



EUROPEAN SOCIAL CHARTER (REVISED)

1st report on the implementation of the European Social
Charter (revised)

submitted by

THE GOVERNMENT OF ARMENIA

for the reference period 2001-2004

(Articles 1, 2, 3, 4, 8, 14, 15, 17, 18, 22, 24, 27 and 28)

2006



REPUBLIC OF ARMENIA

**EUROPEAN SOCIAL CHARTER
(REVISED)**

First Report of the Republic of Armenia

for the reference period
2001-2004

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REPORT

For the period **2001-2004** made by the Government of **the Republic of Armenia** in accordance with Article C of the Revised European Social Charter and Article 21 of the European Social Charter, on the measures taken to give effect to the accepted provisions of the Revised European Social Charter, the instrument of ratification or approval of which was deposited on **21 January 2004**.

This report also covers the application of such provisions in the following nonmetropolitan territories to which, in conformity with Article L, they have been declared applicable:

Republic of Armenia

In accordance with Article C of the Revised European Social Charter and Article 23 of the European Social Charter, copies of this report have been communicated to:

- Trade Union Confederation of Armenia
- Employers Organization ¹

¹ Please state whether you have received any observations from these national organisations of employers and workers, and supply those they have asked you to transmit. The information provided would be usefully supplemented by your communicating a summary of all other observations, to which you might add any comments that you consider useful.

The reports drawn up on the basis of this Form should give, for each accepted provision of the Revised European Social Charter, any useful information on measures adopted to ensure its application, mentioning in particular:

1. any laws or regulations, collective agreements or other provisions that contribute to such application;
2. any judicial decisions on questions of principle relating to these provisions;
3. any factual information enabling an evaluation of the extent to which these provisions are applied; this concerns particularly questions specified in this Form.

The Parties' reports should be accompanied by the principal laws and regulations on which the application of the accepted provisions of the Revised Charter is based. These may be sent in their original language and translation in one of the official languages of the Council of Europe may be asked for in exceptional circumstances.

The replies of the governments should, wherever appropriate, specify explicitly:

- a. whether they are only concerned with the situation of nationals or whether they apply equally to the nationals of the other Parties (see Appendix to the Revised Charter, points 1 and 2);
- b. whether they are valid for the national territory in its entirety, including the nonmetropolitan territories if any to which the Revised Charter applies by virtue of Article 34;
- c. whether they apply to all categories of persons included in the scope of the provision.

A state bound by obligations under certain International Labour Conventions may find it sufficient to supply a copy of the relevant reports submitted to the ILO on the application of these conventions in so far as the latter cover the same field of application and the same reference period as the relevant provision of the Charter.

The information required, especially statistics, should, unless otherwise stated, be supplied for the period covered by the report.

Where statistics are requested for any provision, it is understood that, if complete statistics are lacking, governments may supply data or estimates based on ad hoc studies, specialised or sample surveys, or other scientifically valid methods, whenever they consider the information so collected to be useful.

The report should as far as possible be submitted by E-mail to the address *social.charter@coe.int* or be appended by a diskette *in Word format*. If this is not possible, the Parties are requested to submit their reports in five copies and the appendices in two copies.

PARTIES ARE REQUESTED:

- as far as the first report is concerned:
to reply to all questions appearing in this Form;
- as far as subsequent reports are concerned:
to update the information given in the previous report.

The secretariat is invited to distribute with this form a working document - that will be regularly updated - indicating the provisions of the United Nations, the ILO, the WHO, the European Union and the Council of Europe corresponding to the different articles of the Charter and a summary presentation of the different control mechanisms.

ARTICLE 1: THE RIGHT TO WORK

ARTICLE 1 PARA. 4

***"With a view to ensuring the effective exercise of the right to work, the Parties undertake:
to provide or promote appropriate vocational guidance, training and rehabilitation."***

Please indicate, illustrating with relevant data as far as possible, what measures have been taken to provide or promote:

- a. vocational guidance; ²
- b. vocational training; ³
- c. vocational rehabilitation; ⁴

The right to education in Armenia is stated by the Constitution of the Republic of Armenia (Article 39) according to which the main general education is mandatory with the exception for cases stated by law. Education shall be free of charge in state secondary educational institutions. Every citizen is entitled to receive higher and other specialized education free of charge and on a competitive basis, in state educational institutions.

The sphere of education is regulated by the RA law "On education" /adopted in 14.04.1999/ and other legislative acts. The arrangement of vocational education of job seekers including unemployed and disabled people is regulated by the RA law "On social protection in case employment and unemployment of population" /adopted in 24.10.2005/ (Articles 19 and 20), the RA law "On Education of persons with needs for special educational needs" /adopted 25.05.2005/ and Order "On establishment of separate specialized enterprises for disable people and arrangement of their vocational education" approved by the RA Government Decree N 222 on 25 June 1997. According to the mentioned legal acts the State Employment Service on the base of results of the labour market analysis and forecast through the Ministry of Labour and Social Issues of RA submits suggestions to the Ministry of Education and Science on the specializations studied on the free of charge basis in the preliminary vocational (craftsman), middle professional and higher educational institutions.

Within education system of Armenia the following programs are implemented:

² If your country has accepted Article 9, it is not necessary to describe the vocational guidance services here.

³ If your country has accepted Article 10, it is not necessary to describe the vocational training services here.

⁴ If your country has accepted Article 15, it is not necessary to describe the rehabilitation services for physically or mentally handicapped persons.

- a. preliminary vocational (craftsman) education: This programme is implemented in 26 craftsman senior schools, 1 fund and 12 middle professional educational institutions (colleges). At present, there are about 2700 students involved in the system.

- b. middle professional education: This programme is implemented in 81 state and 23 non state middle professional educational institutions where accordingly 29500 and 1800 students are involved.

- c. higher and postgraduate professional education: There are 16 state higher educational institutions with 13 branches and 66 non state higher educational institutions functioning in Armenia. There are 49058 students in the state institutions and 18270 students in non state institutions. There are 7000 students in the distance learning educational system. The postgraduate and PhD studies are available in 9 higher educational institutions of the country and Master studies in 3 higher educational institutions where 576 undergraduate students, 1196 post-graduate students and 28 PhD students learn on the free of charge basis and 1295 undergraduate students and 96 post-graduate students study on the paid basis.

Please indicate whether equal access is ensured for all those interested, including nationals of the other Contracting Parties to the Charter lawfully resident or working regularly in your territory, and disabled people.

The citizens of the Republic of Armenia, foreign citizens and persons with no citizenship residing in the Republic of Armenia reserve the right to make a choice between employment and unemployment, except for the cases stated by the legislation of the Republic of Armenia (RA law "On social protection in case population's employment and unemployment of population " Article 3).

In the frameworks of the state employment programmes the vocational guidance consultation and vocational education for job seekers is implemented including the preliminary vocational programmes, and working ability rehabilitation programmes for disable people are conducted as well.

The unemployed job seekers entitled for long-term service and privileged pensions can be involved in the vocational training programmes too.

Since 2007 the centre for job seeker citizens including the vocational guidance centre for young people is foreseen to be established in the State Employment Service system. Further, this centre will also provide vocational guidance consultation in secondary professional educational institutions.

ARTICLE 2: THE RIGHT TO JUST CONDITIONS OF WORK

ARTICLE 2 PARAS. 1 to 6

Please indicate, for Article 2 as a whole, the rules applying to workers in atypical employment relationships (fixed-term contracts, part-time, replacements, temporaries, etc.).

The employment relationships in the Republic of Armenia are regulated by:

- *Constitution of the Republic of Armenia /Articles 32 and 33/ which prescribes the main provisions of employment legal relationships,*
- *Labour Code of the Republic of Armenia /entirely/,*
- *RA laws regulating the employment relationships, especially laws:
 "On Civil Service", "On Tax Service", "On Customs Service", "On Public Service in the National Assembly Administration", "On Community Service", etc.*
- *RA Government Decree, particularly:
 "On Establishment of order and form for the calculation of working hours' definition", "Establishment of the list of employees of special categories entitled for prolonged annual leave up to 35 days /in special cases up to 48 days/", "On Establishment of the list of the special category employees' works conditioned by 24 working hours daily", "On Establishment of the list of season works", "On Establishment of the list of special category employees entitled for additional annual leave, the minimal duration and the orders for provision of the leave", "On Business trips", "On Establishment of registration order of the employment injuries and occupational diseases", "On Restrictions for women taking care of children under 8 years and children under 18 years to be involved in the special works", Decree of Civil Service Council "On setting order for signing a temporary working contract", etc.*

ARTICLE 2 PARA. 1

"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:

to provide for reasonable daily and weekly working hours, the working week to be progressively reduced to the extent that the increase of productivity and other relevant factors permit;"

Question A

Please indicate what statutory provisions apply in respect of the number of working hours, daily and weekly and the duration of the daily rest period.

According to the Labour Code of RA /Article 139/ duration of working time may not exceed 40 hours per week. Nevertheless, the exceptions are stated by the Code according to which the duration of working time of specific categories of employees (of health care, care (custody), child care institutions, specialised electricity, gas, heating supply organizations, specialized communications services and specialised services for elimination of the effects of accidents etc.) can be 24 hours daily. The average duration of working time of such employees must not exceed 48 hours per week, and the rest period between working days must not be shorter than 24 hours. The employees working under the harmful influence of ultrasound and vibration during their working shift according to the sanitary rules and norms has right to 10-15 minutes additional intermediate break after 1 hour work for medical-hygienic procedures.

A daily period of work must not exceed 8 hours, except for the cases stated by law, other normative legal acts and the collective contract.

According to the Labour Code of RA (Article 142 paragraph 7) the specifics of the work and rest schedule of employees in the spheres of health care, guardianship (care-taking) education of children, provision of electricity gas and heating, communication and other spheres of special nature are defined by the Government of the Republic of Armenia. According to the introduced regulation the work time for workers involved in special works in such organizations is set from 24 hours up to 39 hours per week.

According to the Labour Code of RA /Article 152/ employees are provided with a break to rest and eat for not longer than 2 hours and not less than half an hour after the first half of the working day (shift) ends despite the 10-15 minute breaks but not later than 4 hours after the start of the work.

In organizations operating with uninterrupted schedule or in case of conducting activities of special nature where it is not possible to keep the daily or weekly duration of the working time for employees of the given category preconditioned by the specifics of the production (work) summary recording of working time may be applied ensuring that it does not exceed the normal number of working hours in the reporting period of time (month, quarter etc.). The duration of the recorded period can not exceed 6 months.

