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## **EUROPEAN SOCIAL CHARTER**

11<sup>th</sup> National Report on the implementation  
of the European Social Charter

submitted by

## **THE GOVERNMENT OF ARMENIA**

- Article 3, 12, 13 and 14 for the period  
01/01/2012 - 31/12/2015
- Complementary information on Articles 7, 8, 17,  
19 and 27 (Conclusions 2015)

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25 April 2017

**CYCLE 2017**



Annex  
to Protocol Decision of the sitting of the  
Government of the Republic of Armenia  
No 11 of 16 March 2017



**EUROPEAN SOCIAL CHARTER**  
**(REVISED)**

**Report of the Republic of Armenia**

Articles 3, 12, 13, 14

Reporting period: 2012–2015

### **Article 3. The right to safe and healthy working conditions**

#### **Article 3.1.**

***Information with regard to changes made and questions submitted by the European Committee of Social Rights (hereinafter referred to as "the Committee") during the reporting period***

#### *Main purpose of the policy*

Article 82 of the Constitution of the Republic of Armenia (with amendments made in 2015, adopted on 6 December 2015, entered into force on 22 December 2015) lays down that "Every worker shall, in accordance with law, have the right to healthy, safe and decent working conditions, to limitation of maximum working hours, to daily and weekly rest, as well as to annual paid leave."

1. Pursuant to the Statute of the Ministry of Healthcare of the Republic of Armenia under Annex No 1 approved by Decision of the Government of the Republic of Armenia No 1300-N of 15 August 2002, the goals and objectives of the Ministry of Healthcare of the Republic of Armenia are to protect the health and safety of employees; the functions of the Ministry of Healthcare of the Republic of Armenia include the development of a healthcare development policy, state target programmes, programmes targeted at the improvement of public health, the prevention and treatment of diseases, the protection of health and safety at the workplace, the reduction of the number of disability and death cases and the monitoring of implementation thereof, the development of the state policy and target programmes aimed at ensuring the sanitary-epidemiological safety of the population and the monitoring of implementation thereof.

The working group set up under Order of the Minister of Healthcare of the Republic of Armenia No 1710-A of 2 July 2015 has developed the "Basic Rules and Norms for Ensuring the Safety and Protecting the Health of Employees" and the draft of the Decision of the Government of the Republic of Armenia on approving the rules.

The specialists of the Ministry of Healthcare of the Republic of Armenia, the State Health Inspectorate of the Staff of the Ministry, the Ministry of Labour and Social Affairs of the Republic of Armenia, "The National Institute of Labour and Social Research" state non-commercial organisation, the Confederation of Trade Unions of Armenia and the Republican Union of Employers of Armenia have been included in the working group. The draft of the rules has been submitted to the interested

government agencies and organisations for consideration, comments and suggestions have been received, and the activities for summarisation of the suggestions and finalisation of the draft rules are currently underway.

2. Pursuant to the "National Strategy on Human Rights Protection" approved by Executive Order of the President of the Republic of Armenia NK-159-N of 29 December 2012, the rights to protection of human health, education, free choice of employment, ownership, adequate standard of living and social security are guaranteed in the field of economic, social and cultural rights. Point 32 of the Strategy prescribes that the guarantee of free choice of employment shall include the ensuring of working conditions complying with the safety and sanitary requirements for employment, the approval of "The National Programme for Protection of Work Safety and Health of Employees" pursuant to international obligations, as well as periodic evaluation — approval of the general description of standards determining the methodology for and the level of risk of risk-based inspections and the questionnaire included in the inspections that are aimed at recording specific cases, the duration of and grounds for inspections and introducing effective mechanisms for settling labour disputes.

Taking as a basis point 2 of the Executive Order, point 2 of the Annex approved by Decision of the Government of the Republic of Armenia No 303-N of 27 February 2014 "On approving the action plan stemming from the National Strategy on Human Rights Protection " envisages the "Development of a National Programme for Protection of Work Safety and Health of Employees at the Workplace" as a measure stemming from the "National Strategy on Human Rights Protection" for the protection of health and ensuring of the right to life.

With the view of performing the envisaged measure, developing the state policy and target programmes aimed at protecting health and safety at a workplace and monitoring the implementation thereof, developing mechanisms for state control and supervision over the ensuring of safety and protection of the health of employees and the implementation thereof, ensuring practical and efficient mechanisms for the protection of rights and freedoms for the protection of work safety and health of employees, as well as, pursuant to the recommendation of the Standing Ministerial Social Committee, the Strategy on Protection of Work Safety and Health of Employees at Workplace has been developed, specifying the approaches, principles, stages of actions, as well as describing the necessary measures and setting the time limits for implementation thereof.

The protocol decision of the Government of the Republic of Armenia has also been drafted, which envisages approving the "Strategy on Protection of Work Safety and Health of Employees at Workplace" and the "2016-2018 Action Plan for Protection of Work Safety and Health of Employees at

Workplace". The Action Plan indicates the following actions: submitting the draft decision of the Government of the Republic of Armenia "On approving the basic rules and norms for protection of work safety and health of employees at workplace", submitting the draft decision of the Government of the Republic of Armenia "On approving the methodology for inspections for protection of work safety and health of employees at workplace, the general description of standards determining the level of risk and the questionnaire for inspections", submitting the draft decision of the Government of the Republic of Armenia "On approving the model procedure for implementation by the employer of work safety training and/or instruction of employees", co-operation with trade unions, the Republican Union of Employers, as well as international organisations, organising seminars on work safety and health of employees at workplace and other actions.

#### Organising of measures for preventing occupational risks

1. In compliance with Decision of the Government of the Republic of Armenia No 857-N of 25 July 2013, the State Hygiene and Anti-Epidemic Inspectorate of the Ministry of Healthcare of the Republic of Armenia and the State Labour Inspectorate of the Republic of Armenia of the Ministry of Labour and Social Affairs of the Republic of Armenia have been, by way of merger, restructured as the State Health Inspectorate of the Staff of the Ministry of Healthcare of the Republic of Armenia, and the Statute of the Inspectorate has been approved. Pursuant to point 3 of the Statute of the Inspectorate, the State Health Inspectorate of the Staff of the Ministry of Healthcare of the Republic of Armenia is the legal successor of the State Hygiene and Anti-Epidemic Service and the State Hygiene and Anti-Epidemic Inspectorate of the Republic of Armenia and the State Labour Inspectorate of the Republic of Armenia. Pursuant to point 1 of the Statute of the Inspectorate, the Inspectorate shall be a separated subdivision of the Staff of the Ministry which performs the supervisory functions reserved for the Ministry of Healthcare of the Republic of Armenia and applies sanctions in respect of application of norms for ensuring work safety and protecting health of employees prescribed by healthcare and labour legislations, acting on behalf of the Republic of Armenia.

Concurrently, upon Decision of the Government of the Republic of Armenia No 572-N of 4 June 2015, amendments have been made to Decision of the Government of the Republic of Armenia No 857-N of 25 July 2013. In particular, the Inspectorate has set before itself the goals and objectives to ensure state control and supervision over the enforcement of legal acts containing norms for ensuring of the work safety and protection of health of employees prescribed by the Labour Code of the Republic of Armenia

and other legal acts containing norms for employment right, to organise the implementation of measures to prevent accidents and occupational diseases in the workplace and to ensure the right to safe working conditions.

Pursuant to subpoint 10 of point 8 of the Statute of the Inspectorate, the Inspectorate shall execute control and supervision over application of the norms of the labour legislation, including organising — with a view to ensuring enforcement of labour legislation and other legal acts containing norms of employment right — methodical assistance in the protection of safety for employers and trade unions by providing relevant information and consultancy, studying and analysing the reasons for accidents at workplace and occupational diseases and submitting to the employer written motions on prevention thereof, exercising control and supervision over the implementation of norms for ensuring by the employers of work safety and protection of health of employees prescribed by the labour legislation, exercising control and supervision over the ensuring of guarantees prescribed by the labour legislation for persons under the age of 18, as well as for pregnant and breast-feeding women and employees taking care of a child, and other functions.

2. As it has been mentioned, the working group set up under Order of the Minister of Healthcare of the Republic of Armenia No 1710-A of 2 July 2015 drafted the "Basic Rules and Norms for Ensuring Work Safety and Protecting Health of Employees" and the Decision of the Government of the Republic of Armenia on approving the rules. The draft of the rules was developed based on the general study of international experience with respect to the ensuring of safety and protection of health of employees.

Pursuant to point 7 of part 1 of Article 4 of the Labour Code of the Republic of Armenia, the basic rules and norms for protecting health and ensuring the safety of employees must be prescribed by the labour legislation. Taking also as a basis the requirements of conventions of the International Labour Organisation, the Revised European Social Charter, the directives of the European Union on safety at work, the rules prescribe the basic rules and norms for ensuring the safety and protecting the health of employees that make the regulation of labour relations in work safety complete.

The adoption of rules will promote the establishment of a coherent field for the regulation of work safety and health protection in the Republic of Armenia and provide an opportunity to integrate the basic rules on protection of health and ensuring of the safety of employees in one legal act.

The rules will serve as a guideline for all employers and employees in undertaking relevant measures for work safety and employees' health and replenishing workplaces. They will be subject to mandatory application by all legal and natural persons.

The rules include principles of risk prevention, assessment of working conditions at workplace based on the assessment of harmful and hazardous factors, procedures for training and instruction of employees, raising awareness of employees by applying safety signs, requirements for ensuring safety when working with hazardous chemical substances, inflammable fluids and at altitude.

Consultations and discussions have been held when drafting the rules. The comments and suggestions of the parties for social partnership with respect to the drafted rules have been considered and included in the draft.

#### Consultation with organisations of employers and employees

On 1 August 2015, the Government of the Republic of Armenia, the Confederation of Trade Unions of Armenia and the Republican Union of Employers of Armenia concluded the Republican Collective Agreement with a view to ensuring safety and protecting health of employees during employment. The Agreement prescribes the obligations of the parties to social partnership, which include the improvement of the role of trade unions, as well as the legislation for the purpose of increasing the economic interest and liability of employers, assistance in the drafting and introduction of the rules and norms for ensuring safety and protecting health of employees, promotion of development of the policy targeted at work safety within organisations and the introduction of modern systems for monitoring of working conditions.

### **Article 12. The right to social security**

#### **Article 12.1.**

#### ***Information with regard to changes undertaken during the reporting period and to questions submitted by the Committee***

#### Healthcare

Services for state authorities of the Republic of Armenia and state non-commercial organisations operating in the fields of education, culture and social security, including compulsory medical insurance for the employees thereof have been introduced under Decision of the Government of the Republic of Armenia No 1923-N of 29

December 2011 (moreover, the procedure for allocating the social package and content of services included in the package are prescribed by Decision of the Government of the Republic of Armenia No 1691-N of 27 December 2012).

Point 11 of Annex No 1 approved by Decision of the Government of the Republic of Armenia No 1691-N of 27 December 2012 regulates the relations pertaining to the month of termination of the right to use the social package in case of being dismissed from the job (or in case of terminating the rights to use social package for another reason) and the use of the services included in the social package.

The package of basic free-of-charge medical aid and services guaranteed by the state is free for all citizens of the Republic of Armenia, regardless of their age, gender, religion, social status, the fact of being an employee or not. It is carried out at the level of the primary health protection.

Professional medical assistance is provided both at the second level and third level, as well as to persons suffering from certain social diseases (mental diseases, tuberculosis, infectious diseases, malignant neoplasms, etc.) In addition, on 1 January 2015, the programme for organising the services of emergency heart surgery (placement of a bare-metal stent) was launched within the framework of free-of-charge medical aid and services guaranteed by the state (Order of the Minister of Healthcare of the Republic of Armenia No 1256-A of 27 April 2016) and the surgery is performed within two hours after the patient (without belonging to any social category) in relevant conditions and with relevant diagnosis is admitted (is brought) to the reception of the medical institution. It should also be noted that persons aged 65 and over benefit from specialised dental care services in the Republic of Armenia under Decision of the Government of the Republic of Armenia No 318-N of 4 March 2004.

