

CARIM EAST – CONSORTIUM FOR APPLIED RESEARCH ON INTERNATIONAL MIGRATION

Co-financed by the European Union

The Systematic Composition of Asylum-related Legislation in the Republic of Armenia

Petros Aghababyan

CARIM-East Explanatory Note 11/04

Legal Module

December 2011



CENTRE OF
MIGRATION
RESEARCH

© 2011. All rights reserved.
No part of this paper may be distributed, quoted
or reproduced in any form without permission from
the CARIM East Project.



The asylum system in Armenia was created based on international human rights laws. There are two basic documents regulating this field: the Law on Political Asylum and the Law on Refugees and Asylum.

The Law “On **Political Asylum**”¹ was adopted on 26 September 2001 and entered into force on 31 October 2001. According to Art. 1, this Law regulates the grounds and procedure for granting political asylum in the Republic of Armenia, as well as other relevant matters. In accordance with this Law, political asylum is a special status granted to publicly well-known foreign nationals providing them with protection from political persecution in their countries of origin. Political asylum is granted by the decision of the President of Armenia. This norm comes out of the Constitution of Armenia (Article 55(15)).

To implement this Law, four governmental decisions have been adopted. These decisions define:

- a procedure for providing accommodation and basic assistance to persons seeking political asylum and persons granted political asylum (3 April 2003; No. 219-N)²,
- a sample application form for political asylum, a list of documents to be attached to it and a procedure for the preparation and management of case-files (3 April 2003; No. 232-N)³,
- a procedure for the issuance of a political asylum certificate and travel document as well as their descriptions (20 March 2003; No. 282-N)⁴ and
- the Ministry of Territorial Administration which is named as the state-designated body of the Government of the Republic of Armenia in dealing with political-asylum issues (7 March 2003; No. 211-N)⁵.

Until now, the Law on Political Asylum has never been applied. A well-founded fear of being persecuted for political opinions is one of the grounds for granting refugee status in Armenia, and this issue is already regulated by the Law on Refugees and Asylum⁶.

The first version of the Law on **Refugees** was adopted on 3 March 1999 by the National Assembly.⁷ The Government of Armenia adopted more than ten sub-legislative acts to ensure its practical implementation.⁸ However, despite the fact that the Law has been modified three times,⁹ there are still many contradictions, gaps in the legislation regulating this area, and many provisions did not conform to the norms of international law. Therefore, in order to address these issues, the National Assembly (Parliament) of Armenia adopted on 27 November 2008 a new Law on Refugees and Asylum, which entered into force on 24 January 2009.¹⁰

¹ Official Journal of Armenia (OJA) No. 33 (165), 31.10.2001.

² OJA No. 17(252), 02.04.2003.

³ OJA No. 17(252), 09.04.2003.

⁴ OJA No. 18(253), 04.09.2003.

⁵ OJA No. 16(251), 26.03.2003.

⁶ OJA No. 2(668), 14.01.2009.

⁷ Date of entry into force: 11/04/2001; OJA No. 8(74), 01.04.1999.

⁸ This Law and governmental decisions have been regulating relations on granting refugee status, grounds for rejection of asylum claim, refugee status determination procedure, temporary accommodation, issuance of ID cards and travel documents, realization of the right to freedom of movement and place of residence, legal and translation services etc.

⁹ On 5 March 2001 (OJA No. 11(143), 11.04. 2001), on 19 March 2002 (OJA No. 13(188), 26.04. 2002) and on 3 March 2004 (OJA No. 21(320), 14.04. 2004).

¹⁰ OJA 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). According to these amendments, the Police of Armenia is recognized as a competent state body in providing conventional travel documents (CTD) to refugees.

The Law on Refugees and Asylum establishes asylum procedures, the particularities of granting refugee status to unaccompanied minor asylum seekers¹¹, the granting of temporary protection in case of mass-influx¹², not to mention the basic rights and obligations of asylum seekers and refugees¹³. Asylum seekers and refugees have social-economic and cultural rights, including the right to seek a job and they have access to the labour market in the same way as citizens of the Republic of Armenia. They do not enjoy political rights except the right to vote in local government. The Law also determines the duties of responsible state authorities on asylum issues and UNHCR Representation in Armenia¹⁴, the procedure for family reunification¹⁵, the voluntary repatriation procedure¹⁶, the granting of asylum in case of temporary protection¹⁷, transitional provisions on persons forcibly displaced to the Republic of Armenia in 1988–1992 from Azerbaijan and persons granted temporary asylum in the Republic of Armenia¹⁸.

The Government passed eight decisions related to the implementation of the Law on Refugees and Asylum within 2009-2010. These decisions define:

- procedures for placing asylum seekers in **temporary reception centers** and for providing them with subsistence means (19 November 2009; No. 1440-N)¹⁹,
- functioning of a temporary reception center for asylum seekers (19 November 2009; No. 1441-N),²⁰
- the sample of an **ID certificate for asylum seekers** (25 March 2010; No 285-N)²¹ and a form of asylum application (25 March 2010; No 286-N),²²
- procedures for the issuance of **Convention Travel Document** to refugees (3 December 2009; No. 1417-N),²³
- a sample of refugee **ID** giving temporary protection and procedures for exchanging that document with the convention travel document (26 November 2009; No. 1367-N),²⁴
- relations connected with assistance in the issuance of necessary travel documents and visa to asylum seekers and refugees who submitted applications on **voluntary repatriation** (21 January 2010; No. 48-N),²⁵
- the **State Migration Service** of the RA Ministry of Territorial Administration as a state designated body of the Government of Republic of Armenia for dealing with migration issues (25 March 2010; No 301-N).²⁶

¹¹ See Law of the Republic of Armenia on Refugees and Asylum, Art. 8 and Art. 50.