The procedure for the application of summary recording of working time is defined by internal code of conduct of the organization.

In the case of summary recording of the working time, continuous of daily and weekly rest periods established in this Code must be ensured. If the number of working hours set for a particular category of employees is exceeded during the summary recording of the working time, a working day shall be shortened for the employees on their request or they shall be given a rest day (days) in the manner prescribed the collective contract or internal code of conduct, or they shall be paid the amount equal to the amount paid for overtime work.

Question B

Please indicate what rules concerning normal working hours and overtime are usual in collective agreements, and what is the scope of these rules.

According to the Labour Code of RA /Articles 144, 145, 146/ overtime work is conducted at the request of the employer or with the consent of the parties.

A. Overtime work shall be permitted in the following exceptional cases:

- 1. when the work to be performed is necessary for national defence, as well as prevention of natural disasters, technological accidents, epidemics, casualties, fires and other circumstances of extraordinary nature or measures aimed at eliminating their impact;*
- 2. when it is necessary to finish the work started, which could not have been finished during the normal working time due to unforeseen or accidental obstacles, and if the interruption of work may result in the deterioration, elimination of production materials or breakdown of equipment;*
- 3. when the work to be performed is related to repair or renovation of the mechanisms and equipment, the breakdown of which caused interruption of the work of significant number of workers;*
- 4. when the shift worker has not come to work, which may lead to impediment of the continuity of work. . In such cases the employer or his representative must immediately undertake measures of replacing the absent person with another employee;*
- 5. when loading and unloading and other related transportation work is being performed, when it is necessary to vacate warehouses of the organization, as well as to prevent or eliminate the accumulation of freight in dispatch and designation points;*
- 6. there is urgent necessity to fulfil contractual obligations of the employer.*

B. Overtime work cannot be assigned:

- 1. to persons under 18 years of age;*
- 2. to persons who are studying in secondary and vocational educational institutions without interrupting work – on study days,*
- 3. people working in productions with carcinogenic factors or factors harmful for health,*
- 4. employees working under conditions envisaged by the legislation of the Republic of Armenia and collective contracts.*

C. Pregnant women and employees who are taking care of children under one year of age, may be assigned to do overtime work only with their consent.

The Government of RA adopted the Decree N2308 on 19.12.2005 “On the list of hazardous conditions and dangerous factors prohibited for persons under 18 year of age, pregnant women, women who take care of a child under one year of age”. It is prohibited to involve the above-mentioned persons in overtime work.

Disabled people may be assigned to overtime work provided that this is not forbidden by medical conclusion.

D. Overtime works at the request of the employer shall not exceed 4 hours during two successive days and 120 hours per year.

E. In case of the consent of the parties the duration of the overtime work jointly with normal working time can not be exceed 12 hours during two days following each other (including the breaks to rest and eat).

Question C

Please indicate the average working hours in practice for each major professional category.

The average working hour regime for professional category is set 40 hours and the exceptions are envisaged by the Labour Code of RA.

According to the Labour Code of RA /Article 142/ the specifics of the work and rest schedule of employees in the spheres of health care, guardianship (care-taking), education of children, provision of electricity gas and heating, communication and other spheres of special nature are defined by the Government of the Republic of Armenia according which:

- a. the work and rest schedule of some employees of the sphere of health care is defined 24-36 hours weekly,*
- b. the work and rest schedule of some employees of the spheres of guardianship (care-taking) and education of children is defined 22-39 hours weekly,*
- c. the particularities of the work and rest schedule of the employees of electricity, gas and heating provision spheres is defined by the collective contracts,*
- d. the particularities of the work and rest schedule of the employees of communication sphere is defined by the collective contracts,*
- e. the work and rest schedule of the employees of educational institutions is defined 22-36 hours weekly,*
- f. the work and rest schedule of the car drivers is defined 40-50 hours weekly.*

According to the Labour Code of RA /Article 5/ the employer may adopt internal and individual legal acts for defining more favorable conditions for employees or their specific groups as compared with working, social and other conditions defined labor legislation and other normative legal acts. If internal or individual legal acts contain provisions that are less favorable than the conditions defined for employees by labor legislation and norms on labor law then these acts or their corresponding parts have no legal effect.

According to the Labour Code of RA /Article 140/ shorter working time shall be set for:

- 24 hours per week for persons aged 14-16 , 36 hours per week for persons aged 16-18 ;*
- employees, who work in an environment where it is not possible to reduce the allowed level of harmful factors to the level defined by legal acts on safety and health of employees due to technical or other reasons. In this case the working time is defined not more than 36 hours;*
- employees working at night.*

Shorter working time for employees performing work involving heavy mental and emotional strain shall be established by the law, collective or employment contracts.

Question D

Please indicate to what extent working hours have been reduced by legislation, by collective agreements, or in practice during the reference period and, in particular, as a result of increased productivity.

Such statistical data is not available nevertheless the Article 142 of the Labour Code envisages the provision on work conducted in special conditions about which a Government Decree is going to be adopted.

Question E

Please describe, where appropriate, any measures permitting derogations from legislation in your country regarding daily and weekly working hours and the duration of the daily rest period (see also Article 2 paras. 2, 3 and 5).

According to the Labour Code of RA /Article 139/ maximum work duration including overtime must not exceed 48 hours per week.

According to the Labour Code of RA /Article 152/ employees are provided with a break to rest and eat for not longer than 2 hours and not less than half an hour after the first half of the working day (shift) ends but not later than 4 hours after the start of the work.

In case of the consent of the parties /Article 146 of the Labour Code of RA/ overtime work shall not exceed 4 hours during two successive days and 120 hours per year.

In case of the consent of the parties the duration of the overtime work jointly with normal working time can not be exceed 12 hours during two days following each other (including the breaks to rest and eat).

Working week with five working days and two rest days is applied for employees /Article 155 of the Labour Code of RA/.

At organizations where the working week with five working days cannot be applied preconditioned by production nature or other conditions a working week with six working days and one rest day is applied /sunday shall be the general rest day and where there are five working days in a week – Saturday and Sunday/, and the working week regime for 24-39 hours is set for workers of special categories.

Additional and special breaks and uninterrupted weekly rest are also regulated by the Articles 153, 154 and 156 of the Labour Code of RA.

Please indicate the reference period to which such measures may be applied.

Such measures have been applied from the date the Labour Code of RA entered into force /21 June 2005/.

Please indicate whether any such measures are implemented by legislation or by collective agreement and in the latter case, at what level these agreements are concluded and whether only representative trade unions are entitled to conduct negotiations in this respect.

The Trade Unions and the Government of the Republic of Armenia in the context of social partnership are delegated to negotiate on behalf of the employees.

Question F

If some workers are not covered by provisions of this nature, whether contained in legislation, collective agreements or other measures, please state what proportion of all workers is not so covered (see Article I of the revised Social Charter).

These provisions cover employees of all categories except the following cases stipulated by the Labour Code of RA /Article 7/:

- *if the employer is a foreign country or its diplomatic representation, international organization or foreign person RA labor legislation and other normative legal acts containing norms on labor law are applied to the working relationships of employees permanently living in the Republic of Armenia where the diplomatic privileges are not broken,*
- *foreign employers and employees not living in the Republic of Armenia permanently despite the fact that employees are doing work with the instruction of employer in the Republic of Armenia.*
- *working relations with the participation of citizens being in punishment at disciplinary institutions /Article 7, Labour Code of RA/. However, the draft law of RA "On the amendments and supplements in the Labour Code of RA" is in the current circulation according which the provisions of the Labour Code of RA on the work schedule, wages, employees safety and health is foreseen to cover the working relations with the participation of citizens being in punishment at disciplinary institutions as well.*

ARTICLE 2 PARA. 2

"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake: to provide for public holidays with pay;"

Question A

Please indicate the number of public holidays with pay laid down by legislation, stipulated by collective agreement or established by practice during the last calendar year.

According to the Labour Code of RA /Article 156/ there are 12 holidays and memory non working days with pay in the Republic of Armenia.

Question B

Please indicate what rules apply to public holidays with pay according to legislation, collective agreements or practice.

The holidays and memory days with pay are stipulated by the Labour Code of RA /Article 156/ and the payment for these days is regulated by the Article 185 of the same Code.

Please describe, where appropriate, whether measures permitting derogation from legislation in your country regarding daily and weekly working hours have an impact on rules pertaining to public holidays with pay.

There are no reservations on the mentioned question by the legislation of RA.

Question C

If some workers are not covered by provisions of this nature, whether contained in legislation, collective agreements, or other measures, please state what proportion of all workers is not so covered (see Article I of the revised Social Charter).

It is prohibited to involve employees to work on holidays and memory days /Article 156 of the Labour Code of RA/ with the exception of work which cannot be interrupted on technical grounds needed for providing services to the population as well as work involving urgent repair loading and unloading.

Pregnant women, the employees raising a child under the age of one year and persons under eighteen may be assigned work on rest and memory days only upon their consent.

ARTICLE 2 PARA. 3

*"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:
to provide for a minimum of four weeks' annual holiday with pay;"*

Question A

Please indicate the length of annual holidays under legislative provisions or collective agreements;

According to the Labour Code of RA /Article 159/ duration of annual leave shall be 28 calendar days.

please also indicate the minimum period of employment entitling workers to annual holidays.

According to the Labour Code of RA /Article 164/ annual leave for the first working year shall be granted as a rule, after six months of uninterrupted work at the organization. Before the expiry of six months of uninterrupted work, annual leave shall be granted at the request of an employee in the following cases:

- 1) to women before a maternity leave or after it;*
- 2) in other cases laid down by the collective contract.*

Please describe, where appropriate, whether measures permitting derogation from statutory rules in your country regarding daily and weekly working hours have an impact on rules pertaining to the duration of annual holidays.

According to the Labour Code of RA /Article 160/ extended annual leave up to 35 calendar days /in special cases up to 48 calendar days/ shall be granted to certain categories of employees whose work involves great nervous, emotional and intellectual strain and professional risk. The list of employees of certain categories is defined by the Resolution of the Government of the Republic of Armenia on the “Establishment of the list of certain categories of employees entitled for extended annual leave up to 35 calendar days /in special cases up to 48 calendar days/”.

Question B

Please indicate the effect of incapacity for work through illness or injury during all or part of annual holiday on the entitlement to annual holidays.