The healthcare system in the Republic of Armenia is socially oriented; in particular, the list of socially disadvantaged and particular (special) groups of population is approved by Decision of the Government of the Republic of Armenia No 318-N of 4 March 2004, according to which free in-patient medical aid and services are provided to not only children under 7, but also to children aged 0-18 and included in certain socially vulnerable groups, benefit recipients included in the family benefit scheme and having 30.00 and higher points of vulnerability, persons with disabilities, participants of the Great Patriotic War, women of reproductive age, males aged 14-15, persons of pre-conscription and conscription age, military servicemen and family members of their equivalents, family members of military servicemen killed (deceased) while defending the Republic of Armenia, as well as performing the military duties, family members of officers of the rescue service, the repressed, participants of activities for elimination of the effects of the Chernobyl disaster, etc.

In 2016, the healthcare budget of the Republic of Armenia makes up AMD 88.4 billion, of which AMD 39.8 billion for in-patient programmes, AMD 27.7 billion — for outpatient programmes. In recent years, the total number of in-patient healthcare services makes up 406.6 thousands and more, of which the number of patients having received medical aid within the framework of state-guaranteed services makes up 326.0 thousand cases or 80.2 percent of the total number of cases. The method for co-payment of compensation for in-patient medical aid services is also applied within the system, and nearly 11.1 thousand patients are provided with medical aid within the framework thereof. Generally speaking, 17 in-patient (of which 4 are implemented under the principle of co-payment) and 14 outpatient programmes are implemented through state funding, and the rest of the programmes are implemented free of charge for the whole population within the framework of the package of basic services prescribed by the Ministry of Healthcare of the Republic of Armenia.

#### *Sickness benefit and maternity benefit*

The Law of the Republic of Armenia "On temporary incapacity and maternity benefits" (Law HO-160-N of 1 December 2010) prescribes the maternity benefit (before 1 January 2016, pregnancy and child-delivery benefit) and the following types of temporary incapacity benefit:

- (1) benefit granted in case of temporary incapacity for work caused by sickness (injury) (hereinafter referred to as "the sickness benefit"),
- (2) benefit granted in case of temporary incapacity for work caused by prosthetic repair (hereinafter referred to as "the prosthetic repair benefit"),
- (3) benefit granted in case of temporary incapacity for work caused by the need for sanatorium therapy (hereinafter referred to as "the sanatorium therapy benefit"),
- (4) benefit granted in case of temporary incapacity for work caused by sickness (injury) of a family member (hereinafter referred to as "the benefit for the care of a sick family member").

Moreover, the following types of benefits shall be granted to hired employees:

- (1) sickness (injury);
- (2) prosthetic repair;
- (3) sanatorium therapy;
- (4) maternity (pregnancy and child-delivery) benefit;

(5) for the care of a sick family member.

The following types of benefits shall be granted to self-employed persons:

- (1) sickness,
- (2) prosthetic repair,
- (3) maternity (pregnancy and child-delivery) benefit;
- (4) for the care of a sick family member.

Partial or full compensation for loss of the salary (income) resulting from temporary incapacity (including resulting from pregnancy and childbirth) is made by paying the temporary incapacity or maternity benefits to persons having the right thereto by law, as well as by providing assistance to full-time mothers for the period of maternity leave prescribed by the Labour Code of the Republic of Armenia for working women.

Statistics of temporary incapacity and maternity benefit recipients are not maintained in the Republic of Armenia.

#### Old-age pension

The types of pensions are prescribed by Article 8 of the Law of the Republic of Armenia "On state pensions". The following are the types of pensions:

1. retirement:
  - (1) old-age;
  - (2) under privileged conditions;
  - (3) long service;
  - (4) disability;
  - (5) in case of loss of the breadwinner;
  - (6) partial.
2. Military:
  - (1) long service;

- (2) disability;
- (3) in case of the loss of breadwinner.

Pursuant to part 2 of Article 9 of the Law of the Republic of Armenia "On state pensions", old-age retirement pension shall be awarded to the person having attained the age of 63, where he or she has at least 10 calendar years of work record.

Pursuant to part 3 of the same Article, old-age retirement pension shall be awarded a year earlier (in case of attaining the age of 62) than the age entitling to retirement pension, where the person has at least 35 years of work record and is unemployed.

The pension qualifying age both for women and men is the same.

Pursuant to Article 12 of the Law of the Republic of Armenia "On state pensions", disability retirement pension shall be awarded to the person approved for disability by the state authority conducting medical social expert examination, where the person has had the following work record when applying for the definition of disability or awarding of a pension — according to calendar years: under the age of 23 — 2 years, 23-26 years old — 3 years, 26-29 years old — 4 years, 29-32 years old — 5 years, 32-35 years old — 6 years, 35-38 years old — 7 years, 38-41 years old — 8 years, 41-44 years old — 9 years and 44 years old and over — 10 calendar years.

Pursuant to Article 10 of the Law of the Republic of Armenia "On state pensions":

Pension under privileged conditions shall be awarded:

1. To the person having attained the age of 55:

(1) where he or she has at least 25 calendar years of work record, he or she has worked in especially harmful, especially heavy conditions for 15 calendar years (List No 1), by 1 January 2014 he or she has worked in especially harmful, especially heavy conditions for 7 calendar years and 6 calendar months and during that period of time he or she has performed, in full-time capacity, work entitling to pension under privileged conditions;

(2) where he or she has 25 calendar years of work record, at least 15 calendar years of which he or she has spent working in positions entitling to pension under privileged conditions (List No 3) and during that period of time he or she has performed, in full-time capacity, work entitling to pension under privileged conditions.

2. To the person having attained the age of 59:

(1) where he or she has at least 25 calendar years of work record, at least 20 calendar years of which he or she has worked in especially harmful, especially heavy conditions (List No 2), by 1 January 2014 he or she has worked in especially harmful, especially heavy conditions for at least 10 calendar years and during the period of time he or she has performed, in full-time capacity, work entitling to pension under privileged conditions;

(2) where he or she has 25 calendar years of work record, at least 20 calendar years of which he or she has spent working in positions entitling to pension under privileged conditions (List No 4) and during that period of time he or she has performed, in full-time capacity, work entitling to pension under privileged conditions.

3. Pension under privileged conditions shall be awarded to the person having attained the age of 45 and having at least 20 calendar years of work record and suffering from pituitary dwarfism.

4. Pension under privileged conditions shall be awarded before attaining the age entitling to old-age retirement pension.

5. Lists No 1 and No 2 of industries, works, professions, positions and indicators, Lists No 3 and No 4 of positions shall be approved by the Government of the Republic of Armenia.

Pursuant to Article 11 of the Law of the Republic of Armenia "On state pensions":

Retirement pension for long service shall be awarded to the following persons serving in civil aviation:

(1) commander, co-pilot and other flight crew members, loadmasters and flight attendants, where they have attained the age of 45, and they have been working for at least 25 calendar years, 20 years of which comprised the long service record, and in case they are dismissed from flight activities due to health condition — where they have been working for at least 20 calendar years, at least 15 years of which comprised the long service record;

(2) employee having the licence of a flight operations officer, where he or she has attained the age of 50 and he or she has been working for at least 25 calendar years, at least 15 calendar years of which he or she has spent directly performing the work of airborne traffic management, and to the person being dismissed from the job of direct management of airborne traffic due to health condition — where he or she has attained the age of 50 and he or she has been serving for at least 25 calendar years, 10 calendar years of which he or she has spent performing the work of airborne traffic management;

(3) maintenance employee, where he or she has attained the age of 55 and he or she has at least 25 calendar years of work record, 20 calendar years of which he or she has spent performing work entitling to pension for long service.

According to the data of the National Statistical Service of the Republic of Armenia, the number of persons receiving old-age retirement pension constitutes 23 percent of the population of working age (16-62).

Pursuant to part 5 of Article 39 of the Law of the Republic of Armenia "On state benefits", old-age social pension, disability social pension and social pension in case of loss of the breadwinner (regardless of the fact that the right to receive a pension and the payment of the pension has been terminated) awarded as prescribed by the Law of the Republic of Armenia "On state pensions" shall be renamed respectively old-age benefit, disability benefit and benefit in case of loss of the breadwinner by 1 January 2014, irrespective of the right to old-age social benefit, disability social benefit and social benefit for loss of the breadwinner prescribed by the same Law.

According to the data of the National Statistical Service of the Republic of Armenia, the number of persons receiving old-age benefit or disability benefit or benefit for loss of the breadwinner constitutes 3.1 percent of the population of the working age (16-62).

#### Family benefit and child care benefit

Information on the family benefit is presented in paragraph 1 of Article 13.

Pursuant to part 1 of Article 27 of the Law of the Republic of Armenia "On state benefits", a parent, who is on leave for taking care of a child under the age of three, shall have the right to receive benefit for the care of a child under the age of two until the child attains the age of two, as prescribed by the Labour Code of the Republic of Armenia.

#### Sickness benefit

Pursuant to Article 8 of the Law of the Republic of Armenia "On temporary incapacity and maternity benefits", the sickness benefit shall be granted to a hired employee for the working days within the period of the temporary incapacity for work, certified by the medical certificate of incapacity for work, starting from the second working day until the competent state authority carrying out medical social expert examination determines or reconsiders the disability group.

Pursuant to Article 18 of the Law, the sickness benefit shall be granted to self-employed persons only for the period of treatment at an in-patient care institution, but not more than for 60 calendar days in one calendar year.

Pursuant to part 6 of Article 24 of the Law, the benefit shall be awarded, where the documents required therefor have been submitted within a period of six months starting from the day of recovery or determining the disability group.

Pursuant to Article 22 of the Law of the Republic of Armenia "On temporary incapacity and maternity benefits" (adopted on 1 December 2010, entered into force on 1 January 2011)

- maternity benefit shall be calculated from the average monthly salary (income). The lowest threshold of the calculated average monthly salary as of the day of occurrence of the temporary incapacity for work constitutes five-fold of the monthly salary, the upper threshold for the hired employee —fifteen-fold of the minimum monthly salary, and for the self-employed person —five-fold of the minimum monthly salary;

- temporary incapacity benefit is calculated from eighty percent of the average monthly salary (income). The upper threshold of eighty percent of the calculated average monthly salary for the hired employee shall constitute ten-fold of the minimum monthly salary, and for the self-employed person — five-fold of the minimum monthly salary.

By relating the amount of benefits to the average monthly salary (income), it becomes possible to fully or partially compensate the income that the person was receiving or could have received.

Pursuant to Article 1 of the Law of the Republic of Armenia "On minimum monthly salary", on 1 July 2015, AMD 55 000 was determined as the minimum monthly salary in the Republic of Armenia.

### Unemployment benefit

The new Law of the Republic of Armenia "On employment" was adopted on 11 December 2013 (entered into force on 1 January 2014) resulting from the reforms carried out in the field of employment since 2012 and it introduced a new model of employment policy.

Within the framework of the new model, the programme for payment of the unemployment benefit has been modified with such new instruments which must, to the extent possible, serve for more active

engagement of unemployed persons in the labour market, in the processes of looking for a job and finding a suitable job and effectively filling the existing vacancies. The law vests the persons not competitive in the labour market with the right to financial assistance for visiting employers for the purpose of appropriate job placement.