¹² Ibid., Art. 3 and Art. 61

¹³ Ibid., Chapter 2: right to property, intellectual property rights, wage-earning employment, right to be engaged in entrepreneurship, right to social security and medical care, right to accommodation, public education and the right to freedom of movement.

¹⁴ Ibid., Art. 44.

¹⁵ Ibid., Art. 54.

¹⁶ Ibid., Art. 60.

¹⁷ Ibid., Chapter 5.

¹⁸ Ibid., Art. 64.

¹⁹ OJA No. 68 (734), 30.12.2009.

²⁰ OJA No. 66 (732), 25.12.2009.

²¹ Ibid.

²² Ibid.

²³ OJA No. 65 (731), 23.12.2009.

²⁴ OJA No. N 63 (729), 09.12.2009.

²⁵ OJA No. 5 (739), 03.02.2010.

Within 2009-2010, four departmental normative legal acts arising from Law on Refugees and Asylum and sub-legislation were passed. They are:

- The Joint Decree of the Ministry of Territorial Administration of the RA, Frontier Troops of the National Security Service under the RA Government and RA Police under the RA Government on approving a **logbook form for the registration of asylum seekers** in the Republic of Armenia(29 October 2009; No. 35-N)²⁷, passed according to the Law on Refugees and Asylum.
- Order of the Minister of Territorial Administration of the RA on Approving a Form of a **Referral on Providing Asylum Seekers with Accommodation** in the Temporary Reception Centre and the Logbook Form for Registration of Asylum Seekers Accommodated in the Temporary Reception Centre (6 May 2010; No. 06-N)²⁸, passed according to the decision of the Government No. 1440-N (see above).
- Order of the Head of the State Migration Service of the Ministry of Territorial Administration on Establishing House Rules in the **“Reception Center”** State Non-profit Organization (18 October 2010; No. 109)²⁹ passed according to the statute of the “Reception Center” State Non-profit Organization. This order defines rules to be obeyed by asylum seekers while in the “Reception Center”.
- The Order of the Minister of Territorial Administration of the RA on Approving a Sample of Application Form for Assistance in Obtaining **Travel Documents and Visa** Necessary for Entering the Country of Citizenship or Permanent Residence or Possible Third, Transit Countries to the Persons Submitted Application for Voluntary Repatriation (Asylum seekers and Refugees) and a Sample of a Written Consent Form Regarding Voluntary Repatriation (6 May 2010; No. 05-N)³⁰, passed according to governmental decision No. 48-N (see above).

As a whole, the basic elements of national asylum system are currently in place in the Republic of Armenia. However, there are certain contradictions between the Law on Refugees and Asylum³¹ and the Criminal Code of the Republic of Armenia.³² The Law on Refugees and Asylum guarantees that asylum seekers and refugees shall not bear liability for illegal entry into the Republic of Armenia, while the Criminal envisages such provision only for foreign nationals applying for political asylum in Armenia.

The current asylum system of the Republic of Armenia does not exclude the refoulement of asylum seekers from border crossing points in Armenia, and, as a result, such persons are deprived of the right to seek asylum in Armenia. This is conditioned by the absence of representatives of the State Migration Service of the Ministry of Territorial Administration at the border crossing points, as well as insufficient awareness among border officials of the peculiarities of submitting asylum applications at the border crossing points, as stipulated by the legislation in force. Therefore, regular workshops are needed for border guard officials to raise awareness of the aforementioned issues.

(Contd.) _____

²⁶ OJA No. 14 (748), 07.04.2010.

²⁷ Official Journal of Departmental Normative Acts of Armenia No. 31 (349), 01.12.2009.

²⁸ Ibid.

²⁹ There is no information about the the official source.

³⁰ Official Journal of Departmental Normative Acts of Armenia N 13 (365), 01.06.2010.

³¹ According to the Law of the Republic of Armenia on Refugees and Asylum (Art. 28), asylum seekers and refugees shall not bear criminal or administrative liability for illegal entry or stay in the Republic of Armenia.

³² According to the Criminal Code of the Republic of Armenia (Art. 329, part 3), crossing the guarded state border of the Republic of Armenia without relevant documents or permits is not punished in cases when a foreign citizen or stateless person enters the Republic of Armenia for political asylum as stipulated by the Constitution of the Republic of Armenia.

In addition, there are also difficulties related to the deportation of rejected asylum seekers from Armenia, even for voluntary return. This is so due to absence of financial means, as well as lack of the mechanisms for deportation.

It is also vital to implement measures pertaining to the integration of the persons recognized as refugees within Armenia, in particular: accommodation, Armenian language classes and training in the basics of Armenian legislation and local traditions.