According to the Labour Code of RA /Articles 167, 171/ the annual leave of the employee shall be extended by the corresponding number of days if the employee is in temporary incapacity or educational leave.

Incapacity for work through illness or injury during the working period has no impact on the right of worker to annual leave with pay.

Question C

Please indicate if it is possible for workers to renounce their annual holiday.

The employee has no right to renounce the annual holiday or to receive compensation for it.

However, according to the Labour Code of RA /Article 167/ the transfer of the annual leave to the next year is allowed with the consent of the employee only if the employee is temporarily incapacitated, becomes entitled to a special-purpose leave, is in leave for fulfilment of state or public duties, takes part in relief operations after natural disasters.

Question D

Please indicate the customary practice where legislation or collective agreements do not apply.

The information on such cases had not been aggregated till 2005. These works currently are conducted by the State Labour Inspection established in 2005.

Question E

If some workers are not covered by provisions of this nature, whether contained in legislation, collective agreements or other measures, please state what proportion of all workers is not covered (see Article I of the revised Social Charter).

According to the Labour Code of RA /Article 7/ Labor legislation and other normative legal acts shall be applied to labor relations in the territory of the Republic of Armenia regardless of the fact whether the work is performed in the Republic of Armenia or in another country with the instruction of the employer.

Provisions of RA labor legislation and other normative legal acts containing norms on labor law are to be mandatory exercised by all employers (citizens or organizations) regardless of their organizational and legal and ownership types.

Relationships arisen during the performance of activities in crafts or aircrafts (flying vehicles) are regulated by the RA labor legislation and other normative legal acts containing norms on labor law where these crafts are sailing or aircrafts (flying vehicles) are flying under the flag of the Republic of Armenia or bear the national emblem of the Republic of Armenia.

RA Labor Code and other normative legal acts containing norms on labor are applied during the performance of work in other means of transport only if means of transport being under the ownership of the employer are under the jurisdiction of the Republic of Armenia.

If the employer is a foreign country or its diplomatic representation, international organization or foreign person RA labor legislation and other normative legal acts containing norms on labor law are applied to the working relationships of employees permanently living in the Republic of Armenia where the diplomatic privileges are not broken.

RA Labor Code and other normative legal acts are not applied to the relations between foreign employers and employees not living in the Republic of Armenia permanently despite the fact that employees are doing work with the instruction of employer in the Republic of Armenia.

If it is established through the court procedure that the civil and legal contract concluded between the employer and employee actually regulates working relations then provisions of Labor Code and normative legal acts containing norms on labor law are applied for these relations.

Working (service) relations of persons holding political, discretionary or civil positions as well as servants of civil, other state (special) services defined by the law and local self-governance bodies, as well as employees of the Central Bank of Armenia are regulated by this code if not otherwise defined by the corresponding law.

This Code does not regulate working relations with the participation of citizens being in punishment at disciplinary institutions.

ARTICLE 2 PARA. 4

*"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:
to eliminate risks in inherently dangerous or unhealthy occupations, and where it has not yet been possible to eliminate or reduce sufficiently these risks, to provide for either a reduction of working hours or additional paid holidays for workers engaged in such occupations;"*

Question A

Please indicate the policies and the legislative measures taken to eliminate or to reduce the inherent risks of dangerous or unhealthy occupations. Please also describe the procedures for periodic review and evaluation.

The entire Chapter 23 of the RA Labour Code which includes the Articles 242-262 regulates the issues of safety and health of employees. Particularly, the Code defines that the employer is liable to ensure safe and healthy working conditions such as due operation of mechanisms, equipment and other means, adequate quality and timely provision of materials and tools required for the conduct of the work, working conditions, which are secure and harmless for health (adherence to safety norms and rules, adequate lighting, heating, air conditioning, ensuring that the noise does not exceed the defined minimum level, radiation, vibration and other dangerous factors with negative impact on the health of the employee), etc.

The workplace and working environment of every employee must be safe, comfortable and non-harmful to health, as well as designed according to the requirements laid down in normative legal acts on safety and health at work /according to the Article 5 of RA Law “On Enforcement of the Labour Code of RA” the design and adoption of these legal acts is foreseen to be completed till June 2008 /. Nevertheless, the RA law “On Ensuring the Sanitary-Epidemiological Security of RA population” aims to eliminate or prevent the risk of harmful and hazardous working conditions according to which the certain groups of population, persons working in the harmful conditions are subject to preliminary and regular medical examination. The order for examination is set by the Government of RA. According to the same law the requirements for working environment factors, safe and healthy working conditions are set by the RA Sanitary legislation – sanitary rules, norms and hygienic normative acts.

According to the Labour Code of RA the employer must ensure performance of safe work, organization of free regular medical examination of employees of certain category, establishment of sanitary-hygienic conditions, sanitary and personal hygienic facilities, provision of employees with personal protective equipments, etc. /the national policy towards the safe and non-harmful conditions of work pays special attention to the employees up to 18 years, disabled people and maternity protection/.

The Labour Code of RA states the participation of employees in the performance of the events for their safety and health maintenance.

The functions of situation assessment and review as well as the state supervision and monitoring are performed by the State Labour Inspection of the Ministry of Labour and Social Issues of RA, State Hygienic and Anti-Epidemiological Inspection of the Ministry of Health of RA and other public and non governmental bodies.

Question B

Please state the occupations regarded as dangerous or unhealthy. If a list exists of these occupations, please supply it.

The lists of occupations dangerous for health are prescribed by the RA Government Decree N 1907, dated 11.12.2003, “On Approval of the lists of works and occupations regarded as dangerous and especially dangerous for health and especially hard” /attached/.

Question C

Where it has not yet been possible to eliminate or reduce sufficiently these risks, please state what provisions apply under legislation or collective agreements or otherwise in practice as regards reduced working hours or additional paid holidays in relation to this provision of the revised Charter.

According to the Labour Code of RA /Article 140/ shorter work-time is set for the employees having works and occupations regarded as dangerous and especially dangerous for health and especially hard. In this case the working time is defined not more than 36 hours per week. The issue of an additional paid annual leave granted to these employees (with duration of 2-12 days) is regulated by the RA Government Decree N. 1348 on 11.08.2005 which has been adopted according to the Article 161 of the Labour Code of RA.

Question D

If some workers are not covered by provisions of this nature, whether contained in legislation, collective agreements or other measures, please state what proportion of all workers concerned is not covered (see Article I of the revised Social Charter).

All workers are covered by provisions of this nature.

ARTICLE 2 PARA. 5

*"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:
to ensure a weekly rest period which shall, as far as possible, coincide with the day recognized by tradition or custom in the country or region concerned as a day of rest."*

Question A

Please indicate what provisions apply according to legislation, collective agreements or otherwise in practice as regards weekly rest periods.

According to the Labour Code of RA /Article 155/ Sunday is the weekly general rest day and where there are five working days in a week – Saturday and Sunday. An uninterrupted weekly rest period shall not be shorter than 35 hours.

Please indicate whether postponement of the weekly rest period is provided for these provisions and, if so, please indicate under what circumstances and over what period of reference.

For organizations, where work cannot be interrupted at the holiday, which is preconditioned by the need to provide services to the population (city transport, electricity, gas heating supply specialized organizations, theatres, museums, public catering etc.) the rest days are defined by Government of the Republic of Armenia.

At organizations where work cannot be interrupted on technical grounds or because of the need for continuity of services to be provided to the population, as well as at other organizations of uninterrupted production rest days shall be provided on other week days in succession to each group of the employees in accordance with the work schedules. These schedules shall be drawn up and approved following the procedure prescribed by Article 142 of the Labour Code.

Please indicate, where appropriate, whether measures derogating from statutory rules in your country regarding daily and weekly working time have an impact on rules relating to the weekly rest period.

Such legal acts are not available.

Question B

Please indicate what measures have been taken to ensure that workers obtain their weekly rest period in accordance with this paragraph.

The legislative norms are prescribed.

The State Labour Inspection performs supervision and monitoring towards the efficient guarantee of the employees right to weekly rest.

Question C

If some workers are not covered by provisions of this nature, whether contained in legislation, collective agreements or other measures, please state what proportion of all workers is not covered (see Article I of the revised Social Charter).

The provisions of this nature is covered by each employee except the employees of organizations, where work cannot be interrupted at the holiday, which is preconditioned by the need to provide services to the population (city transport, electricity, gas heating supply specialized organizations, theatres, museums, public catering etc.) the rest days are defined by Government of the Republic of Armenia. At organizations where work cannot be interrupted on technical grounds or because of the need for continuity of services to be provided to the population, as well as at other organizations of uninterrupted production rest days shall be provided on other week days in succession to each group of the employees in accordance with the work schedules. These schedules shall be drawn up and approved following the procedure prescribed by Article 142 of the Labor Code.

ARTICLE 2 PARA. 6

*"With a view to ensuring the effective exercise of the right to just conditions of work, the Parties undertake:
to ensure that workers are informed in written form, as soon as possible, and in any event not later than two months after the date of commencing their employment, of the essential aspects of the contract or employment relationship;"*

Question A

Please indicate the rules (in legislation, collective agreements) or other provisions which apply for informing workers in writing of the essential aspects of their contract or employment relationship.

The information on the provisions of employment contract or employment relations are envisaged by the Labour Code of RA – "Receipt of Information" /Article 43/, "Content of an Employment Contract" /Article 84/ and "The Form of the Employment Contract and the Procedure of its Conclusion" /Article 85/.

Please describe the content and form of this information, as well as the point at which it must be communicated in writing.

The employment contract is concluded in two copies. The employment contract is signed by the employer or his representative and the employee. One copy of the signed employment contract is given to the employee, the other one remains with the employer. The employer allows the employee to start the work only after the employment contract is signed and the second copy of the contract is provided to the employee. The responsibility for the adequate draw up of the employment contract lies with the employer. When hiring the incumbent the employer or the person authorized by him shall familiarize him/her with working conditions, collective contract (if available), internal code of conduct and other legal acts regulating his/her work at the place of work, which shall be asserted by the employees signature.

Please indicate how rules or other measures are applied in practice.

These rules have general application in practice.

Question B

If the rules are not of a general nature (Appendix to the revised Social Charter), please indicate the exceptions and referring to item b of the Appendix, please state the reason for their exclusion (see Article I of the revised Social Charter).

These rules are applied in all cases except the civil servants with whom a working contract is not signed and they are employed by certain legal acts. The rights and responsibilities envisaged by Civil Service law and other legal acts, requirements of knowledge and abilities for certain position as well as for civil servant certain grade are set by job description.