There are 13 active programmes for state regulation being implemented under the new model of employment policy, of which the following are newly introduced:

1. provision of financial assistance to persons not competitive in the labour market to visit employers;
2. in case of job placement of persons not competitive in the labour market, provision of lump-sum compensation to the employer, which consists of the following two sub-programmes:
  - (1) lump-sum compensation to the employer for persons not competitive in the labour market to gain working skills and abilities;
  - (2) lump-sum compensation to the employer for adjustment of the workplace for persons not competitive in the labour market and with disabilities;
3. provision of support to rural economy through promotion of seasonal employment;
4. provision of support to persons not competitive in the labour market for making use of services provided by a non-state employment agency;
5. provision of support to persons not competitive in the labour market for small entrepreneurial activities, as well as to be involved in livestock farming.

Within the meaning of the reforms for state regulation of employment, it is worth mentioning also the approach adopted within the scope of the policy being led in the field of social protection, according to which the status of unemployed is gradually playing a dominant role in the awarding of family benefit in terms of assessment of family poverty. Within the system of assessment of indigence of families, the status of unemployed is one of the characteristics of family poverty; it increases the maximum rate entitling to receive family benefit.

Under the regulation of the previous law, state funds were mainly targeted at payment of employment benefits without exerting additional efforts. In this case:

- (1) nearly 86 percent of the funds annually provided from the State Budget of the Republic of Armenia to the programmes for state regulation of employment has been spent on unemployment benefits;
- (2) the number of benefit recipients was nearly 87 percent on average of the total number of beneficiaries of state employment programmes;
- (3) the share of benefit recipients placed in jobs within the period of receiving the benefit in the total number of benefit recipients was extremely low — nearly 10 percent, and the average duration of the benefit constituted nearly 9 months (where the maximum duration was 12 months, and the minimum duration — 6 months).

#### Old-age benefit

Pursuant to Article 29 of the Law of the Republic of Armenia "On state benefits", the person not having the right to receive a pension shall be eligible for the old-age benefit, where he or she has attained the age of 65.

The amount of the old-age benefit shall be determined by the Government of the Republic of Armenia.

Starting from 1 January 2014, the amount of the old-age pension constitutes AMD 16 000 under Decision of the Government of the Republic of Armenia No 1489-N of 26 December 2013.

### **Article 12.3.**

#### ***Information with regard to changes undertaken during the reporting period and to questions submitted by the Committee***

Pursuant to part 4 of Article 55 of the Law of the Republic of Armenia "On state pensions", supplement shall be added to the disability retirement pension starting from 1 January 2014:

(1) for the first group — in the amount of 40 percent of the basic pension for calculating the amount of the retirement pension;

(2) for the second group — in the amount of 20 percent of the basic pension for calculating the amount of the retirement pension.

1. Starting from 1 January 2014, the amount of the old-age benefit is AMD 16 000 under Decision of the Government of the Republic of Armenia No 1489-N of 26 December 2013.

2. The amounts of the disability benefit are the following:

(1) for the person having first degree of disability and person recognised as a child with disabilities — AMD 21 500;

(2) for the person having second degree of disability — AMD 19 000;

(3) for the person having third degree of disability — AMD 16 000.

3. The amount of the benefit in case of loss of the breadwinner is AMD 16 000, and in case of a child having lost both parents and not having attained the age of 18 (child learning on-site and full time) — AMD 80 000.

The edited version of the Law of the Republic of Armenia "On funded pensions" entered into force on 1 July 2014. Pursuant to Article 81 of the Law, a person had the right to refuse to perform the obligation of making social payment for the period between the day of entry into force of the Law and 1 July 2017 by submitting a relevant application to the tax authority before 25 December 2014.

The maximum time limit for refusing to make a social payment provided for by law has been extended until 1 July 2018 (the amendment to the Law of the Republic of Armenia "On funded pensions" was made under Law of the Republic of Armenia HO-76-N of 12 May 2016.)

The Law of the Republic of Armenia "On funded pensions" regulates the legal relations emerging with respect to the funded component and voluntary component of the pension scheme.

Pursuant to Article 2 of the Law of the Republic of Armenia "On funded pensions", voluntary pension contributions shall be contributions paid for (for the benefit of) a contributor by the contributor and/or another person with the aim to receive voluntary pension, and voluntary pension shall be a pension paid according to the rules prescribed by the Law of the Republic of Armenia "On funded pension" within the framework of the voluntary pension component.

The voluntary pension component has been in effect since 2011.

### **Article 13. Right to social and medical assistance**

#### **Article 13.1.**

#### ***Information with regard to changes undertaken during the reporting period and the questions submitted by the Committee***

In 2012-2015, some changes have been made to the list of the legal acts referred to in the previous report in the field of social assistance.

In particular, the state benefits of 2012-2013 were allocated in accordance with the provisions of the Law of the Republic of Armenia "On state benefits" (HO-205-N) as a separate form of financial assistance provided for by Article 10 of the Law of the Republic of Armenia "On social assistance" (HO-207-N). In 2014, the new Law of the Republic of Armenia "On state benefits" entered into force (HO-124-N, adopted on 28 December 2013 and entered into force on 1 January 2014). And the new Law of the Republic of Armenia "On social assistance" (HO-231-N) was adopted on 17 December 2014 and entered into force on 1 January 2015. The procedure and peculiarities for designating and granting state benefits, as well as the amount thereof are prescribed by the Decisions of the Government of the Republic of Armenia. Decision of the Government of the Republic of Armenia No 145-N of 1 January 2014 "On ensuring the implementation of the Law of the Republic of Armenia 'On state benefits'" which sets out the procedures for assessment of the level of indigence of families, for registration (enrolment) in the system of assessment of the level of indigence of families, for designating and granting family or social benefits or emergency assistance, etc.

In 2012-2015, the amounts of state benefits for each year have been determined in accordance with the relevant decisions of the Government of the Republic of Armenia. In 2012-2015, the funds for family (or social) benefits continued to be directed to poorer families, and mainly to households with children, in

particular to large families, having regard to the place of residence of the family, e.g. high mountainous or borderline settlements.

The subject of family (or social) benefits is family. The right to family (or social) benefit is determined based on the indirect method of assessment of the level of indigence of the family. Pursuant to the Law of the Republic of Armenia "On state benefits", the family in poverty, the unit of indigence whereof is higher than the marginal amount unit of indigence shall be granted the right to family (or social) benefit. The higher the unit, the higher level of indigence the family shall be considered to have. The family indigence unit shall be calculated in accordance with the procedure prescribed by the Government of the Republic of Armenia, having regard to the proxy variables characterising poverty, i.e. the social group of each member of the family (disabled, pensioner, child, unemployed, adult capable of working, etc.), the number of family members incapable of work, settlements, conditions at home, average monthly income, etc.; thus, 12 factors in total. Moreover, the average total monthly income of the family shall include calculated funds subject to payment and targeted at remuneration for the work of the family members and equivalent incomes, pension, benefits allocated for taking care of a child under the age of two, for elderly people, disabled and in case of loss of the breadwinner, monthly allowances to the military servants and their family members prescribed by the Law of the Republic of Armenia "On social security of military servants and their family members", as well as the income generated from cattle-raising and land use.

From 1 January 2008, the marginal unit for recognition of the right to family (or social) benefit has been reduced from "33.00" to "30.00" and it remained unchanged until 2015. Families above the marginal unit of indigence acquire the right to family (or social) benefit, and families under the marginal unit of indigence (except for those having a unit of "0") may be included in the three-month emergency assistance list, the decision with regard to which is taken in concert with the councils established as prescribed by the Law of the Republic of Armenia "On social assistance". The amount of the three-month emergency assistance is equal to the base amount of the family (or social) benefit (Table 1).

In 2012-2015, changes made in the system of family (or social) benefit mainly concerned the improvement of the procedure and administration of assessment of the level of indigence of families. The main change in the system of assessment of the level of indigence of families has been made to the structure of the average monthly income and the formula for calculating the income coefficient.

Having regard to the fact that in 2012 and 2014 the amounts of the pension have been increased, changes have been made to the system of assessment of the level of indigence of families due to which the effect of the income coefficient in the formula for assessment of the level of indigence of

families has been reduced and the impact of the influence of the increased income on the family has been neutralised.

Thus, pensioners living alone and receiving a pension are granted a benefit of up to AMD 40 500 (in 2015), which means their total income constitutes a pension in the amount of AMD 40 500 + a benefit in the amount of AMD 16 000, and unemployed pensioners living alone (or having no guardians as prescribed by law) and receiving a pension are granted a benefit of up to AMD 109 000 (in 2015), which means their total income constitutes a pension in the amount of AMD 109 000 + a benefit in the amount of AMD 16 000.

In 2015, the food poverty line was AMD 24 109, and the upper total poverty line was AMD 41 698 (NSS RA: "Social snapshot and poverty in Armenia" diagram 3.1). In case of receiving a benefit, the social transfer (pension+benefit) allocated to the pensioner amounts up to AMD 56 500.

As a result of the changes made in the procedure of assessment of the level of indigence of families, families with low income, especially those with a child also acquire the right to family (or social) benefit.

Pursuant to Article 14 of the Law of the Republic of Armenia "On state benefits" (HO-154-N), the amount of family (or social) benefit shall be determined by adding the supplements granted for each family member under the age of 18 in the family structure who is actually residing in the place of residence of the family to the base amount of the benefit. And the amount of the supplement allocated for each family member under the age of 18 shall be distinguished based on the level of indigence, settlement, number of members under the age of 18 (in case of 4 and more children) of the given family. Three levels of amounts of supplements are distinguished (Table 1). Furthermore, the larger the number of family members under the age of 18, the higher the level of indigence of the family, meaning the family is considered as indigent.

Every year, the Government of the Republic of Armenia determines the marginal unit for receiving family (or social) benefit, the base amount of benefits and supplements granted to children. The changes made are presented in Table 1 according to years.

*Table 1. Changes made during 2012-2015 with regard to the base amount of family (or social) benefit, the amounts of supplements, lump-sum financial assistance*

	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
Marginal unit	30.00	30.00	30.00	30.00
Base amount of the benefit	16 000	16 000	16 000/	17 000

				17 000		
Supplements granted to each family member under the age of 18	Distinguishing					
	30.01-35.00		5 500	5 500	5 500	5 500
		in case of 4 and more minor children (large family)	6 500	6 500	6 500	6 500
		in highland and borderline settlements	6 000	6 000	6 000	6 000
		in highland and borderline settlements and large families	7 000	7 000	7 000	7 000
	35.01-39.00		6 000	6 000	6 000	6 000
		large families	7 000	7 000	7 000	7 000
		in highland and borderline settlements	6 500	6 500	6 500	6 500
		large families in highland and borderline settlements	7 500	7 500	7 500	7 500
	39.01 and more		6 500	6 500	6 500	6 500
		large families	7 500	7 500	7 500	7 500
		in highland and borderline settlements	7 000	7 000	7 000	7 000
		large families in highland and borderline settlements	8 000	8 000	8 000	8 000
	emergency assistance		16 000	16 000	16 000	17 000
	lump-sum financial assistance, including for:					
	child birth		50 000	50 000	50 000	50 000
the third and each subsequent child born		50 000	50 000	50 000	50 000	
admission to first grade		25 000	25 000	25 000	25 000	
death of a family member		50 000	50 000	50 000	50 000	
funds (billion drams)		37.105	37.105	37.105	38.361	
average benefit		29 350	29 350	30 350	30 350	

From 2012 to 2014, the poverty level in Armenia was 32.4%, 32.0% and 30.0%, respectively. The numbers presented in Table 2 bear evidence to the fact of reduction of poverty, a higher level of awareness of the applying families, as well as direction of the funds of the State Budget of the Republic of Armenia to families with children.

