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REVISED EUROPEAN SOCIAL CHARTER
REPLIES TO SUPPLEMENTARY QUESTIONS

5th National Report on the implementation of
the Revised European Social Charter

submitted by

THE GOVERNMENT OF ARMENIA

(Article 19
for the period 01/01/2007 – 31/12/2009)

Report registered by the Secretariat on 14 July 2011

CYCLE 2011

Answers to the questions in respect of the 5th report of Armenia

Article 1987

- Whether domestic legislation makes provision for migrant workers who are involved in legal or administrative proceedings and who do not have counsel of their own choosing to be advised to appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if they do not have sufficient means to pay the latter?

Answer - According to the Article 40 of the Constitution of RA everyone shall be entitled to legal assistance. In cases prescribed by the law the legal assistance shall be provided at the expense of the state resources.

Everyone shall have a right to the assistance of a legal defender chosen by him/her starting from the moment of his/her arrest, subjection to a security measure or indictment.

The legislation of RA does not stipulate any differentiation or discrimination on the base of citizenship or migrant worker related to legal assistance. According to the Article 6 of the RA law "On Advocacy" the state guarantees legal assistance free of charge in cases prescribed by the Criminal Code of RA and Civil Code of RA and is done according to the order prescribed by the mentioned Codes. The free of charge legal assistance is provided by the Association of Advocates at the expense of the state resources according to the provisions of the Articles 41 and 42 of RA law "On Advocacy".

Free of charge legal assistance can be provided by the initiative of the advocate as well.

On the base of above-mentioned it can be stated that everyone (including the migrant worker) despite their citizenship can get free of charge legal assistance in the territory of the Republic of Armenia.

The RA draft law on Amendments to the RA law "On Advocacy" which is already adopted by the National Assembly by first reading. According to the draft the frameworks of free of charge advocacy assistance has been expanded and the base is taken not the type of cases (as in the law) but the social condition of the person.

According to the new amendments there are no differentiations among the RA citizens, persons without citizenship or foreigners.

Article 1988

- On what grounds workers lawfully residing with the territory may be expelled? Can a decision to expel a migrant worker be appealed against? What happens to a migrant worker's family?

Answer – The Article 30 of the RA law “On Foreigners” prescribes the cases when foreigner should voluntarily leave the Republic of Armenia otherwise a case can be issued and introduced to the court to expel the foreigner. The decision on deportation can be appealed by the foreigner according to the order prescribed by law.

According to the Article 29 of the RA law “On Foreigners” only in case if the employer is not ensuring the work for the foreigner for which the foreigner has received work permission and legally entered into the Republic of Armenia, then the employer should cover the foreigner’s as well as the foreigner’s family members (who were permitted to accompany or to join the foreigner) return expenses to the country of origin, as well as expenses for transferring the personal property.

The Article 32 of the RA law “On Foreigners” stipulates the circumstances prohibiting the deportation, particularly:

1. It is forbidden to deport the foreigners to the countries, where the human rights are infringed, particularly if he is threaten or chased because of his racial and religious belonging, social origin, citizenship or political believes, or if these foreigners can be put to torture, cruel, inhuman or dignity diminishing treatment or to punishment or death penalty.

The arguments of the existence of the real danger about the chasing threat, inhuman or dignity diminishing treatment or to punishment or death penalty are presented to the court by he foreigner.

2. It is forbidden to deport the foreigner living in RA, if he

- is under age, and his parents are inhabited in RA on legal grounds,
- takes care of under age child,
- is over 80 years.

3. It is forbidden collective deport of foreigners.

The Article 33 determines that the foreigner who is under the deport from RA, uses all his rights for the judicial protection provided with R.A. laws. The decision about the person’s deport is taken by the court and is under appeal.

The Articles 34-36 of RA about the foreigners are regulating the relations connected with the resolving of decision about the deport of the foreigner, with it's appeal and the making of deport decision.

Article 19§9

- Whether there are restrictions on transferring earnings and savings outside of Armenia?

Answer - No.

Article 19§11

- What provision is made for the teaching of the Armenian language to migrant workers and their families, both within the framework of the educational system and outside it? How many people benefit?

Answer – Taking into account the fact that the migration flows to Armenia are extremely small as well as the sphere is not regulated due to the absence of relevant bylaws, such activities are not implemented.

Article 19§12

- Does the state make any provision for the teaching of the migrant worker's mother tongue to the children of the migrant worker? How many children benefit?

Answer – Taking into account the fact that the migration flows to Armenia are extremely small as well as the sphere is not regulated due to the absence of relevant bylaws, such activities are not implemented.

SECRETARIAT GENERAL

DIRECTORATE GENERAL OF HUMAN RIGHTS
AND LEGAL AFFAIRS

DIRECTORATE OF MONITORING

DEPARTMENT OF THE EUROPEAN SOCIAL CHARTER
THE HEAD OF DEPARTMENT
EXECUTIVE SECRETARY OF THE EUROPEAN COMMITTEE
OF SOCIAL RIGHTS



ESC 109
GD / SF

Ms Anahit Martirosyan
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Strasbourg, 27 May 2011

Dear Ms Martirosyan,

The European Committee of Social Rights is currently examining the fifth report from Armenia on the Revised European Social Charter and has instructed me to forward to you the enclosed questions concerning Article 19.

The Committee would be grateful if you could reply to this question before 13 July 2011 in order to allow the information to be taken into account in Conclusions 2010.

Yours sincerely,

Régis Brillat

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27 May 2011

Question in respect of the 5th report of Armenia

Article 19§7

-Whether domestic legislation makes provision for migrant workers who are involved in legal or administrative proceedings and who do not have counsel of their own choosing to be advised to appoint counsel and, whenever the interests of justice so require, be provided with counsel, free of charge if they do not have sufficient means to pay the latter?

Article 19§8

- On what grounds workers lawfully residing with the territory may be expelled? Can a decision to expel a migrant worker be appealed against? What happens to a migrant worker's family?

Article 19§9

- Whether there are restrictions on transferring earnings and savings outside of Armenia?

Article 19§11

- What provision is made for the teaching of the Armenian language to migrant workers and their families, both within the framework of the educational system and outside it? How many people benefit?

Article 19§12

- Does the state make any provision for the teaching of the migrant worker's mother tongue to the children of the migrant worker? How many children benefit?