ARTICLE 3: THE RIGHT TO SAFE AND HEALTHY WORKING CONDITIONS

Please indicate how organisations of employers and workers are consulted by the authorities on the measures required to implement each of the paragraphs of Article 3 (procedure and level of consultation, content and frequency of consultation).

The employers and representatives of employees are consulted on the right to the safety and healthy working conditions only on the national level of social partnership which stipulates the principles of regulations of the employment sphere relations.

Consultation is implemented based on the following principles:

- 1) the equality of the parties;*
- 2) the freedom of collective negotiations;*
- 3) taking into consideration the interests of the parties and performance of respectful attitude;*
- 4) authorization of the representatives of the parties;*
- 5) freedom of choice of work-related issues offered for discussion;*
- 6) voluntary character of the parties to accept obligations;*
- 7) feasibility of the obligations accepted by the parties;*
- 8) mandatory performance of collective contracts;*
- 9) control and supervision over the implementation of collective contracts;*
- 10) responsibility for non-implementation of the collective contracts because of the parties or their representatives.*

The consultations are conducted if necessary by initiative of each party.

ARTICLE 3 PARA. 1

“With a view to ensuring the effective exercise of the right to safe and healthy working conditions, the Parties undertake, in consultation with employers’ and workers’ organisations:

to formulate, implement and periodically review a coherent national policy on occupational health and the working environment. The primary aim of this policy shall be to improve occupational safety and health and to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, particularly by minimising the causes of hazards inherent in the working environment;”

Please describe policy in the field of occupational safety, occupational health and the

working environment and the measures taken to improve occupational safety and health and to prevent health and safety risks.

See the answers of Article 2 Para 4.

Please describe also the measures of implementation of this policy as well as procedures for its periodic review and evaluation.

See the answers of Article 2 Para 4.

ARTICLE 4: THE RIGHT TO A FAIR REMUNERATION

ARTICLE 4 PARA. 2

"With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

to recognise the right of workers to an increased rate of remuneration for overtime work, subject to exceptions in particular cases;"

"...The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions;"

Question A

Please mention what provisions apply according to legislation and collective agreements as regards overtime pay, the method used to calculate the increased rates of remuneration and the categories of work and workers to which they apply.

The Labour Code of RA /Article 144, 146 and 184/ defines the limitations, duration and remuneration of overtime work.

Overtime works at the request of the employer shall not exceed 4 hours during two successive days and 120 hours per year.

In case of the consent of the parties the duration of the overtime work jointly with normal working time can not be exceed 12 hours during two days following each other.

Overtime work cannot be assigned to:

- *persons under 18 years of age,*

- *persons who are studying in secondary and vocational schools without interrupting work – on study days,*
- *people working in productions with carcinogenic factors or factors harmful for health,*
- *employees working under conditions envisaged by the legislation of RA and collective contracts.*

Pregnant women, employee who are taking care of children under one year of age, may be assigned to do overtime work only with their consent.

A supplement amounting to not less than one and a half times more than the hourly rate is defined for overtime work.

Please specify what provisions apply in respect of overtime pay on Saturdays, Sundays and other special days or hours (including night work).

The Labour Code of RA /Article 185/ sets that the work performed on a rest day and in non-working holidays and commemoration days unless it is not envisaged in the work schedule, is paid for in the amount not less than the double hourly (daily) rate or the double remuneration rate, or it shall be compensated for by granting the employee another rest day during the month or by adding that day to his annual leave. The pay for work scheduled on a rest day shall be the double rate of hourly (daily) pay or remuneration.

According to the same Code /Article 184/ a supplement amounting to not less than one and a half times more than the hourly rate is defined for overtime and night work.

The remuneration for every hour of overwork agreed between the parties is not less than the defined hourly rate of the employee.

According to the Article 148 of the same Code work shall be considered to be night work if three working hours of the work being done happen to be at night. The duration of night work is reduced by one hour.

Question B

Please mention any special cases for which exceptions are made.

Work of managerial officials exceeding the set working time, shall not be considered to be overtime work. The list of such positions is established by internal code of conduct.

Work of political, conceptual or civil officials, as well as the officials of the first subgroup (if it is available) of supreme and senior groups of other public (special) and local self-governance bodies shall not be considered to be overtime work.

Please indicate, where appropriate, whether measures permitting derogation from legislation in your country regarding daily and weekly working hours (see Article 2 para. 1) have an impact on remuneration or compensation of overtime.

Not

ARTICLE 4 PARA. 3

"With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

o recognise the right of men and women workers to equal pay for work of equal value;"

"...The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions;"

Question A

Please indicate how the principle of equal pay for work of equal value is applied; state whether the principle applies to all workers.⁵

The Labour Code of RA /Articles 178 and 180/ defines that men and women shall get an equal pay for the same or equivalent work.

In case of the application of the qualification system of work one and the same criteria shall be applied for both men and women and this system shall be developed in a way, which will exclude any gender discrimination.

Question B

Please indicate the progress which has been made in applying this principle.

⁵ The term "equal pay for work of equal value" in this Form is to be understood in terms of ILO Convention No. 100 (Equal Remuneration), Article 1.

The information on this issue is not available as such analyze has not been conducted.

Question C

Please describe the protection afforded to workers against retaliatory measures, including dismissal.

Please indicate the procedures applied to implement this protection.

The Labour Code of RA /Article 38/ defines that the protection of labor rights, in accordance with cognizable cases set by the Code of Civil Procedures of the Republic of Armenia, shall be exercised by the court.

Labor rights shall be protected by trade unions according to the procedure set by this Code and laws regulating their activities.

The protection of the labor rights shall be exercised in the following ways:

- *through recognizing that rights;*
- *by restoring the situation existing before the violation of the right;*
- *by preventing and eliminating the actions, which violate the right or create a danger for its violation;*
- *by recognizing the act of state or local self-governance bodies invalid ;*
- *by not applying the act of state or local self-governance bodies by the court that contradicts the law;*
- *by self-protection of the right;*
- *by enforcing to perform obligations for in-kind;*
- *by reimbursing the damage;*
- *by confiscating fines;*
- *by terminating or modifying the legal relationships;*
- *in other ways prescribed by law.*

ARTICLE 4 PARA. 4

"With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

to recognise the right of all workers to a reasonable period of notice for termination of employment;"

"... The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions."

[The Appendix to the revised Charter stipulates that this provision shall be so understood as not to prohibit immediate dismissal for any serious offence.]

Question A

Please indicate if periods of notice are provided for by legislation, by collective agreements or by practice and if so, indicate the length of such periods, notably in relation to seniority in the enterprise.

The Labour Code of RA /Article 115/ defines that in case of termination of the employment contract on the bases of cases when the organization is liquidated (the activity of the sole entrepreneur is terminated) and when the number of employees is reduced, which is preconditioned by changes in the volume of production, economic and technological conditions and conditions of organization of work, as well as by production needs, the employer shall give a written notice to the employee not later than two months beforehand.

In case of termination of the employment contract on the bases of cases when the employee is not suitable for the position held or job done and the employee reaches the retirement age, the employer shall give a written notice to the employee not later than two weeks beforehand.

Please indicate whether the periods of notice established by legislation can be derogated by collective agreements.

Longer terms as compared with the notification terms envisaged in this section may be defined by a collective and employment contract.

Please indicate the periods of notice applicable to part-time workers and to home workers.

The Labour Code of RA does not envisage any difference regarding to notification on dismissals for different groups of employees and depending on work places of employees as well.

Please indicate in which cases a worker may not be given a notice period.

The Labour Code of RA /Articles 113, 123 and 124/ defines that an employment contract must be terminated without notice in the following cases:

- *upon an effective court decision, according to which an employee is imposed a sentence, preventing him from continuing his work,*
- *when an employee is deprived of special rights to perform certain work in accordance with the procedure prescribed by legislation,*
- *when an employee is unable to perform these duties or work in accordance with a conclusion of the medical-social expertise commission,*
- *when an employee under 14 to 16 years of age and one of his/her parents, the child's foster parent or guardian, or his attending doctor or the state labor inspector demand that the employment contract shall be terminated,*
- *in case the employer is recognized as bankrupt,*
in case of the employee's non-performance or incomplete performance of his duties,
- *in case when the confidence towards the employee is lost,*
- *upon the temporary military service of an employee.*

Please indicate whether provision is made for notice periods in the case of fixed-term contracts which are not renewed.

The Labour Code of RA /Articles 95 and 111/ defines that because of the expiry of the contract the employer shall be entitled to terminate the employment contract signed for a definite term, by giving the employee at least ten days notice. The periods specified in this article shall not be applied to those employees who have been employed to replace an employee.

Because of the expiry of the contract the employee shall be entitled to terminate the employment contract signed for a definite term, by giving the employee at least ten days notice prior to the expiry of the validity of the contract. If the employee has not informed the employer about termination of the contract signed for a definite term and has not come to the work on the day following the last day of the employment contract, then the contract is considered to be terminated and the employer shall

make a final settlement with him within five days upon the submission of the requirement.

The written agreement of the parties to extend a contract signed for a definite term shall be made at least ten days prior to the expiration of the contract.

In case the contract signed with the same employer for a certain period is annulled during five years and a new contract is signed not later than within one month for a certain period the work of the employee is considered uninterrupted.

Question B

Please indicate whether wage-earners may challenge the legality of such notice of termination of employment before a judicial authority.

The Labour Code of RA /Articles 115 and 264/ defines that in case the notification terms are violated the employer shall pay a penalty to the employee for every delayed day of notification, which is calculated on the basis of the amount of the average hourly wage of the employee.

The labour disputes shall be examined in legal form – in order established by the Civil Procedures Code of the Republic of Armenia.

ARTICLE 4 PARA. 5

"With a view to ensuring the effective exercise of the right to a fair remuneration, the Parties undertake:

to permit deductions from wages only under conditions and to the extent prescribed by national laws or regulations or fixed by collective agreements or arbitration awards."

"...The exercise of this right shall be achieved by freely concluded collective agreements, by statutory wage-fixing machinery, or by other means appropriate to national conditions."

[The Appendix to the revised Charter stipulates that it is understood that a Contracting Party may give the undertaking required in this paragraph if the great majority of workers are not permitted to suffer deductions from wages either by law or through collective agreements or arbitration awards, the exception being those persons not so covered.]

The effective exercise of the right to a fair remuneration is not ensured as the mechanisms for defining minimal salary are not functioning in the country.