*Table 2. Programme of family (or social) benefit in the Republic of Armenia  
for 2012-2015*

	2012	2013	2014	2015
registered families (% of the families of the Republic of Armenia)	15.9	16.5	17.2	18.03
families receiving benefits (% of the registered families)	76.79	78.39	76.0	76.14
number of families having actually received benefits	95 161	101 187	102 459	103 745
families receiving benefits (% of the families of the Republic of Armenia)	12.21	12.98	13.14	13.73
families with children (% of the families receiving benefits)	80.52	76.83	76.11	76.5
funds envisaged by the State Budget of the Republic of Armenia (billion)	37.105	37.105	37.105	38.361
sums of benefits actually paid	33,100.5	34,578.2	35,426.8	36,575.5
average amount of benefits	29 350	29 350	30 350	30 350

It should also be noted that from amongst the types of state benefits prescribed by Article 5 of the Law of the Republic of Armenia "On state benefits" (HO-154-N) which entered into force on 1 January 2014, family benefits are designated for families with a family member under the age of 18, and social benefits are designated for families with no family member under the age of 18, provided that the grounds prescribed by the same law and the relevant decisions of the Government of the Republic of Armenia are satisfied.

**Article 13.2.**

***Information with regard to changes undertaken during the reporting period and the questions submitted by the Committee***

Pursuant to Article 18 of the Law of the Republic of Armenia "On social assistance", any person residing in the Republic of Armenia, i.e. citizens of the Republic of Armenia, foreign nationals having the right to reside (residency status) in the Republic of Armenia, stateless persons, as well as persons holding a refugee status in the Republic of Armenia in case of presence of the grounds prescribed by law shall

have the right to social assistance. Thus, foreign nationals lawfully residing in the Republic of Armenia, when in need of social assistance, enjoy the same rights as the citizens of the Republic of Armenia where they meet the requirements prescribed by the Law of the Republic of Armenia "On social assistance". The Law of the Republic of Armenia "On social assistance" does not allow for any discrimination based on sex, race, religion, world views, political views, etc.

The list of socially insecure and separate (special) groups of the population having the right to receive medical aid and services free of charge or on preferential terms guaranteed by the state has been approved by Annex 1 to Decision of the Government of the Republic of Armenia No 318-N of 4 March 2004. During the reporting period, changes have been made to the mentioned list and the benefit recipients included in the system of family (or social) benefit and having an indigence unit of 30.00 and more have also been included in it (previously it was 38.00).

#### **Article 14. Right to use social security services**

##### **Article 14§2**

##### ***Information with regard to changes undertaken during the reporting period and the questions submitted by the Committee***

Attaching importance to the issue of providing social services in packages, steps are currently being taken to introduce an integrated social services system in the Republic of Armenia. The system envisages the involvement of co-operating partners in the process of integration through the provision of individual social services (having regard to social needs) network based on the "one-stop shop" principle which is targeted at the provision of improved services to customers. To this end, activities are being carried out also by way of informational integration.

For the purpose of introducing this system, Decision of the Government of the Republic of Armenia No 952-N was adopted on 26 July 2012 which approved the plan for introduction of the integrated social services system and envisaged the implementation of a pilot programme for the provision of integrated social services in Ararat Marz of the Republic of Armenia. Introduction of the integrated social services system implies the establishment of territorial centres for the provision of comprehensive social services in the country. Since 2013, 18 territorial centres for the provision of comprehensive social services operate in marzes of the Republic of Armenia and in the city of Yerevan. Within the framework of the Social Protection Administration Project of the World Bank, works related to the reconstruction, technical and material re-equipment of territorial centres for the provision of comprehensive social services have been carried out. Currently, works for the establishment of 20 more centres are underway.

For the purpose of ensuring the necessary legal basis for the introduction of an integrated social services system, about 30 legal acts have been adopted following adoption of the Law of the Republic of Armenia "On social assistance" (17 December 2014). Extensive training courses have been organised for the employees of the bodies included within the composition of territorial centres for the provision of comprehensive social services.

The transition to this system is a lengthy process and it should be carried out step by step and pertains to different sectors of the management sphere.

Article 20 of the Law of the Republic of Armenia "On social assistance" lays down the basic principles of social assistance, one of which is co-operation based on the collaboration and joint activity with the participants of the network supporting the provision of social assistance.

Pursuant to Article 33 of the same Law, by ensuring co-operation, the integrated social services system prevents an individual (family, other social group) from finding himself/herself in a difficult life situation and eliminates the causes and effects of appearing in a difficult life situation. Among the main components of that system are the parties to the inter-agency social co-operation and the supporting network (parties to the Agreement on Social Co-operation prescribed by the Law of the Republic of Armenia "On social assistance").

Thus, when providing integrated social services based on the assessment of social needs of an individual (family or other social group), it shall include the inter-agency co-operation targeted at satisfaction of the social needs of an individual (family or other social group) and the co-operation of the supporting network within the framework of the social agreement.

On 13 May 2016, the conclusion of the Agreement on Social Co-operation on the national level with the representatives of international and local non-governmental organisations was launched, which implies the establishment of a joint network for the exchange of information on the social sphere and implementation of activities for the purpose of detecting social needs, preventing risks, increasing the effectiveness of case management and making the provision of social assistance more addressable. The process of accession to the Agreement is open to all natural and legal persons, volunteers, as well as state administration and local self-government bodies willing to co-operate.

Since May 2016, about 45 organisations and natural persons have acceded to the Agreement on Social Co-operation on the national level. Activities targeted at the conclusion of agreements are ongoing.

Order of the Minister of Labour and Social Affairs of the Republic of Armenia No 25-N of 11 February 2016 lays down the standard form of the Agreement on Social Co-operation on the territorial level, the procedure for

adoption of the Social Agreement on the territorial level, the standard rules of procedure of the Coordinating Council established in accordance with the Agreement on Social Co-operation signed on the territorial level (registered at the Ministry of Justice of the Republic of Armenia on 11 March 2016, No 11516078).

In April and May 2016, relevant specialists of the Ministry of Labour and Social Affairs of the Republic of Armenia paid visits to marzes of the Republic of Armenia for the purpose of providing methodical assistance for the activities targeted at the conclusion of the Agreement on Social Co-operation on the territorial level and the establishment of the Coordinating Council within the framework thereof.

Within the framework of the activities pertaining to accession to the Agreement on Social Co-operation on the territorial level, as well as to establishment of the Coordinating Council, relevant statements have been posted on the official websites of marzpetarans of the Republic of Armenia (Yerevan Municipality) for the purpose of acceding to the Agreement. Furthermore, territorial bodies providing social services, territorial administration and local self-government bodies, other organisations providing social services (for example, non-governmental organisations), as well as natural persons or volunteers may be parties to the Agreement. Works are currently underway.

The above-mentioned Order lays down the following minimum requirements for accession to the Agreement:

Experience in the field of social assistance,

Implementation of programmes for the provision of social services.

Pursuant to the Law of the Republic of Armenia "On charity", volunteers shall be considered as participants of charity.

Programmes qualified as charitable shall be granted privileges with regard to taxes, duties, mandatory payments as prescribed by law.

In the "Social Policy" section of the new Programme of the Government of the Republic of Armenia, a new provision has been included, according to which the grounds required for the introduction of volunteer work in various fields shall be ensured.

The draft Decision of the Government of the Republic of Armenia "On approving the Concept Paper on the Law of the Republic of Armenia 'On volunteering and volunteer work'" has been developed and put into circulation.

*Right to appeal*

The Law of the Republic of Armenia "On fundamentals of administration and administrative proceedings" provides that, for the purpose of protecting their rights, persons shall be entitled to appeal administrative acts, action or inaction of an administrative body, and pursuant to part 12 of Article 25 of the Law of the Republic of Armenia "On social assistance", the decision, action or inaction of a territorial body providing social services may be appealed through administrative and/or judicial procedure.

## **ADDITIONAL INFORMATION**

**on Articles 7, 8, 17, 19, 27**

**With regard to the questions of the European Committee of Social Rights**

(Conclusion, 2015)

### **Article 7.10.**

A number of measures aimed at protecting the rights of children and ensuring the protection of children from any form of violence are expected to be implemented in the Republic of Armenia. A number of articles of the new draft Criminal Code of the Republic of Armenia now provide for more severe punishments for actions alleging violation of the rights of children. In particular, the current Criminal Code of the Republic of Armenia provides for punishment for the engagement of children in prostitution or in actions related to the production of pornographic materials or objects in the form of a fine in the amount of 200-fold to 400-fold of the minimum salary or detention for a period of one to three months or imprisonment for a term of one to five years.

The new Criminal Code of the Republic of Armenia provides for a more severe punishment for commission of the mentioned act. Firstly, the Article was supplemented to include a punishment also for inclining to or involving in the dissemination of such materials or actions related to the dissemination of such materials. The new draft Criminal Code of the Republic of Armenia provides for the restriction of liberty for a maximum term of three years for such an act or short-term imprisonment for a maximum term of one month, or imprisonment for a maximum term of two years. It also provides for a new quality characteristic, i.e. the use of the Internet for committing such acts which shall be punished by depriving the person from the right to hold a certain position or engage in certain activities for a term of three to

seven years, or restriction of liberty for a maximum term of three years, or short-term imprisonment for a maximum term of two months or imprisonment for a maximum term of four years.

Article 289 of the new draft Criminal Code of the Republic of Armenia provides for the prohibition of dissemination of pornographic materials or objects. Part 2 of the mentioned Article concerns the punishment prescribed for the production, dissemination of child pornography or storage of child pornography on the computer system or computer data storage system or through other means. In particular, the Article provides that such acts shall be punished by a fine in the amount of 30-fold to 50-fold of the minimum salary or public works for a term of hundred to two hundred and seventy hours or imprisonment for a term of three to five years. Where the criminal offence is committed by a parent, teacher or a person having assumed the responsibility for bringing up the child, as well as an employee of educational or healthcare organisation who was supposed to take care of the minor or supervise his or her behaviour, he or she shall be punished with imprisonment for a term of six to eight years.

As prescribed by the current legislation of the Republic of Armenia, as well as by international acts ratified and treaties signed by the Republic of Armenia, a child is any human being below the age of 18.

As regards the fact that the legislation does not provide for all forms of sexual exploitation of children under the age of 18, part 4 of Article 132 of the Criminal Code of the Republic of Armenia provides that, pursuant to the mentioned Article and Article 132.2, exploitation shall mean exploitation of prostitution or other forms of sexual exploitation, forced labour or services, slavery or situation similar to slavery, purchase or sale, harvesting of organs or tissues.

Prostitution is the provision of sexual services for financial or other material gain where the person turns his or her or another person's body into an article of commerce (prostitution of women, prostitution of minor girls, prostitution of minor boys, prostitution of adult males, etc.).

In terms of trafficking, prostitution or sexual exploitation of a person refers to a condition where the victim is engaged in the process of provision of sexual services by another person against or in spite of his or her will, i.e. the person is convinced to engage in prostitution or is subjected to other form of sexual exploitation in favour of a third party, and other forms of sexual exploitation refers to the condition where the offender forces the victim to perform, for other persons, other actions of sexual nature which do not constitute prostitution for his or her benefit. Such exploitation may include, for example, the use of persons in striptease, production of pornographic films or materials, depiction of nude body or provision of any other sexual services.

Part 2 of Article 263 of the Criminal Code of the Republic of Armenia provides for liability for demonstration of child pornography through a computer system or storage of child pornography on the computer system or computer data storage system.

For the purpose of preventing such cases, the specialised subdivision of the Police of the Republic of Armenia conducts monitoring of social networks, and now criminal cases have been instituted with regard to the revealed crimes and the perpetrators have been subjected to criminal liability.

