RA Official Bulletin 2009.09.16/46(712)

<sup>10</sup> Adopted 20.11.2008, entered into force 03.12.2008, was not published

<sup>11</sup> Adopted 26.11.2009, entered into force 10.12.2009, Source: the RA Official Bulletin 2009.12.09/63(729)

<sup>12</sup> Adopted 15.01.2004, entered into force 04.03.2004, Source: the RA Official Bulletin 2004.03.03/13(312)

By the RA Government Decree<sup>13</sup> N1598-N the three-year program for 2007-2009 was approved. This program was mainly aimed at the criminalization of trafficking, something which was achieved. With this view a new Article was included in the RA Criminal Code, and sanctions were toughened by changing and amending separate articles of the Code.

The 2010-2012 National Program for the fight against human trafficking was approved by RA Government Decree<sup>14</sup> N 1140-N of 3 September 2010. Likewise the schedule for the realization of the program, which stipulates steps in and the terms of the struggle against trafficking was approved at the same date. The Program includes strategies and action plans for the effective organization of the fight against trafficking.

And finally, the 2013-2015 National Program on the struggle against human trafficking in the Republic of Armenia and the schedule for the program was approved by RA Government Decree N 186-N of 28 February 2013. The first part of the Program is devoted to improvement of anti-trafficking legislation and issues related to implementation.

### **Institutional basis**

An interdepartmental committee was set up in accordance with the RA Prime Minister's Decree<sup>15</sup> N591-A of 14 October, 2012: its aim to study human trafficking issues. This committee consisted in representatives of the RA Ministry of Foreign Affairs, the RA Police, the RA Prosecutor General's Office, the RA National Security Service, the RA National Assembly, the RA National Statistical Service, the RA Ministry of Health and the RA Ministry of Territorial Administration.

By the RA Prime Minister's Decree<sup>16</sup> N861-A of 6 December 2007 the Council on Trafficking in Human Beings in Armenia was set up in order to improve the efficiency of implemented actions. The RA Deputy Prime Minister, Minister of Territorial Administration, chairs the Council. Representatives of all the interested ministries and departments are members of the Council. An interdepartmental working group was set for organization of on-going activities of the Council.

Activities of separate state bodies include the following aspects of the action against trafficking in human beings:

- The RA Ministry of Labour and Social Affairs conducts surveys on trafficking related issues, develops social rehabilitation programs for the victims of trafficking, as well as carrying out the monitoring of the abovementioned programs.
- The RA Police works on the prevention and detection of trafficking and similar crimes.
- The RA National Security Service carries out the prevention and detection of the trafficking crimes.
- The RA Prosecutor General implements the investigation of trafficking cases and related crimes and looks at the lawfulness of the preliminary investigation, as well as protection of the accused party in the court.
- State Migration Service of the RA Ministry of Territorial Administration provides legal and advisory information to representatives of different migration flows (refugees, asylum seekers, people returning to Armenia and those wishing to leave Armenia.)

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<sup>13</sup> Adopted 06.12.2007, entered into force 07.02.2008, Source: the RA Official Bulletin 2008.02.06/8(598)

<sup>14</sup> Adopted 03.09.2010, entered into force 23.09.2010, Source: the RA Official Bulletin 2010.09.22/45(779)

<sup>15</sup> Adopted 28.02.2013, entered into force 14.03.2013, Source: the RA Official Bulletin 2013.03.13/14(954)

<sup>16</sup> Adopted 14.10.2002, entered into force 24.10.2002, Source: the RA Official Bulletin 2002.10.23/45(220)

The RA Ministry of Justice also regulates legislative issues for the fight against human trafficking. The RA Ministry of Healthcare provides the victims of trafficking with the necessary medical treatment free of charge, the RA Ministry of Education and Science includes victims of trafficking in its educational programs. The RA Ministry of Sport and Youth Affairs, meanwhile, organizes thematic discussions, meetings, and training programs on the risks of trafficking. The RA Ministry of Finance takes part in drafting short and long-term programs on action against trafficking, as well as budget-related activities for adopted measures.

Non-governmental organizations have played an active role in this field, in particular, “Hope and Help”, “UMCOR Armenia”, “Democracy today”, the Armenian office of the Czech organization “People in Need”, the Armenian Relief Society and the Association of Audio-Visual Journalists.