According to the Article 7 of the RA law "On minimal consumption basket and minimal consumption budget" the amount of minimal consumption budget is considered as a basis for definition of minimal salary, pensions, stipends, as well as benefits and other social payments.

According to the Article 5 paragraph 3 of the same law the structure of minimal consumption basket is set by the RA Government. Nevertheless, the minimal consumption basket has not been adopted till now.

Question A

Please describe how and to what extent observance of this paragraph is ensured in your country, specifying the ways in which this right is exercised, both as regards deductions made by the employer for his own benefit and for the benefit of third parties.

The Labour Code of RA /Article 213/ defines that wage deductions may be made only in cases and in the manner defined by the law.

Deductions or charges from the wages of the employees to cover the debt to the employer may be made:

- from the prepayment of the wage paid to the Employee,*
- from the amounts paid in excess due to the computation errors,*
- from the prepayment which was paid to the Employee to cover the costs of a business trip or for being transferred or accepted to another work or for realization of separate activities and which was not spent and paid back on time,*
- for compensating the damaged caused to the Employer through the Employee's fault.*

In cases mentioned in the 1st paragraph of this section when the employees' debt does not exceed his average wage for one month, the employer has the right to make deductions if he has issued a corresponding legal act on deductions made not later than within one month after the expiration of the defined period for return of the prepayment, overpayment made as a result of mechanical errors during calculations, returning the amount of the prepayment, which was not spent and not returned in time and identification of the harm caused by the employee.

Deductions or charges from the wages of employees may be also made with the purpose of covering the debts of the employer, when the employee is dismissed until the end of the working year for which he has been provided with a vacation. In this

case the amount paid for not worked days is charged. No charges are made for these days if the employee is dismissed not through his fault.

It shall not be permitted to recover the wage overpaid and computed by applying the wrong law, with the exception of cases of the computation errors.

Please indicate whether legislation, regulations or collective agreements provide for the non-seizability of a part of the wage.

The Labour Code of RA /Article 214/ defines that the total amounts of the deductions of the wages shall be computed in order established by the law, which can not exceed the fifty percent of the monthly wage of the employee.

Question B

Please state whether the measures described are applicable to all categories of wageearners.

If this is not the case, please give an estimate of the proportion of workers not covered and, if appropriate, give details of the categories concerned.

Yes, the measures are applicable for all categories of employees.

ARTICLE 8: THE RIGHT OF EMPLOYED WOMEN TO PROTECTION OF MATERNITY

ARTICLE 8 PARA. 1

"With a view to ensuring the effective exercise of the right of employed women to protection of maternity, the Parties undertake:

to provide either by paid leave, by adequate social security benefits or by benefits from public funds for employed women to take leave before and after childbirth up to a total of at least 14 weeks;"

Question A

Please indicate the length of maternity leave, showing, where appropriate, its division before and after confinement.

According to the Labour Code of RA /Article 122/ working women shall be provided with pregnancy and maternity leave with payment of benefit:

1) 140 calendar days (70 calendar days of pregnancy, 70 calendar days of delivery);

2) 155 calendar days (70 calendar days of pregnancy, 85 calendar days of delivery) in the event of complicated delivery;

3) 180 calendar days (70 calendar days of pregnancy, 110 calendar days of delivery) in the event of giving birth to more than one child.

This leave shall be calculated at once and granted to the woman in full. In case of premature delivery the unused days of maternity leave are added to the leave for the delivery.

2. The employees, who have adopted a newborn or who have been appointed as guardians of a newborn shall be granted a leave for the period from the date of adoption or guardianship until the baby is 70 days old.

3. In the cases specified by paragraphs 1 and 2 of this Article, the payment for leave shall be made in the manner defined by the legislation of the Republic of Armenia.

Question B

Please indicate whether in some cases the total duration of leave before and after confinement may be less than fourteen weeks.

There are no such cases.

Question C

Please indicate whether the benefits during maternity leave are provided in the form of paid leave (if normal pay is reduced, please indicate the amount), under a social security system or from public funds, stating whether the payment of benefits is subject to conditions and if so, which.

According to the Government Decree N. 235 on 19 April 1999 "On establishing the amount of benefit for persons in the partially paid leave taking care of child under 2 years of age and the lump sum benefit for child birth, and basic benefit of

unemployment” the monthly benefit for persons in the partially paid leave taking care of child under 2 years of age is 2300 drams and the lump sum benefit for child birth is 35000 drams despite the work place of person. The benefit of 2300 drams for child care is terminated in case the mother starts to work.

The family entitled to family benefit or getting entitled to this benefit after the child birth in the family receives one more lump sum benefit of 35000 drams.

According to the Labour Code of RA /Article 173/ parental leave before the child is three years of age shall be granted at the choice of the mother (step-mother), father (the step-father), grandmother, grandfather of the family or any other relatives, who are actually raising the child as well as of the employee who has been the guardian of the child. The leave may taken as a single period or be used in parts. The employees entitled to this leave may take it out of turn. During the period of this leave the employee shall retain his job/position, with the exception of cases when the organization is liquidated (the activity of the sole entrepreneur is terminated) and when the employer is bankrupt.

Question D

Please indicate, in circumstances where part or all of benefits payable during maternity leave are not covered by paid leave, the amount of social security benefits or benefits from public funds in monetary terms and, as appropriate, as a percentage of the wages previously paid to the worker.

There are no such cases.

Question E

Please indicate any sanctions that may be imposed on an employer failing to observe this provision, and state whether the employed woman has the option of voluntarily giving up all or part of her maternity leave.

If employer is failing to observe this provision according to the Code on Administrative Infringements of RA the employer is imposed to liability by paying penalties.

Women can not voluntarily refuse from the paid prenatal and postnatal maternity leave.

Question F

Please indicate the protection to which women employed on fixed-term contracts in your country are entitled, including nationals of the other Contracting Parties to the Charter.

Women employed on fixed-term contracts have the same rights as the women employed on uncertain period.

ARTICLE 8 PARA. 2

"With a view to ensuring the effective exercise of the right of employed women to protection of maternity, the Parties undertake:
to consider it as unlawful for an employer to give a woman notice of dismissal during the period from the time she notifies her employer that she is pregnant until the end of her maternity leave, or to give her notice of dismissal at such a time that the notice would expire during such a period;"

Question A

Please indicate what arrangements exist to give effect to this provision.

According to the Labour Code of RA /Article 117/ an employment contract may not be terminated with pregnant women from the day on which their employer receives a medical certificate confirming pregnancy, and for another month after maternity leave.

Question B

Please also indicate the sanctions provided for dismissals in breach of this provision.

*If employer is failing to observe this provision according to the Code on Administrative Infringements of RA the employer is imposed to liability by paying penalties.
The dismissed employer can litigate his/her rights.*

Question C

Please indicate if reinstatement is ensured in cases of dismissal in breach of this provision and, in the exceptional cases where this is not possible, the amounts of compensation awarded.

The person being dismissed because of breaching this provision and reinstated by judicial procedure gets full amount compensation for caused damage according to the order prescribed by Civil Code.

Question D

Please indicate the protection to which women employed on fixed-term contracts in your country are entitled, including nationals of the other Contracting Parties to the Charter.

Women employed on fixed-term contracts have the same rights as the women employed on uncertain period.

ARTICLE 8 PARA. 3

"With a view to ensuring the effective exercise of the right of employed women to protection of maternity, the Parties undertake:
to provide that mothers who are nursing their infants shall be entitled to sufficient time off for this purpose;"

Please indicate the rules which apply in this respect, stating whether time off for breastfeeding is considered as working hours and paid as such.

According to the Labour Code of RA /Article 258/ where the elimination of dangerous factors is impossible, the employer shall take measures to improve the working conditions so that the exposure of pregnant women, women who have recently given birth to risks is avoided. If it becomes impossible to eliminate such affect in the result of the improvement of working conditions, the employer must transfer the woman (upon her consent) to another job in the organization.

Where a pregnant woman, woman taking care of a child under one year of age has to attend medical examinations, the employer must release her from work preserving her average wage, which is calculated on the basis of the amount of average hourly wage. Apart from general break to rest and to eat, breast-feeding woman shall be given at least every three hours at least 30 minute breaks to breast-feed. At the woman's request, the breaks for breast-feeding may be joined or added to the general break or transfer at the end of the working day, shortening the working day accordingly. Payment for these breaks to breast-feed shall be calculated according to the average daily pay of the employee.

ARTICLE 8 PARA. 4

"With a view to ensuring the effective exercise of the right of employed women to protection of maternity, the Parties undertake:
to regulate the employment in night work of pregnant women, women who have recently given birth and women nursing their infants;"
Please give details on the regulations of night work of pregnant women, women who recently have given birth or who are nursing their infants and stating in particular the hours to which the term "night work" applies.

Night time considered is time from 10 p.m. to 6 a.m as well as if three working hours of the work being done happen to be at night. The duration of night work is reduced by one hour.

Working at night shall be prohibited for persons less than 18 years of age, as well as for persons who are not allowed to work at night according to the medical conclusions.

Pregnant women, women, taking care of a child under three years of age may be assigned to night work only with their consent.

Duration of the work at night shall not be shortened in case of continued production, as well as in cases when under employment contract the work is conducted at night. If it is established that work at night has harmed or may cause harm to the employee's health, the employer must transfer the employee to day work.

ARTICLE 8 PARA. 5

"With a view to ensuring the effective exercise of the right of employed women to protection of maternity, the Parties undertake:
to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining and all other work which is unsuitable by reason of its dangerous, unhealthy or arduous nature and to take appropriate measures to protect the employment rights of these women".

Question A

Please give details of measures to prohibit the employment of pregnant women, women who have recently given birth or who are nursing their infants in underground mining.

According to the Labour Code of RA /Article 258/ pregnant women, women who take care of a child under one year of age shall not be engaged in a job with dangerous factors and harmful conditions, which may have a negative impact.. The list of hazardous conditions and dangerous factors prohibited for pregnant women, women who have recently given birth shall be approved by the Government of the Republic of Armenia.

The employer shall take measures to improve the working conditions so that the exposure of pregnant women, women who have recently given birth to risks is avoided. If it becomes impossible to eliminate such affect in the result of the improvement of working conditions, the employer must transfer the woman (upon her consent) to another job in the organization.

Please indicate the point in time when this protection takes effect and ceases. Please indicate the measures taken to protect the employment rights of these women.

This provision is prescribed for pregnant women, women who take care of a child under one year of age.