The Law of the Republic of Armenia "On identification of and support to victims of trafficking in human beings and exploitation" was adopted in December 2014 and entered into force in July 2015. It was followed by the process of developing and introducing legal acts ensuring implementation of the law; in particular, the following decisions were drafted and approved by the Government of the Republic of Armenia:

- Decision of the Government of the Republic of Armenia No 851-N of 30 July 2015 "On approving the procedure for selection of partner non-governmental organisations, the procedure for selection of the representatives of non-governmental organisations in the Commission for identification of victims of trafficking in human beings and exploitation";
- Decision of the Prime Minister of the Republic of Armenia No 835-A of 15 September 2015 "On establishing the primary and reserve composition of the Commission for identification of victims of trafficking in human beings and exploitation";
- Decision of the Government of the Republic of Armenia No 1200-N of 15 October 2015 "On establishing the rules of procedure of the Commission for Identification of Victims of Trafficking in Human Beings and Exploitation in the Republic of Armenia and the form of the report to be submitted to the Council for the Fight against Trafficking in Human Beings and Exploitation in the Republic of Armenia by the Commission for Identification of Victims of Trafficking in Human Beings and Exploitation in the Republic of Armenia";
- Decision of the Government of the Republic of Armenia No 492-N of 5 May 2016 "On establishing the procedure for and amounts of provision of support provided for by law to potential victims, victims and special category victims of trafficking in human beings and exploitation";
- Decision of the Government of the Republic of Armenia No 353-N of 6 April 2016 "On establishing the procedure for safe return for victims and special category victims of trafficking in human beings and exploitation";

- Decision of the Government of the Republic of Armenia No 1356-N of 29 October 2015 "On approving the procedure for providing protection provided for by the Law of the Republic of Armenia 'On identification of and support to victims of trafficking in human beings and exploitation' to potential victims, victims and special category victims of trafficking in human beings and exploitation and their legal representatives".

These and a number of other documents have laid down the framework for inter-agency collaboration and co-operation with non-governmental organisations as regards the detection, support to and protection of victims.

All measures cover equally the protection of rights and interests of adults, as well as persons under the age of 18 and persons with mental disorders. The last two groups of persons are combined under one term — special category victims.

The Commission for Identification of Victims of Trafficking in Human Beings and Exploitation, which launched its activities at the Ministry of Labour and Social Affairs of the Republic of Armenia on 25 November 2015, is basically a body responsible not only for identification, but also for providing guidance, and the Ministry is responsible for organising and co-ordinating the process of providing support. Meanwhile, having regard to the peculiarities of special category victims and recognising that the current measures are not sufficient to support and protect that group with special needs, the 2016-2018 National Programme for organisation of the fight against trafficking in human beings and exploitation provides for the development of guidelines.

The 5<sup>th</sup> (2016-2018) National Programme for the fight against trafficking is already being implemented in Armenia. One of the essential components of all programmes is prevention, for the purposes whereof, in addition to other programmes, measures for the coverage, awareness-raising and specialised training are being implemented. These measures are implemented in different formats, starting from organisation of mandatory trainings for civil servants and ending with round-table discussions for different groups of specialists in marzes. Besides, activities are being carried out with mass media outlets for the purpose of ensuring proper understanding and representation of this phenomenon.

Implementation of the measures prescribed by the new 5<sup>th</sup> Programme is already underway. This stage is important in that it reflects the completely amended legislation. In three marzes of the country, trainings have been organised and were attended by the representatives of marz subdivisions of the Police of the Republic of Armenia, departments of marzpetarans, social territorial centres, employment services and guardianship authorities. These activities are ongoing.

Article 168 of the current Criminal Code of the Republic of Armenia provides for liability for purchasing a child for the purpose of assuming guardianship or selling the child for the purpose of placing him or her under the guardianship of the guardian. In the new draft Criminal Code of the Republic of Armenia, it is proposed to rename the Article as "Purchase and sale of a child". The Article also provides for a more severe punishment for this criminal offence.

The current Criminal Code of the Republic of Armenia provides for punishment only for trafficking in human beings or exploitation. In the new draft Criminal Code of the Republic of Armenia, it is proposed to separate the trafficking of more vulnerable groups, i.e. children and persons declared as having no legal capacity, from the trafficking in human beings.

Article 232 of the new draft Criminal Code of the Republic of Armenia also provides for a separate Article concerning the engagement of a child in anti-social activities.

Pursuant to the Law of the Republic of Armenia "On identification of and support to persons subjected to trafficking and exploitation", any person who has been declared as a victim by the Commission for identification, including a minor (special category victim) shall receive social assistance, i.e. free of charge medical assistance, provision of shelter, provision of education, provision of in-kind aid of first necessity, psychological, counselling assistance, care, etc. Where necessary, the victim shall receive protection which shall be provided by the specialised subdivision of the Police of the Republic of Armenia.

Besides, for the purpose of preventing the cases of trafficking or exploitation of minors, the Police of the Republic of Armenia occasionally organise meetings at educational institutions for implementation of measures to raise the awareness of minors.

On 10 August 2015, the Government of the Republic of Armenia adopted the "Strategy for solving the problem of children involved in begging and vagrancy", which envisages reducing the number of children involved in begging and vagrancy and developing systematic approaches for the solution of the problems in the field, implementing comprehensive measures for their detection, ensuring the implementation of actions required for the integration of such children into society, monitoring the issues of the field and raising awareness of the public at large, employing such children and creating the conditions necessary for the physical, mental and psychological development of these children.

When performing their official everyday duties, officers of the Police of the Republic of Armenia pay special attention to the prevention of crimes by minors, as well as the problems of children involved in begging and vagrancy.

For the purpose of preventing begging and vagrancy among minors, detecting the persons engaging them in begging, as well as improving the work carried out by the officers of the Police of the Republic of Armenia as regards children involved in begging and vagrancy, the subdivisions under Yerevan Administration of the Police of the Republic of Armenia and marz administrations of the Republic of Armenia pay occasional inspection visits in the city of Yerevan and marzes of the Republic of Armenia. For the purpose of providing the relevant assistance to minors involved in begging and vagrancy detected during inspection visits, police officers co-operate with local self-government bodies, interested institutions and non-governmental organisations.

Some of the children involved in begging and vagrancy detected as a result of the measures implemented by the Police of the Republic of Armenia are referred to the Children's Support Centre of the Fund for Armenian Relief (the Unit of Juvenile Cases of the General Department of Criminal Intelligence of the Police operating within the FAR) by the Service for Juvenile Cases of the Police of the Republic of Armenia, and there the minors receive relevant medical, psychological and moral and social assistance from a multi-specialty council (consisting of psychologists, pedagogues, social workers).

Minors involved in begging and vagrancy are also referred to community rehabilitation centres operating within the territory of the Republic of Armenia where long-term preventative treatment is provided to both minors and their parents.

The case of each minor being a beneficiary who was referred to the centre by the Police of the Republic of Armenia is examined individually, the reasons and conditions are revealed and measures for their elimination are undertaken.

It should be noted that not only minors having committed offences, but also minors subjected to abuse, in need of social and psychological assistance and those in a difficult life situation are referred to the above-mentioned centres.

When organising the works with the above-mentioned minors, the working groups of rehabilitation centres co-operate with interested state institutions, as well as local and international non-governmental organisations, with the help of which, where necessary, assistance is provided to minors being beneficiaries of the rehabilitation centres and their families.

Currently, the Police of the Republic of Armenia continues the negotiation process with international and competent state bodies for the purpose of expanding the network of community rehabilitation centres.

Motions on the detected children are also sent to the Ministry of Education and Science and Yerevan Municipality for their re-enrolment in schools, Ministry of Labour and Social Affairs of the Republic of Armenia and Ministry of Healthcare of the Republic of Armenia, as well as local self-government bodies of places of residence of the minors for the purpose of providing assistance to them.

It should be noted that the inter-agency working group established based on Order of the Head of the Police of the Republic of Armenia No 3837-A of 7 November 2013 carried out its activities in 2014-2016 for the purpose of detecting children involved in begging, solving the problems and organising joint activities with regard thereto. The activities of the group are aimed at providing the detected minors involved in begging and vagrancy and their families with relevant assistance and interference, in the course of the works carried out with them, according to fields, with the help of the specialists involved in the working group from various agencies and bodies. During the sessions, the problems of minors involved in begging and vagrancy and their families are discussed, relevant motions are submitted to the competent bodies in accordance with joint decisions for re-enrolment of minors involved in begging and vagrancy in schools, organising their summer holidays, as well as providing required assistance to a child with health problems.

#### **Article 8.4.**

By Law No HO-96-N "On making supplements and amendments to the Labour Code of the Republic of Armenia" adopted on 22 June 2015, a supplement has been made to part 4 of Article 148 of the Labour Code of the Republic of Armenia, establishing that pregnant women and employees taking care of a child under the age of three may be engaged in night work only with their consent after undergoing a preliminary medical examination and submitting a medical opinion to the employer. This implies that, in all cases when a pregnant woman or a woman taking care of a child under the age of three has been hired for night work, or when a pregnant employee or an employee taking care of a child under the age of three who works during daytime hours has been engaged in night work, or when an employee performing night work becomes pregnant, or when she returns to night work following maternity leave upon the request of the employee, undergoing a preliminary medical examination and submitting a medical opinion to the employer is a mandatory requirement.

Part 4 of Article 249 of the Labour Code of the Republic of Armenia establishes that employees working at night and on shifts must undergo a pre-entry medical examination before and periodic medical examinations during employment, according to the medical examination schedule approved by the

employer. The mentioned provision of the Code applies to all employees working at night and on shifts, and in this regard, individual employee categories are not specified.

Pursuant to part 7 of Article 249 of the Code, "the list of professions and jobs subject to preliminary and periodic mandatory medical examinations, as well as the procedure for conducting medical examinations, shall be defined by the Government of the Republic of Armenia". The procedure for conducting mandatory preliminary (pre-entry) and periodic medical examinations of the health status of separate groups of population exposed to harmful and dangerous factors in the industrial environment and working process, the list of harmful and dangerous factors in the industrial environment and working process, nature of works performed, scope of the medical examinations, and of medical contra-indications, the list of general medical

contra-indications for permitting employment connected with harmful and dangerous factors in the industrial environment and working process, and the procedure for hygienic characterisation of working conditions have been approved by Decision of the Government of the Republic of Armenia No 1089-N of 15 July 2004. Decision of the Government of the Republic of Armenia No 1089-N of 15 July 2004 does not prescribe any distinctive aspects for periodic medical examinations for establishing the compatibility of night work with pregnancy or the period of breast-feeding; besides, in Annex 3 to the aforementioned Decision, pregnancy and the period of breast-feeding are included in the list of general medical contra-indications for permitting employment connected with harmful and dangerous factors in the industrial environment and working process.

At the same time, when providing obstetric and gynaecological aid and services during prenatal care for pregnant women and during postnatal care for puerperal women, obstetrician-gynaecologists advise women performing night work to avoid night work and issue a relevant statement of information to be presented to the employer.

As for the Committee's statement that "nothing shows that night work in this context is considered as heavy or harmful work", it should be noted that, according to the sanitary rules and norms titled "Hygienic classification of work according to harmful and dangerous factors in the industrial environment and heaviness and stress indicators of the working process" N 2.2-002-05 approved by Order No 756-N of the Minister of Health of the Republic of Armenia of 15 August 2005, work stress, as a working process factor, is a characteristic of the working process and mainly reflects the pressure on the central nervous system, sensory organs and emotions of the employee. The factors characterising work stress

are mental stress, stress on sensory organs and emotional stress, as well as the work schedule. In accordance with the indicators provided in Table 13 of the sanitary rules and norms titled "Hygienic classification of work according to harmful and dangerous factors in the industrial environment and heaviness and stress indicators of the working process" N 2.2-002-05, the norm for optimal (low stress) and permissible (average stress) working conditions is working conditions of one-shift work or two-shift work—without a night shift; otherwise, when night work is present, the working conditions are considered harmful (stressful), depending on the number and duration of the shifts and the rest schedule.

Part 4 of Article 258 (Protection of motherhood) of the Labour Code of the Republic of Armenia provides that where a pregnant woman or a woman taking care of a child under the age of one needs to undergo a medical examination during the working time, the employer shall be obliged to release her from the performance of work duties while maintaining the average salary which shall be calculated on the basis of the average hourly salary rate.