Question B

Please indicate what other kind of unsuitable occupations by reason of its dangerous, unhealthy or arduous nature are prohibited and what measures are taken to give effect to such prohibition.

The Government of RA adopted the Decree N2308 on 19.12.2005 “On the list of hazardous conditions and dangerous factors prohibited for persons under 18 year of age, pregnant women, women who take care of a child under one year of age” in order to ensure the application of maternity protection according to the Labour Code of RA Article 258.

Please indicate the point in time when this protection takes effect and ceases. Please indicate the measures taken to protect the employment rights of these women.

This provision is prescribed for pregnant women, women who take care of a child under one year of age, as well as for persons under 18 year of age. According to the Code on Administrative Infringements of RA the employer is imposed to liability by paying penalties in case of infringement. The control over this

order is implemented by the State Labour Inspection of the Ministry of Labour and Social Issues of RA in cooperation with other state and non-governmental institutions.

Question C

Please give details of any authorised exceptions.

There are no such cases. There are no such exceptions prescribed by legislation.

ARTICLE 14: THE RIGHT TO BENEFIT FROM SOCIAL WELFARE SERVICES

ARTICLE 14 PARA. 2

"With a view to ensuring the effective exercise of the right to benefit from social welfare services, the Parties undertake:
to encourage the participation of individuals and voluntary or other organisations in the establishment and maintenance of such services."

Please indicate the measures taken to provide for or to encourage the participation of individuals and charitable organisations and other appropriate organisations in the establishment and maintenance of such services.⁶

The provision of social assistance in the territory of the Republic of Armenia is regulated by the law of RA "On Social Assistance". According to the Article 4 of this Law the social assistance aims:

- *to satisfy the basic needs of person in the difficult life situation,*
- *to establish conditions for integration in the society,*
- *to promote the development of abilities of their self-assistance and solving the problems by themselves,*
- *to prevent their social exclusion,*
- *to assist them to solve their social, financial problems.*

The Article 7 of this Law stipulates the main types of social assistance which are:

- 1. provision of consultative assistance*
- 2. provision of rehabilitation assistance*
- 3. provision of financial assistance*

⁶ If paragraph 1 of this Article has been accepted it is sufficient to supplement the reply concerning that

4. *provision of food/goods assistance*
5. *provision of temporary shelter*
6. *provision of care*
7. *provision of legal assistance*
8. *other types of social services not prohibited by law*

The mentioned functions are implemented by the Local Agencies of Social Services, the Centre of Home Care for elderly people, the specialized rehabilitation organizations.

Local Agencies of Social Services (LASS):

There are 55 LASSs which are under the prefectures /except Yerevan where the LASSs are under the community governance/.

The Local Agency of Social Services implements the following functions:

1. *discovers the poor families and according to the prescribed order registers them in the family insecurity assessment system,*
2. *assigns financial assistance and makes payment according to the order prescribed by law,*
3. *clarifies the authenticity of documents introduced by citizens for receiving social assistance,*
4. *designs individual plans of social-psychological rehabilitation of client and implements them independently or in cooperation with relevant organizations in cases stipulated by the legislation of RA.*
5. *takes into consideration the individual rehabilitation plan of disabled person designed by the competent institution of the medical-social expertise sphere while designing social-psychological rehabilitation individual plan of disabled persons.*
6. *takes part in the activities of designing and implementing of social development programmes of communities in its region,*
7. *ensures equal opportunities for provision of social assistance to the citizens, accessibility of social assistance and compliance with individual requirements of clients,*
8. *protects the legal interests and rights of client by its own initiative or upon request of client,*
9. *cooperates with state and local self-governing institutions, other organizations providing social assistance,*
10. *takes part in the activities conducted by other bodies for solving and preventing the problems related to begging and homelessness,*
11. *provides necessary information and consultation to the citizens, and in case of necessity for deeper specialized assistance guides them to the other organization where specialized assistance can be provided,*
12. *registers the citizens applied for care, investigates their family, social-domestic and social-economic conditions, assists them to formulate the documents and gives a note for application to an competent organization,*
13. *implements other liabilities prescribed by this law and other legal acts.*

In these frameworks the Social Assistance Councils are established and functioning in cooperation with LASSs. The Councils are consists of representatives from regional and local self-governing authorities as well as NGOs with social orientation. The public sector also actively takes part in the procedure of social service provision. Particularly, the non-governmental and charity organizations design programmes and establish centers for provision of social services. This policy is encouraged by state and currently the implementation of some functions of social service provision is ordered to NGOs. Moreover, the integrated centers for social services have been established by initiative of the Government and planed to be extended in future where beside the state authorities providing such services the NGOs and charity organizations are introduced.

ARTICLE 15: THE RIGHT OF PERSONS WITH DISABILITIES TO INDEPENDENCE, SOCIAL INTEGRATION AND PARTICIPATION IN THE LIFE OF THE COMMUNITY

ARTICLE 15 PARA. 2

“With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

to promote their access to employment through all measures tending to encourage employers to hire and keep in employment persons with disabilities in the ordinary working environment and to adjust the working conditions to the needs of the disabled or, where this is not possible by reason of the disability, by arranging for or creating sheltered employment according to the level of disability. In certain cases, such measures may require recourse to specialised placement and support services;”

Question A

Please describe the measures taken to promote the employment of persons with disabilities in an ordinary working environment and in particular the measures concerning the placing of persons with disabilities; incentives for employers to hire persons with disabilities and, where appropriate, measures obliging employers to adjust working conditions.

The policy of the Republic of Armenia in the sphere of disability aims to achieve social security of disabled people in all spheres (legal, economic, etc.) and to ensure equal opportunities for disabled people with other citizens of the country. The disability status is determined in the result of medical-social expertise. The medical-social expertise is conducted by the authorized body in the medical-social expertise sphere (currently this authorized body is the Medical-Social Expertise Agency with its 25 regional committees).

Disability is defined as a limitation of person’s vital activity because of health injuries. Despite the fact that definition of disability does not determine the degree of incapacity limitation the medical-social expertise committees give conclusion for each disable person about the limitation extent of their working capacity.

The authorized body in the medical-social expertise sphere decides on the nature and degree of vital activity limitation and rehabilitation potential of person, recognizes the person as disable, determines the disability group, the status of disable child, the

causative relation, period and duration of disability, the loss degree of professional working capacity and etc.

The authorized body in the medical-social expertise sphere determines three groups of disability (first, second, third) for person recognized as disable and the “disable child” status for children under 18 years. The disability is determined for duration of 1 or 2 years or temporary (without time limit). The responsibilities of the authorized body in the medical-social expertise sphere are stated by the RA law “On social protection of disabled people in the Republic of Armenia”.

The order for recognition of person as disable is stated by the RA Government Decree N254 on 13 March 2003 “On establishment of order for implementation of medical-social expertise and changes in the RA Government Decree N684 on 3 November 1998”. The classifications used during the medical-social expertise and the standards for definition of disability groups are stated by the RA Government Decree N780 on 13 June 2003 “On establishment of classifications used during the medical-social expertise and the standards for definition of disability groups”. After the adoption of these legal acts the approach to the concept “disability” has been changed. If before it was considered as a defect or inferiority, after the adoption of these documents “disability” is defined as a limitation of person’s vital activity because of health injuries when the person needs social protection. In other words, the disabled person is considered as “social” model instead of “medical” model. Another change was made is that the status of “disable child” is defined under 18 years (instead of 16 years established before).

The working conditions of disabled people are also stated in the RA law “On social protection of disabled people in the Republic of Armenia”. The employers are obliged to establish necessary working conditions for disabled people according to the personal rehabilitation programme. The working conditions of disabled people are stated by the RA law “On social protection of disabled people in the Republic of Armenia” /Article 19/:

“The conditions stated by the collective or individual contracts including wages, working and rest time regime, duration of annual and additional leaves can not aggravate the condition or restrict the rights of disabled person in comparison with other employees.

The involvement of disabled persons in overtime, non-working days or night works is allowed only in case of their consent and under condition that such works are not prohibited by the medical conclusion.

Shorter work time is set for first and second group of disabled people – not more than 36 hours per week.

The employer is obliged to set incomplete working week by request of disabled people and according to the individual rehabilitation programme. In such cases the pay for work of disabled people shall be proportionate to the actual time spent at work or the quantity of produced goods.

There is no probation period defined for disabled people.

In case of equal productivity and same qualification during reduction of the number of employees the disabled people have advantage to stay at work”.

According to the Article 20 of RA law “On social protection of disabled people in the Republic of Armenia” the state bodies and local self-governing bodies establish

necessary conditions for disabled people to conduct entrepreneurial activity, particularly, rendering of residential areas out of turn and provision of assistance for obtaining the raw materials and realizing the products.

Please provide information on employment obligation for persons with disabilities.

The legislation of RA does not state any special employment obligations for disabled people.

Please specify the measures to ensure the retention of persons with disabilities in employment (duty of occupational redeployment for persons who become disabled following an accident at work or an occupational disease, ban on dismissal of workers because of their disability, obligation for employers to adjust working conditions, provision of support for persons with disabilities to start their own business, etc.).

The provisions ensuring the employment of disabled people are also stated by the RA law "On social protection in case of employment and unemployment of population". According to the Article 15 of this law the "RA Employment Service" Agency of the Ministry of Labour and Social Issues of RA shall provide financial support to the disabled persons for state registration their business.

According to the Article 19 the unemployed job seeker disabled persons also reserve the right to free of charge vocational training, rehabilitation of labor skills and employment, as well as financial support for entrepreneurial activities at the expense of state resources.

The Article 20 of the law states that with a purpose to ensure the employment of disabled persons the "RA Employment Service" Agency jointly with the national and territorial agreement committees develops and implements vocational training /vocational training for disabled persons can be implemented by vocational training institutions as well/, as well as employment support salary compensation programs (the programmes are financed by state resources).

Question B

Please indicate the number (or an approximation) of persons with disabilities who during the reference period found paid employment (whether in specialised institutions or not; in the public or private sector).

The statistical data on disability for the reference period 2001-2004 is stated below :

Reference period	Persons recognized as disable for the first time		Disability groups			At the age capable for work	Persons recognized as disable in a result of reexamination
	Total	Women	1st group	2nd group	3rd group		
2001	13225	4777	1551	8158	3516	9197	42650
2002	12662	5065	1502	7380	3780	9141	44063
2003	14346	6021	1315	7554	4045	9903	47179
2004	13969	6242	1271	7635	3833	9648	44157

According to data on January 1, 2005 there are 135 000 disabled people registered in the country, 8000 of which are disabled children under 18 years. From total number of disabled people 40% are women, 55% are disabled people at the age capable for work /16-63 years old/ and 8% from total number of disabled people at the age capable for work are employed.