#### **Article 17.1.**

The legislation of the Republic of Armenia makes no distinction between children born to married parents and children born to unmarried parents. All children are equal before the law, without distinction of any kind.

#### **Article 19.2.**

There are seven Migration Resource Centres operating within the scope of the functions of the territorial centres of the State Employment Agency of the Ministry of Labour and Social Affairs of the Republic of Armenia and they currently provide potential emigrants with pre-migration consulting services; they also assist returning migrants in re-integration into the labour market, engaging them in state employment programmes and, where necessary, referring them to other currently active organisations providing services related to re-integration.

The following are the target groups of Migration Resource Centres:

- potential labour migrants;
- actual labour migrants;

- persons looking for a job abroad on temporary contractual basis;
- returning migrants.

Migration Resource Centres provide the following consulting services:

- providing persons leaving for work abroad with consultation on the labour migration legislation of the relevant country and informational materials;
- providing returnees with consultation on the procedure for registration with employment centres, on vacancies, as well as on annual state employment programmes;
- introducing the migration legislation of the Republic of Armenia, international treaties and the policy of the European Union on migration;
- presenting the "How to find a job" online training course;
- protecting the interests of natural persons of the Republic of Armenia and providing assistance to them.

Pursuant to point 7 of the Procedure for specification of non-competitiveness of an unemployed person in the labour market in the new Law "On employment" adopted in 2014, that is, the risk of leaving for work abroad, emigrants are considered as vulnerable groups; thus, they may, in priority order, be engaged in all 13 annual state programmes for employment assistance.

It should be noted that, in general, 2019 returning migrants have applied to the State Employment Agency, 286 of which have been engaged in the annual employment programmes.

The hotline of the State Employment Agency provides persons leaving for work abroad with consultation on the labour migration legislation of the relevant country.

The activities aimed at regulating irregular migration are also included in the priority actions of the State Employment Agency. Based on these goals, the Migration Resource Centres, on a daily basis, provide citizens with assistance and consultation, as well as, where necessary, with informational materials.

During 2016, a number of informational materials targeted at capacity building of Migration Resource Centres were developed, particularly in regard to:

- the rights and duties of labour migrants deemed to be citizens of the Republic of Armenia leaving for EAEU countries;

- the algorithm for making "income-expenses" comparisons for decision-making prior to leaving for labour migrants deemed to be citizens of the Republic of Armenia leaving for EAEU and EU countries;
- the main problems and difficulties that labour migrants deemed to be citizens of the Republic of Armenia face in EAEU countries;
- a guide for prevention of irregular migration has been developed for employees of Migration Resource Centres jointly with the International Organisation for Migration;
- A three-day training course based on the country-specific study on "Management of the process of orientation of Armenian labour migrants before leaving: aimed at the identification of gaps and identification and assessment of needs" was jointly organised with the International Organisation for Migration. Among the participants of the course were employees of the territorial centres of the State Employment Agency, co-ordinators of Migration Resource Centres, as well as employees of other subdivisions of the Ministry.

During 2016, the representation of the International Centre for Migration Policy Development in Armenia organised a seminar/consultation with journalists covering migration issues during which the skills of analysing information required for correct coverage of labour migration, reliable sources of information and the importance of correctly distinguishing those flows and emigration were presented.

During 2016, a test labour migration-mapping was conducted by Migration Resource Centres with the aim to moderate more targeted activities with communities, based on the needs of the population of the specific community.

The department for labour migration operating within the composition of the State Employment Agency has drawn up a questionnaire for assessing the knowledge, capabilities and level of awareness of returning migrants. Through the questionnaire, Migration Resource Centres carry out monitoring and develop new approaches aimed at raising the level of awareness of returning migrants. Targeted programmes are drawn up for migrants based on the results of the questionnaire for the assessment of needs.

In co-operation with a number of international organisations, training courses have been organised for nearly 650 returning migrants, 150 of which were related to commercial activities. As a result of the programme, jointly with the programme "For the provision of assistance for small entrepreneurial activities of persons not competitive in the labour market, as well as for the engagement in cattle-

raising", 16 returning migrants from different marzes of the Republic of Armenia have received necessary equipment to start their businesses.

The main destination countries of Armenian labour migrants have been examined, and a "decision tree" for making a decision to leave for labour migration has been drawn up, allowing migrants to have an idea of what they can expect from working abroad.

The State Employment Agency, in co-operation with the International Organisation for Migration and the "Armenian Caritas" Benevolent Non-Governmental Organisation, is going to introduce the idea of a Mobile Migration Resource Centre.

The goal of a Mobile Migration Resource Centre is to raise the level of awareness of the population about employment and migration programmes, to assess the needs of migrants, as well as to carry out the registration of residents of remote regions in a more effective manner, as a result of which citizens will be more informed and protected.

The advantage of a Mobile Migration Resource Centre is that it will make migration consultancy accessible also for people who live in remote areas and who do not have the opportunity to go to a territorial centre to receive consultation and register.

The Policy Concept for the integration of persons recognised as refugees and having received asylum in the Republic of Armenia, as well as long-term migrants was approved upon Protocol Decision No 28 of the sitting of the Government of the Republic of Armenia of 21 July 2016. The goal of the Concept is to fill the existing gap in the migration policy of the Republic of Armenia by defining target groups of immigrants and the possible directions for their integration, taking into account the best international practices in this sector. The Concept sets the objective to specify the possible objects for integration, which implies choosing, by way of application of certain standards, from all groups of immigrants residing in the Republic of Armenia, the target groups for the policy on integration of immigrants in the Republic of Armenia for the upcoming years, as well as the following types or integration components of the assistance to be provided: (1) command of the language of the host country, (2) familiarisation with the social and cultural life in the host country, (3) provision of temporary asylum in the host country, (4) entry into the labour market of the host country.

#### **Article 19.4.**

Pursuant to the Law of the Republic of Armenia "On employment" entered into force starting from 1 January 2014, the new employment policy model has been introduced, including programmes having exclusively active nature and aimed at ensuring stable employment for unemployed persons, including, especially, persons not competitive in the labour market and returning migrants.

The Procedure for specification of non-competitiveness of persons with additional difficulties with and certain limitations for integration in the labour market has been approved by Annex 14 to Decision No 534-N of the Government of the Republic of Armenia of 17 April 2014, pursuant to which the risk of a person leaving for work abroad is one of the conditions for recognising an unemployed person as not competitive in the labour market. In particular, sub-point 18 of point 5 of the aforementioned Procedure envisages that an unemployed person shall be recognised as not competitive in the labour market, where the person has returned from abroad, but has not been able to be employed within one year following return or has left for abroad more than once within the last three years and has, during each leave, lived in the destination country for more than one month or has lived abroad for more than one year within the last three years. The mentioned persons shall have priority to be engaged in state programmes for regulation of employment.

New working tools and measures (job clubs, councils of employers, employment forums, migration resource centres) have been introduced in the employment sector within the scope of international programmes for the purpose of raising the quality of services being provided to persons not competitive in the labour market.

Currently, there are 13 state programmes for regulation of employment in which migrant workers may be engaged as persons not competitive in the labour market.

As of 1 December 2016, 1 065 returning migrants are registered at territorial centres of the State Employment Agency. During 2015 and 2016, 286 returning migrants have been engaged in the state programmes for regulation of employment.

Article 45 of the Constitution of the Republic of Armenia amended as of 6 December 2015 stipulates that everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of labour interests.

Pursuant to point 3 of Article 3 of the Labour Code of the Republic of Armenia, the main principles of the labour legislation are the following:

- legal equality of parties to employment relations, irrespective of their gender, race, national origin, language, origin, nationality, social status, religion, marital status, age, beliefs or views, affiliation

to political parties, trade unions or non-governmental organisations, other circumstances not associated with the professional skills of an employee;

- ensuring the right to freedom of association of employers and employees with others for the protection of employment rights and interests (including the right to form or join trade unions and employers' associations);
- freedom to collective bargaining.

At the same time, pursuant to point (b) of Article 3 of the Law of the Republic of Armenia "On trade unions", one of the core principles of the activities of a trade union is voluntary participation (membership) in trade unions.

Taking as a basis the aforementioned legislative regulations, migrant workers are free to form or join trade unions.

#### **Article 19.5.**

Pursuant to Article 3 of the Law of the Republic of Armenia "On income tax", resident and non-resident natural persons of the Republic of Armenia shall be considered as income taxpayers in the Republic of Armenia. Within the meaning of the Law of the Republic of Armenia "On income tax", resident shall be deemed to be the natural person who has been in the Republic of Armenia for a total of 183 days or more in any 12-month period which starts or ends during the tax year (from 1 January to 31 December), or whose centre of vital interests is in the Republic of Armenia. Moreover, the centre of vital interests shall be deemed to be the place where a person's family or economic interests are concentrated. Particularly, the centre of vital interests of a natural person shall be deemed to be in the Republic of Armenia, where the house or the apartment where the person's family resides, or his or her (his or her family's) main personal or family property, as well as the main place of the economic (professional) activity is in the Republic of Armenia.

Pursuant to Article 4 of the Law of the Republic of Armenia "On income tax", a taxable object for a resident shall be deemed to be the accrued taxable income to be derived within and outside the territory of the Republic of Armenia (derived within the scope of civil law contracts with respect to passive incomes, as well as natural persons not deemed to be individual entrepreneurs or notaries). A taxable object for a

non-resident shall be deemed to be the accrued taxable income to be derived from the Armenian sources (derived within the scope of civil law contracts with respect to passive incomes, as well as natural persons not deemed to be individual entrepreneurs or notaries). Taxable income shall be the positive difference of the gross income of a taxpayer in the reporting period and the deductible incomes and expenses prescribed by the Law of the Republic of Armenia "On income tax."

The salaries of resident and non-resident natural persons (including foreign citizens) and the incomes equivalent thereto shall be taxed in the same way, based on the scale defined by point 1 of part 1 of Article 10 of the Law of the Republic of Armenia "On income tax" — once a month, and no kind of peculiarity (difference) of taxation is stipulated.

At the same time, pursuant to point 1 of part 1 and part 3 of Article 5 of the Law of the Republic of Armenia "On funded pensions", hired employees born on 1 January 1974 and later shall pay social contributions in the Republic of Armenia. This also concerns foreign citizens and stateless persons holding the right (residency status) to reside in the Republic of Armenia who pay social contributions on a general basis, through the procedure established for the citizens of the Republic of Armenia, unless otherwise provided for by the international treaties of the Republic of Armenia.

#### **Article 19.7.**

##### *Ensuring the right to apply to court*

Article 63 of the Constitution of the Republic of Armenia, adopted through a referendum held on 6 December 2015, guarantees the right to a fair trial. In particular, pursuant to point 1 of the aforementioned Article, "Everyone shall have the right to a fair and public hearing of his or her case within a reasonable time period, by an independent and impartial court. It stems from this that the Constitution of the Republic of Armenia guarantees the right of everyone to a fair trial, including migrant workers."

Pursuant to Article 2 of the Civil Procedure Code of the Republic of Armenia, "An interested person shall have the right to apply to court, as prescribed by this Code, in order to protect his or her rights, freedoms and legal interests stipulated by the Constitution of the Republic of Armenia, laws and other legal acts or envisaged by a contract. For the purpose of protecting the rights, freedoms and legal interests of others — in the cases envisaged by this Code and other laws — persons entitled to act for such a protection shall have the right to apply to court." It follows from this Article that a migrant worker may also act as an interested person.

At the same time, it should be noted that the Draft of the new Civil Procedure Code of the Republic of Armenia, Article 4 of which expands the scope of persons entitled to apply to court, is currently in circulation. In particular, pursuant to Article 4 of the Draft, "Everyone shall have the right to apply to court, as prescribed by this Code, in order to protect his or her rights, freedoms and legal interests stipulated by the Constitution of the Republic of Armenia, laws and other legal acts or envisaged by a contract."