The "RA Employment Service" Agency arranges vocational education, working ability rehabilitation, trainings and job placement for disabled people.

The information on employment of disabled people for the reference period 2001-2004 is stated below:

Reference period	Number of unemployed job seekers			Job placed disabled people		Disabled people received vocational education
	Total	From which disabled people	From which women	Total	From which women	
2001	161155	601	250	8	3	150
2002	152495	744	320	24	8	0
2003	146992	854	422	30	4	37
2004	138480	1345	666	37	14	50

The NGOs dealing with the issues of disabled people also introduce programmes regarding the vocational education and vocational guidance issues. These programmes are implemented under the state policy based on the suggestions and comments of disabled people.

Question C

Please provide information on sheltered employment structures (type, capacity, pay rates for persons with disabilities working there).

The specialized organizations with special conditions of work operate within structure of NGOs – Armenian Union of Blind People, Armenian Union of Deaf People. The job places are adapted for disabled people and the safety conditions are fully ensured.

Preparatory works in the place of work are conducted with disabled people upon job placement during three months. The average salary in the industrial complex of blind people is 20 000 AMD. The productive enterprises and cultural centre functioning by the efforts of the Armenian Union of Deaf People currently are not functioning with the full extent but the works are conducted to recover them.

Please indicate the opportunities which exist to transfer from sheltered employment to open employment.

There is no prohibition envisaged by the legislation for disabled people to transfer from sheltered employment to open employment but transfer can be done to those open employment institutions where special conditions for work of disabled people are established.

ARTICLE 15 PARA. 3

“With a view to ensuring to persons with disabilities, irrespective of age and the nature and origin of their disabilities, the effective exercise of the right to independence, social integration and participation in the life of the community, the Parties undertake, in particular:

to promote their full social integration and participation in the life of the community in particular through measures, including technical aids, aiming to overcome barriers to communication and mobility and enabling access to transport, housing, cultural activities and leisure.”

Question A

Please indicate how national policy promotes the independence, the full integration and participation in the life of the community of persons with disabilities.

The privileges of disabled people are stated by the law “On social protection of disabled people in the Republic of Armenia”. The Ministry of Labour and Social Issues of RA developed a draft law “On changes and amendments in the law “On social protection of disabled people in the Republic of Armenia”” which was adopted on 3 May 2005. The new law aims to regulate and clarify the rehabilitation procedure of disabled people, to ensure conditions for accessibility.

According to the RA Government Decree N1780 on 24 December 2003 “On the adoption of order for provision of protease-orthopedic tools and rehabilitation or other technical means” the disabled people have right to receive protease-orthopedic tools and rehabilitation or other technical means free of charge by defined quality and terms.

According to the acting legislation the following privileges are envisaged for:

- *people with 1st and 2nd level of disability free access to electro transport,*
- *all disabled people to medical care,*
- *people with 1st and 2nd level of disability to medicine,*
- *people with 3rd level of disability to medicine with 50% discount.*

According to the laws “On social protection of disabled people in the Republic of Armenia” and “On medical assistance and service for population” as well as the RA Government Decree N318 on 4 March 2004 “On the free medical assistance and service guaranteed by state” the medical assistance and service of disabled people is provided free of charge.

The people who get disability during the Second World War and military service receive monthly pecuniary aid since 1 January 2004 in order to get accessibility to some services (electro energy, transport, gas and water supply, sewerage and heating system) and make payments.

The RA laws “On social protection of disabled people in the Republic of Armenia” and “On education” regulate the education issues of disabled people and children. An Agreement between the Ministry of Education and Science and the NGO “Bridge of

Hope” was signed in 2003 in order to continue the “Inclusive Education” programme in 5 secondary schools of Yerevan according which the children with special needs for education will study in the secondary schools with children in their age and if necessary, by specially developed programme.

The “Strategy for social protection of disabled people for 2006-2015” was adopted by the RA Government Protocol N44 on 3 November 2005 which provisions include different spheres concerning to the issues of disabled people – health, rehabilitation, public education, accessibility, transport, social protection and etc. The programme foresees various activities, especially assurance of surrounding accessibility, publication of books with special letter types, introduction of new technologies for expertise and rehabilitation, etc.

The main objective of the programme is to integrate the disabled people in the society in order to ensure the full participation of disabled people in all spheres of social life.

Please describe in particular how this applies to children with disabilities.

The RA laws “On Social Protection of disabled people in the Republic of Armenia” and “On Education” regulate the education issues of disabled people and disabled children.

The disabled children can study both in special and general types of secondary schools. Those children who are not able to study in special and general types of secondary schools due to their health conditions they can get education at home.

An Agreement between the Ministry of Education and Science and the NGO “Bridge of Hope” was signed in 2003 in order to continue the “Inclusive Education” programme in 5 secondary schools of Yerevan according to which the children with special needs for education will study in the secondary schools with children in their age and if necessary, by specially developed programme.

The people with status of disabled children who passed the entrance examination with affirmative scores continue the education in the state higher or vocational educational institutions in the free of charge base even in the case they get minimum scores for paid system.

Question B

Please describe:

a. the measures taken to overcome barriers to communication and mobility;

In order to overcome the obstacles with communication and mobility the protease-orthopedic tools and other technical means are provided to disabled people.

Type of the provided service	2001 /piece/	2002 /piece/	2003 /piece/	2004 /piece/
Protease-Orthopedic tools	7.136	3.882	9.400	14.000
Wheelchair	-	500	543	826
Hearing tools	500	451	400	1131

Note. The protease-orthopedic tools and rehabilitation or other technical means are provided to the disabled people according to their personal rehabilitation programmes. The providing of prosthesis, orthopedics and provision of rehabilitation tools are implemented by the two protease-orthopedic enterprises functioning in the system of the Ministry of Labour and Social Issues of RA. The resources for operation of the mentioned enterprises are provided by state budget. Since 2004 the people having need of such tools receive them at the moment they apply for it. Periodically, the visits to far distance regions of Armenia are also conducted for on-site provision of necessary tools.

Some TV channels have broadcast of news with surd interpretation. It should be noted that the gesture language is adopted by the state as the tool for personal contact, education and interpretation services. In 2004 an "Armenian vocabulary of gesture language" was published by efforts of "Kamq ev Korov" NGO and financing of "OXFAM" international charity organization.

The Article 16 of RA law "On Social Protection of disabled people in the Republic of Armenia" sets that the learning by Brail system, the accessibility of hearing tools and big format letters are guaranteed for people with poor eyesight including the additional learning by Brail system for people who lost the eyesight in old age. The TV and radio companies established by state and local self-governing authorities provide the broadcast of children's and news programmes with surd interpretation by the broadcast time prescribed by law.

According to the "Strategy of social protection of disabled people for 2006-2015" the news, children's and training programmes with surd interpretation by all TV and radio channels as well as the recording of "Speaking books", publication of books, notebooks, newspapers and magazines with Brail letter type are planed. Moreover, the installation of alarms and relief signs in the central roads of Armenia regions and Yerevan, establishment of special units of social workers helping the disabled people in the airports and railway stations is foreseen.

In 2002-2003 the measures were taken by the Ministry of Labor and Social Issues and the NGOs dealing with the issues of disabled people due to which the events ensuring the accessibility of disabled people were foreseen and implemented in the frameworks of reconstruction programmes of roads and pedestrian areas of Yerevan (the access ramps were built in 13 central roads, crossroads and nearby surrounding of social infrastructures). In the frameworks of "Strategy of social protection of disabled people for 2006-2015" it is foreseen to ensure the accessibility of transport means for disabled people with wheelchairs, entrances of old buildings and buildings to be built, especially by building access ramps, implementing monitoring of those

works and other activities which will ensure the accessibility of all areas for disabled people.

The strategy stipulates corresponding sanctions for imposing the responsible persons to the administrative proceedings in case the requirements of disabled people in the urban development process are not met.

It should be mentioned that according to the provisions of strategy the by-laws will be elaborated which will set mechanisms for enforcement of strategy.

b. the measures taken to enable access to transport, housing, cultural activities and leisure for persons with disabilities.

Article 26 of the Law “On Social Protection of Disabled People in the Republic of Armenia”) sets: “The state and local self- governing authorities should ensure for disabled people accessibility to cultural and sport facilities, establishment of necessary conditions to use them, provide with special sport inventory”.

Access ramps for wheelchairs have been constructed near the entrances of certain amount of cultural and leisure places. There are no any transportation means adopted for transportation of disabled people. But according to “Strategy of Social Protection of Disabled People in 2006 - 20015” the accessibility of transportation means will be provided for the disabled people using wheelchairs.

Question C

Please indicate how organisations representing or assisting persons with disabilities are consulted or involved in the formulation and implementation of the social integration policies for persons with disabilities.

The works in the field of social protection of disabled people are organized on the base of social partnership. Within the works carried out in the field of rehabilitation of disabled people there is cooperation between the NGO’s dealing with these issues and local authorities. While developing the projects their opinion is being taken into account and joint discussions are being organized. All the issues concerning the interests of disabled people are being discussed and solved by state authorities together with sufficient NGO’s participation and consent. A range of non-governmental organizations have active participation in the sphere of social protection of disabled persons, particularly:

“Pyunik” NGO – mainly deals with the issues of sport-cultural education and rehabilitation of disabled persons. They conduct various sport competitions.

“Huysi Kamurj” NGO – by their efforts the integrated education system is introduced in some schools. The organization has “Theatre on wheels” where both the disabled

and non disabled persons take part. They also have “Arevatsaghik” monthly magazine which is published by efforts of disabled and non disabled persons.

“Kamq ev Korov” NGO – has “Ovasis” pantomime theatre by participation of disabled persons.

“Unison” NGO – organizes annual beauty contests for disabled persons.

With the active participation of “Astghik” and “Unison” NGOs a survey on accessibility of Yerevan streets has been conducted. The “Astghik” organization has developed construction standards for surrounding accessibility, particularly on access ramps. The “Unison” NGO has introduced a draft law on surrounding accessibility.

A chorus called “Pyunik” is functioning in the Republic.

“Prkutyun” NGO – there is a day centre for mentally ill children where the children deal with creative activities.