Pursuant to Article 3 of the Administrative Procedure Code, "Each natural or legal person shall have the right to apply to the Administrative Court, as prescribed by this Code, where the latter considers that the administrative act, action or inaction of state or local self-government body or the official thereof have:

(1) violated or may directly violate the rights and freedoms of the latter enshrined by the Constitution of the Republic of Armenia, international treaties, laws and other legal acts of the Republic of Armenia, including where:

- a. obstacles have been created for the exercise of those rights and freedoms;
- b. necessary conditions have not been ensured for the exercise of those rights, which, however, must have been ensured by virtue of the Constitution, international treaties, the law or other legal act.

#### *Ensuring the right to receive free legal aid*

According to Article 64 of the Constitution of the Republic of Armenia, "Everyone shall have the right to receive legal aid. In cases prescribed by law, legal aid shall be provided at the expense of state funds. With a view to ensuring legal aid, advocacy based on independence, self-governance and legal equality of advocates shall be guaranteed. The status, rights and responsibilities of advocates shall be prescribed by law."

Part 3 of Article 6 of the Law of the Republic of Armenia "On advocacy" stipulates that legal aid may, upon the consent of an advocate, be provided gratuitously, and Article 4 establishes that the State shall guarantee free legal aid for persons provided for by Article 41 of the mentioned Law, in the cases and manner provided for by Article 41.

Chapter 7 of the Law of the Republic of Armenia "On advocacy" completely concerns public defence. In particular, pursuant to part 1 of Article 41 of the Law, public defence shall be deemed to be free legal aid provided in the cases prescribed by the mentioned Article.

Part 2 of the Article stipulates that free legal aid shall include:

(1) advice – drawing up of the statements of claims, applications, appeals and other procedural documents of legal nature, including provision of legal information;

(2) representation or defence in criminal, civil, administrative and constitutional cases.

Pursuant to part 3 of the Article, "Within the meaning of this Article, the representation or defence shall be exercised in pre-trial criminal proceedings, in courts of first instance, courts of appeal and the Court of Cassation of the Republic of Armenia, as well as in the Constitutional Court of the Republic of Armenia."

Part 4 of the Article establishes that "The body conducting criminal proceedings shall ensure free legal aid through the Office of Public Defender in cases provided for by the legislation or international treaties of the Republic of Armenia or where the interest of justice so requires."

Part 5 of Article 41 defines the scope of persons who are provided with free legal aid, particularly:

(1) family members of a military servant deceased while protecting the borders of the Republic of Armenia;

(2) disabled persons of groups I and II;

(3) convicts;

(4) family members registered in the system of assessment of the level of indigence of families and having an indigence unit that is higher than "zero";

(5) participants of the Great Patriotic War, of combat operations during the protection of the borders of the Republic of Armenia;

(6) unemployed persons;

(7) pensioners living alone;

(8) children left without parental care, as well as persons falling under the category of children left without parental care;

(9) refugees;

(10) those having received temporary asylum in the Republic of Armenia;

(11) insolvent natural persons submitting authentic data certifying the insolvency thereof. Within the meaning of this point, a natural person shall be considered as insolvent, where he or she does not have sufficient income, a jointly residing and employed family member, as well as does not have, by the right

of ownership, other than the personal apartment, an immovable property or vehicle the cost whereof exceeds one-thousand-fold of the minimum salary;

(12) persons with mental disorders receiving treatment within a psychiatric organisation;

(13) persons recognised as victims or special category victims by the Commission for Identification of Victims of Trafficking in Human Beings and Exploitation, as prescribed by law;

(14) those seeking asylum in the Republic of Armenia.

It follows from this that where a migrant worker complies with any one of the aforementioned criteria, the migrant worker may, as prescribed by law, be provided with free legal aid.

At the same time, it is necessary to inform that the Draft Law of the Republic of Armenia "On making amendments and supplements to the Law of the Republic of Armenia 'On advocacy'" is in circulation. The Draft establishes that public defence may also be organised via advocates not deemed to be public defenders, attendees of the School of Advocates, as well as lawyers of organisations who have been included in the list of persons providing free legal advice moderated by the Office of Public Defender. The procedure for being included in the list of persons providing free legal advice and for completing that list shall be established by the Board of the Chamber of Advocates. At the same time, the Draft envisages granting the right to receive free legal aid also to foreigners and asylum seekers in order to appeal the decision on expulsion.

Thus, with the adoption of relevant legislative acts, the peculiarities of the rights of foreign advocates, the procedures for the training of advocates will be specified, the scope of persons receiving free legal aid will be expanded, non-advocates may also exercise public defence and several procedural issues will be regulated more comprehensively.

Article 10 of the Criminal Procedure Code of the Republic of Armenia guarantees the right to receive legal aid, particularly:

1. Everyone shall have the right to receive legal aid as provided for by this Code.
2. Where the suspect or the accused expresses an intention or where it is required for the interest of justice, as well as in mandatory cases provided for by this Code and the international treaties of the Republic of Armenia, the body conducting criminal proceedings shall be obliged to ensure their right to legal aid.

3. In the course of criminal procedure, a civil plaintiff or a legal representative thereof, a legal representative of the suspect and the accused, as well as a civil respondent shall have the right to benefit from legal aid provided by representatives invited thereby.
4. At the time of interrogation of a victim, the criminal prosecution body shall not have the right to prohibit the participation of an advocate invited by the victim as a representative.
5. The body conducting criminal proceedings may take a decision on providing the suspect or the accused with free legal aid having regard to their property status.

The following is defined by Article 165 of the Criminal Procedure Code of the Republic of Armenia:

1. Legal aid provided to the suspect and the accused by a counsel shall be remunerated at the client's expense under the conditions mutually agreed upon by the counsel and the client or shall be provided free of charge upon the consent of the counsel.
2. Legal aid provided to the suspect and the accused by an assigned counsel shall be remunerated at the expense of the State Budget, unless the client has concluded an agreement with the counsel and the counsel has declared about providing aid free of charge. The amount of money to be paid to an assigned counsel shall be determined by the counsel for an hour of work in the amount of per hour salary of a prosecutor after submitting an invoice to the body conducting criminal proceedings. The court shall have the right to impose an obligation on a convict of compensating the costs incurred by the State for paying for legal aid provided to him or her, except for cases when legal aid to the suspect and the accused must be provided free of charge, in accordance with the provisions of this Code.
3. The body conducting criminal proceedings shall take a reasoned decision on exempting the suspect or the accused from payment for legal aid in whole or in part.
4. Legal aid of an advocate participating in criminal proceedings as an assigned counsel to the suspect and the accused who have waived the defence shall be provided free of charge, unless their waiver of defence is accepted by the body conducting proceedings.
5. The remuneration of a counsel providing free legal aid to the suspect or the accused shall be made in the manner provided for in part 2 of this Article."

Part 2 of Article 29 of the Law of the Republic of Armenia "On foreigners" stipulates that "For the purpose of providing accurate information to foreign workers, the authorised body shall provide free aid and service, consultation targeted at the fight against misleading information. The authorised body shall be obliged to, in the manner prescribed by the Government of the Republic of Armenia, provide free

consultation to a foreigner, prior to his or her entry into the Republic of Armenia, on the provisions of the employment contract concluded between the employer and him or her."

At the same time, it should be noted that Article 99 of the Draft of the new Civil Procedure Code of the Republic of Armenia stipulates that "Where the Office of Public Defender has provided free legal aid to the person participating in the case and the judicial act is in favour of that person, the expenses provided for by this Article shall be levied in a reasonable amount, as prescribed by this Code, to the State Budget of the Republic of Armenia from the person participating in the case whereon the obligation of compensating the judicial costs has been imposed."

*Provision of translation services during judicial proceedings and procedure for remuneration thereof*

The opportunity of providing a free-of-charge translation service and the regulations regarding the language used during a legal case shall be prescribed by the Criminal Code, Civil Code, Administrative Procedure Code and Judicial Code of the Republic of Armenia. In particular:

Pursuant to Article 15 of the Criminal Procedure Code of the Republic of Armenia:

1. In the Republic of Armenia, criminal procedure shall be conducted in Armenian. In the course of criminal procedure, every person, with the exception of the body conducting criminal proceedings, shall have the right to use the language he or she has knowledge of.
2. Upon a decision of the body conducting criminal proceedings, persons participating in the criminal procedure, who lack knowledge of the language of the criminal procedure, shall be provided with an opportunity to exercise the rights thereof prescribed by this Code with the aid of a translator at the expense of state funds.
3. The respective persons, who lack knowledge of the language of criminal procedure shall be provided with the certified copies of documents to be handed out as provided for by this Code, in the language they have knowledge of.
4. Documents in other languages shall be attached to the file of a case with their translations into Armenian.

Part 2 of Article 46 of the Civil Procedure Code of the Republic of Armenia prescribes that: "The court shall have the right to appoint a translator upon the proposal of a party, who shall pay for the services of the translator."

It should be noted that the new draft Civil Procedure Code of the Republic of Armenia has currently been put into circulation. Point 4 of Article 13 of the Draft provides for the following: "The Court shall, at the expense of the Republic of Armenia, ensure provision of services of a translator to the person participating in the case, the expert appointed on the initiative thereof or a witness invited upon the motion thereof, where the relevant person lacks knowledge of Armenian and proves that he or she does not have sufficient funds for ensuring provision of paid translation services." Point 7 of the same Article prescribes that: "Where a need arises for the provision of translation services at the expense of the Republic of Armenia, in the cases provided for by parts 4-6 of this Article the procedure for appointing a translator, the amount of and procedure for remuneration thereof based on the court decision shall be prescribed by the decision of the Government of the Republic of Armenia." Part 2 of Article 42 of the Draft prescribes that: "The judge, witness, expert or clerk of the court shall not have the right to assume the responsibilities of a translator. Persons participating in the case or representatives thereof may assume the responsibilities of a translator, where there is no conflict of interests between them".

The Draft also prescribes that the translator provided at the expense of the state must be qualified. The procedure for qualification of a translator shall be prescribed by the Government of the Republic of Armenia.

Part 1 of Article 98 of the Draft prescribes that the fees for the services provided by the translator, in particular, the travel expenses of witnesses, experts and translators for appearing in court shall be subject to compensation. They shall also be paid per diem and overnight accommodation. In case of leaving the place of residence for another place at a distance of up to 30 kilometres or, irrespective of distance, leaving the place of residence and returning on the same day, only the travel costs shall be compensated.

Article 9 of the Administrative Procedure Code of the Republic of Armenia prescribes that:

- "1. The administrative proceedings shall be conducted in Armenian.
2. The party, his or her representative, the expert assigned on the initiative of the party or the witness invited upon the motion of the party shall have the right to use in the court the language preferred by him or her, where the party ensures provision of translation into Armenian. The judge, parties, witnesses, experts and representatives shall not have the right to assume the responsibilities of a translator even if they have knowledge of the language needed for translation.

3. The Court shall — at the expense of funds from the State Budget of the Republic of Armenia — ensure provision of translation services to the natural person acting as a party, the expert assigned on the initiative thereof or the witness invited upon the motion of the party, where the relevant person lacks knowledge of Armenian, and the party proves that he or she does not have sufficient funds for ensuring provision of paid translation services.

4. The Court shall — at the expense of funds from the State Budget of the Republic of Armenia — ensure provision of translation services to the expert assigned by the court and the witness invited on the initiative of the court, where the relevant person lacks knowledge of Armenian.

5. Where it is necessary to provide services of a translator at the expense of the State Budget of the Republic of Armenia, the translator shall be appointed as prescribed by the Judicial Code of the Republic of Armenia."

Article 19 of the Judicial Code of the Republic of Armenia prescribes that:

"1. In the Republic of Armenia, the proceedings shall be conducted in Armenian.

2. Persons participating in the case shall have the right use in the court the language they prefer, where translation into Armenian is provided.

3. The Court shall—at the expense of the Republic of Armenia— ensure provision of translation services to persons participating in the criminal case but lack knowledge of Armenian.

4. The Court shall—at the expense of the Republic of Armenia—ensure provision of translation services to natural persons participating in administrative cases and certain civil cases prescribed by law, if they lack knowledge of Armenian and prove that they do not have sufficient funds for ensuring provision of paid translation services.

5. Where it is necessary to provide services of a translator at the expense of the Republic of Armenia, a translator shall be appointed as prescribed by the Government of the Republic of Armenia (hereinafter referred to as "the Government") based on a court decision. The amount of and procedure for remuneration of translators shall be prescribed by the Government".

### Summary

Taking into consideration the aforementioned legislative regulations, equal treatment and conditions, as compared with Armenians by national origin, are prescribed for migrant workers in respect of provision of legal assistance in relevant legal processes and making use of translation services.

#### **Article 19.8.**

Article 31 of the Law of the Republic of Armenia "On foreigners" prescribes a provision on expulsion of a foreigner where the latter fails to voluntarily leave the territory of the Republic of Armenia in cases provided for by Article 30 of the same law, but prior to carrying out the expulsion, the police shall—as prescribed by Annex 2 to Decision of the Government of the Republic of Armenia No 134-N of 7 February 2008—adopt a decision on rejecting the provision of residency status, one copy whereof shall be provided to the foreigner. Pursuant to the aforementioned decision, a foreigner shall be provided a time limit prescribed by law for legalising his or her residency on another ground or for voluntarily leaving the territory of the Republic of Armenia; it is also stipulated that he or she shall have the right to appeal against that decision as prescribed by law. Immediate expulsion shall not be carried out even in the case of failure to leave or appeal against the decision through judicial procedure, but instead an action on expulsion shall be instituted and filed with the court. Moreover, before instituting an action, the circumstances ruling out expulsion shall be taken into consideration, while action shall not be brought given their presence. During the consideration of each expulsion case through court procedure, the issue of conformity with the obligations assumed under international treaties is determined and reference is made to the circumstances ruling out expulsion.

The circumstance — prescribed by sub-point (d) of part 1 of Article 21 of the Law of the Republic of Armenia "On foreigners" — of declaring the residency status of a foreigner invalid shall also refer to the aforementioned. In this case, the Police of the Republic of Armenia shall — pursuant to the requirement of point 2 of Annex No 2 to Decision of the Government of the Republic of Armenia No 134-N of 7 February 2008— co-ordinate the issue of granting a residency status with the National Security Service adjunct to the Government of the Republic of Armenia. Where the objection of the National Security Service adjunct to the Government of the Republic of Armenia serves as a ground for rejection of granting a residency status, the foreigner shall be informed thereon by a decision and shall be provided a time limit, prescribed by law, for leaving the Republic of Armenia or appealing against that decision.

In practice, except for the cases of not obtaining a residency status or termination thereof on the ground of posing a threat to the national security, other foreigners, who stay in the Republic of Armenia illegally, shall not be expelled; instead, administrative sanctions shall be applied against them (in particular, fine in the amount of 50-100-fold of the prescribed minimum salary), which has to do with both the absence of relevant resources (financial means, relevant number of workers, etc.) and the opportunity to identify illegally staying foreigners, as well as with the circumstances of legalisation by a foreigner of his or her residence on other grounds of paying the administrative fine provided for by law.

Sub-point (d) of part 1 of Article 8 of the Law of the Republic of Armenia "On foreigners" prescribes that rejection of issuance of an entry visa on the ground of suffering from an infectious disease threatening the health of population shall be applied exclusively to the persons entering the Republic of Armenia. Decision of the Government of the Republic of Armenia No 49-N of 25 January 2008 prescribes the list of the infectious diseases in case whereof the entry of foreign citizens or stateless persons to the Republic of Armenia is banned, pursuant to which the following shall be considered as such diseases:

1. plague (lung form);
2. cholera;
3. active tuberculosis of respiratory organs (all forms with pathogen release);
4. tropical malaria;
5. atypical pneumonia;
6. new subtype (logotype) of influenza;
7. viral hemorrhagic fevers (Ebola, Marburg, Lassa);
8. Middle East Respiratory Syndrome (Coronavirus (CoV)).

If a foreigner in the Republic of Armenia suffers from one of the aforementioned diseases, this shall not serve as a ground for expelling the latter from the Republic of Armenia.

Based on the aforementioned, it should be noted that migrants legally residing (staying) in the Republic of Armenia shall not be expelled from the territory of the state if there are no serious and substantial threats to the national security and public order of the Republic of Armenia, in respect of which the National Security Service of the Republic of Armenia delivers an opinion.

Since 2014, 2 persons have so far been expelled from the territory of the Republic of Armenia on the ground of posing a serious and substantial threat to the national security or public order of the Republic of Armenia. The expulsion process of another person on the same grounds is underway.

## **Article 27.1.**

### *Employment, vocational guidance, training*

The institutions of primary and secondary vocational education and training (PVET) hold – in the manner prescribed by the charter thereof – different short-term courses, the volumes whereof increase year by year. There are no age restrictions for applying for the courses. They may also be attended by persons having family obligations, who wish to return to professional life, which can help ensure their employment in the labour market.

### *Child day care services and other regulations pertaining child care*

In 2015, enrolment of children (among 0-5 age group) in pre-school institutions amounted to 28.6%, in the urban and rural communities –, 35.7% and 16.6% respectively. In 2013, enrolment of children amounted to 27.3%, compared to 24.2 % percent in 2008.

For the purpose of regulating legal, organisational and financial grounds of the system operation and development, the Government of the Republic of Armenia has approved the Strategic Programme for Reforms in Pre-School Education of the Republic of Armenia for 2008-2015, based on which, on 4 November 2010, the Government of the Republic of Armenia approved Decision No 1427-N "On funding the expenditures for the organisation of education of senior pre-school age children". With the aforementioned legal acts, the Government of the Republic of Armenia has adopted as a strategic goal the state policy on ensuring the universal education of senior pre-school age children. Pre-school institutions have mainly operated under the subordination of communities; no services having been provided in the aforementioned sector at the expense of the State Budget of the Republic of Armenia until 2011; instead, they were provided at the expense of funds allocated by the community and sometimes at the expense of financial support granted by international organisations.

In order to support the sector and ensure the availability of pre-school educational services in different regions of the Republic of Armenia, funds have been allocated for implementation of pilot programs through the application of cost-efficient models. Within the framework of the second loan project "Education Quality and Relevance" implemented with the support of the World Bank, 72 micro-projects were implemented in the communities of 10 marzes of Armenia in 2013, including 8 in Aragatsotn Marz, 7 in Ararat Marz, 13 in Armavir Marz, 11 in Gegharkunik Marz, 5 in Lori Marz, 5 in Kotayk Marz, 14 in

Shirak Marz, 3 in Syunik Marz, 3 in Vayots Dzor Marz and 3 in Tavush Marz. As a result of implementation of the aforementioned micro-projects, nearly 1850 children were additionally enrolled in pre-school education. In 2014, 14 pre-school micro-projects were implemented, as a result of which nearly 350 children were additionally enrolled in pre-school education. In 2015, 33 pre-school institutions were established in 13 communities, 12 communities and 8 communities of the Kotayk, Shirak and Gegharkunik Marzes, respectively, where activities for improving relevant territories and replenishing them with property were carried out, as well as necessary educational and methodological materials, toys, stationary, etc. were obtained. As a result of implementation of the aforementioned micro-projects, nearly 1170 children were additionally enrolled in pre-school education in 2015; at the same time, 79 educators of 33 pre-school institutions underwent training provided by the National Institute of Education of the Ministry of Education and Science of the Republic of Armenia.

In 2016, it is planned to establish about 30 pre-school institutions and increase enrolment in pre-school education up to nearly 600 children.

“Step by Step” organisation has continued carrying out trainings for pre-school institution educators (2 pedagogues from each institution).

In order to ensure the continuity of implementation of the pre-school programmes, since 2011, funds have been earmarked in the State Budget in respect of the current expenditures for organising the one-year education of senior pre-school age children, proceeding from the annual amount envisaged for one learner according to the funding formula based on the number of pupils. In 2013, AMD 276.8 million was allocated from the State Budget for the pre-school education of senior pre-school age children in 9 marzes of the Republic. In 2013, the number of children enrolled in pre-school education amounted to 345 in Aragatsotn Marz, 390 in Ararat Marz, 452 in Armavir Marz, 320 in Gegharkunik Marz, 202 in Lori Marz, 670 in Shirak Marz, 91 in Syunik Marz, 161 in Vayots Dzor Marz and 155 in Tavush Marz. In 2014, AMD 494.6 million was allocated for the pre-school education of senior pre-school age children in all marzes of the Republic. In 2014, 3851 children were enrolled in pre-school education.

In 2015, 5310 children were enrolled in pre-school education.

The number of the pupils enrolled in the senior groups of the pre-school educational institutions of the Republic of Armenia (5-6 years old) amounts to 31345, which is almost 71 percent of the overall number of 44313 of 5-6 year-olds residing in the Republic.

For the aforementioned purpose, AMD 657.4 million was allocated from the State Budget of the Republic of Armenia for the year of 2016 for providing 5600 children with education. The expenditures for pre-school education, according to Decision of the Republic of Armenia No 794-N of 8 July 2015, also include the funds for provision of food to children enrolled in school preparatory groups (pre-educational institutions).

The mentioned initiatives enable to make pre-school education available for senior pre-school age children. There is no restriction (on the grounds of nationality, ethnic origin, gender identity, etc.) on enrolment in pre-school groups.

### **Article 27.3.**

The Labour Code of the Republic of Armenia provides for a number of provisions related to impossibility of dismissal from work due to family status and stipulating relevant protection mechanisms. In particular, Article 3 of the Labour Code of the Republic of Armenia prescribes the main principles of the labour legislation, point 3 of part 1 whereof prescribes the legal equality of parties to employment relations irrespective of their gender, race, national origin, language, origin, nationality, social status, belief, marital and family status, age, convictions or views, affiliation to political parties, trade unions or non-governmental organisations and other circumstances not associated with the professional skills of employees. Apart from this, according to part 4 of Article 114 of the Labour Code of the Republic of Armenia, gender, race, national origin, language, origin, nationality, social status, belief, marital and family status, convictions or views, affiliation to political parties or non-governmental organisations of employees may not serve as a lawful reason for rescission of an employment contract.

The Labour Code of the Republic of Armenia prescribes efficient mechanisms for the protection of rights of persons unlawfully dismissed from work. In particular, according to part 1 of Article 265 entitled "Disputes relating to the employment contract," in case of disagreement with the change of employment conditions, termination of an employment contract on the employer's initiative or rescission of the employment contract, the employee shall have the right to apply to court within two months following receipt of the individual legal act (document). Where it is revealed that employment conditions have been changed and the employment contract with the employee has been rescinded without lawful grounds or in violation of the procedure prescribed by the legislation, the violated rights of the employee shall be restored. In that case, an average salary for the entire period of forced idleness or the difference of the salary for the period during which the employee performed less paid work shall be charged from the employer in favour of the employee. The average salary shall be calculated by multiplying the relevant number of days by the amount of average daily salary of the employee.

As for receiving compensation for non-pecuniary damage by other legal means (for instance, legislation against discrimination), it should be emphasised that the Ministry of Justice of the Republic of Armenia has undertaken the development of a uniform and comprehensive legislation for combating discrimination with the support of the Eurasia Partnership Foundation (with the financial support of the Government of the Kingdom of the Netherlands). The draft law is scheduled to be adopted during the year 2017.

Considering the aforementioned, it should be noted that this issue can be addressed at least after the draft law is ready.