“Fund for mental health” – has day centre for persons with mental problems where psychological assistance is provided, social work and therapy is conducted and their free time is organized.

Those NGO’s, which are applying to Ministry of Labor and Social Issues in a written or oral form, are provided with consultation, brochures concerning the disabled issues and other types of information.

ARTICLE 17: THE RIGHT OF CHILDREN AND YOUNG PERSONS TO SOCIAL, LEGAL AND ECONOMIC PROTECTION

ARTICLE 17 PARA. 1

“With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

- a. to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;*
- b. to protect children and young persons against negligence, violence or exploitation;*
- c. to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family’s support;”*

Question A

Please state whether your legislation makes provision for:

a. procedure for the establishment of the paternity or maternity of children born out of wedlock. If appropriate, state the reasons why some categories of children cannot benefit from these procedures and describe any special measures taken on behalf of these categories;

These procedures are implemented in accordance with the paragraph 3 of the Article 35 (“Determination of the Fact of Child’s Origin”) Chapter 9 of the Family Code, RA adopted in November 9, 2004:

- “The paternity of the person not married to the child’s mother is determined in the state Civic Status Registration Departments on the basis of the common application of the child’s mother and father. In case of the mother’s death, recognition incapable by court or impossibility to determine the place of residence, or being deprived of the parental rights the child’s paternity is determined on the basis of the father’s application with the consent of the departments of custody and guardianship, and in case of the absence of such consent, by the court verdict.”

This clause applies to all the children who are born in the Republic of Armenia.

b. liability for the maintenance of children born out of wedlock, and whether the rules applicable differ from those for children born within marriage;

In case of a child being born from unmarried persons (if the paternity of the child is not determined) only the mother bears full responsibility for the child.

c. special arrangements for the guardianship and custody of children born out of wedlock;

There are no special arrangements for guardianship of the children born from unmarried persons as in accordance with Article 4 of “Law on Child’s Rights”, RA the children have equal rights irrespective of the nationality, race, sex, language, creed, social origin, property possessed, education, place of living of their parents or other legal representatives (adopters, trustees or guardians), as well as child’s birth and other circumstances.

d. the legitimisation of children born out of wedlock;

Legalization of the children born from unmarried persons is implemented in accordance with Articles 35, 36 of the Family Code, RA

Paragraph 3, Article 35: "The paternity of the person not married to the child's mother is determined in the state Civic Status Registration Departments on the basis of the common application of the child's mother and father. In case of the mother's death, recognition incapable by court or impossibility to determine the place of residence, or being deprived of the parental rights the child's paternity is determined on the basis of the father's application with the consent of the departments of custody and guardianship, and in case of the absence of such consent, by the court verdict."

Article 36: "In case of a child being born from unmarried persons, if there is no common application of parents or the father's application the fact of origin from a certain person (paternity) is determined by the judicial procedure on the basis of the application from correspondingly one of the parents or the mother, the guardian of a child, and after the child attains the majority, on the basis of the application of the latter. In this case the court takes into consideration any prove that definitely states that the given child is of this certain person's origin."

Article 37: "In case of the death of a person who recognized himself as the father of the child, but not married to the child's mother, the paternity of the latter can be determined by the judicial procedure by the provisions stipulated by the Civic Procedure Code."

e. special rules for the inheritance right of children born out of wedlock.

In accordance with Article 17 of Law on "Child's Rights," RA each child (also adopted child) has right to receive the inheritance in case of parent's death and the death of the parent declared by court irrespective of their place of living regulated by Article 1190 of Civil Code, RA: "Citizens alive on the day of opening the inheritance and also those conceived during the life of the donor by inheritance and born alive after the opening of the inheritance may be heirs by will or statute".

Question B

Please describe the measures in force with regard to adoption. How close does the status of the adopted child come to that of the biological child ?

Procedutres for child adoption is stipulated in Chapter 18 of Family Code, RA as well as in Decree No. 64 adopted by the Government, RA in 12.02.2000.

Article 112 of Family Code, RA stipulates: "Adoption is a legal act according to which adopters and adopted obtain rights and obligations stipulated by law for parents and children."

Question C

Please indicate how the legal representation of children is ensured, notably in case of conflict with or between the parents or the persons in charge of the child. Are children entitled to be heard and have their views taken into account during legal proceedings?

If so, from what age and on which issues?

In accordance with Article 44 of Family Code, RA:

- A child has the right to be present at any consideration of the issues touching his/her interests and express personal opinion in family, judicial and other bodies.

- Taking into consideration the opinion of the child above 10 is obligatory with regards to freedom of conscience, participation in particular events, rejection of extracurricular education, living with one of the parents, communication with relatives and other issues stipulated by law.

- In cases stipulated by the given Code the courts and departments of custody and guardianship can make a decision concerning a child above 10 only with his/her consent.

Question D

Please indicate if your legislation provides for special institutions or special courts (possibly child tribunals or special procedures) to deal with young offenders.

There are no special courts operating in the judicial system, RA in view to issues of minors. The Ministry of Justice finds it inexpedient to establish in the regions the courts dealing especially with minors as the infringements committed by them do not constitute a great number in Armenia. Establishment of one common court (in the capital) is not expedient from a geographical point of view. Given the aforementioned it was preliminary decided for each court to have one judge dealing with minors' matters. This option is still being discussed now.

Please indicate what is the age of criminal responsibility, at which sanctions can be applied; the penalties available and the conditions under which they are carried out, notably for penalties involving restrictions on liberty. Please also indicate the measures of protection, education and treatment and the care provided as a means of prevention or as an alternative to detention, as well as the measures to minimise the risk for vulnerable young people.

Article 24 of Criminal Code, RA stipulates that the person who reached the age of 16 before the committal of the crime is subject to criminal liability. The persons who reached the age of 14 before the committal of the crime are subject to criminal liability for murder, for inflicting wilful severe or medium damage to health, for kidnapping people, for rape, for violent sexual actions, for banditry, for theft, for robbery, for extortion, getting hold of a car or other means of transportation without the intention of

appropriation, for destruction or damage of property in aggravating circumstances, for theft or extortion of weapons, ammunition or explosives, for theft or extortion of narcotic drugs or psychotropic substances, for damaging the means of transportation or communication lines, for hooliganism. If the person has reached the aforementioned age, but due to retarded mental development was not able to understand the nature and significance of one's actions or to control one's actions, then he is not subject to criminal liability.

The whole Chapter 14 is devoted to a punishment or enforced disciplinary measures can be assigned in relation to a minor who committed a crime. The types of punishment assigned in relation to the minors (stipulated in Article 86 of Criminal Code, RA) are as follows:

- fine;*
- public work;*
- arrest;*
- imprisonment for a certain period.*

The following punishments can not be assigned in relation to a minor:

- to deprive of the right to get certain positions or conduct certain activity,*
- to deprive of the special or military title, rank, level or qualification rank,*
- estate confiscation,*
- disciplinary works,*
- to keep in the disciplinary battalion*
- life imprisonment*

Fines are assigned in the amount from 10 to 500 minimal salaries established in the Republic of Armenia by law, at the time of assignment of the punishment (in case of minors in the amount of 30 to 1000 minimal salaries)

Arrest, for the period from 15 days to 2 months, is assigned in relation to a minor who has reached the age of 12 years at the moment of sentence (in case of minors this period is 15 years and by combined verdict - 20 years).

When assigning punishment to a minor, his living and rearing conditions are taken into account, the degree of mental development, health, other features of personality, as well as the influence of other persons.

The minor who committed for the first time a not grave or medium-gravity crime can be exempted from criminal liability by the court, if the court finds that his correction is possible by application of enforced disciplinary measures.

- 1) warning;*
- 2) handing over for supervision to the parents, persons replacing the parents, local self-government bodies, or competent bodies supervising the convict's behavior for up to 6 months;*
- 3) imposing the obligation to mitigate the inflicted damage, within a deadline established by the court;*
- 4) restriction of leisure time and establishment of special requirements to the behavior, for up to 6 months.*

When committing a new crime, the minor is not subjected to criminal liability for the previous crimes for which he was sentenced to enforced disciplinary measures.

A minor who committed a not grave or medium-gravity crime can be exempted from punishment, if the court finds that the purpose of the punishment can be achieved by

placing the minor in a specialized educational and disciplinary or medical and disciplinary institution.

Assignment to specialized educational and disciplinary or medical and disciplinary institution is done for the term of up to three years, but not more than needed to become major.

Exemption from punishment on parole in relation to a minor who committed a crime and was sentenced to imprisonment for a crime committed at a minor age can be applied, if the convict actually has served:

- 1) no less than one quarter of the punishment assigned for a not grave or medium-gravity crime;*
- 2) no less than one third of the punishment assigned for a grave crime;*
- 3) no less than half of the punishment assigned for a particularly grave crime.*

When exempting a person who committed a crime under 18 years of age from criminal liability or punishment due to expiry of prescription period, the prescription periods envisaged the Criminal Code are reduced by half respectively.

A separate chapter (Chapter 20) on the crimes against family and children is set in Criminal Code, RA

Question E⁷

a. Please indicate the preventive measures taken to protect the health of children and young persons.

b. Please indicate whether any socio-medical services are provided through schools and day-care services, and measures ensuring adequate nutrition of children and young persons.

In accordance with the Law on “Child’s Rights,” RA each child has a right to preserve and build up his/her health. In the framework of the annual targeted health programmes the state bodies ensure the child’s right to enjoy the health services free of charge.

By Law on Medical Assistance and Service, RA stipulates the implementation of constitutional rights to health, secure medical assistance and service organization, legal, economic and financial clauses. Human rights in the field of medical assistance and service are stipulated by the law.

Issues regulated by the laws on “Medical Assistance and Service to Population”, RA and “Child’s Rights” envisaged by the Constitution, RA, as well as the National Program on Protection of Child’s Rights (2004-2015), RA are under state guardianship.

Strategy of mother and child health development in Armenia is based on the organization of medical assistance of public system.

⁷ It is not necessary to answer this question if the information has been provided under Article 11.

Decree of Government, RA adopted in 08.08.2003 and currently implementing strategy of mother and child health development programme for 2003-2015.

Question J

b. Please indicate the number of places and children in residential care, as well as the living conditions in these establishments (nutrition, health services, recreational facilities, privacy and communication with family and friends);

Currently there are 8 children's homes operating in the system of the Ministry of Labor and Social Issues, RA. As of January 1, 2005 there are about 950 children under the state care, including the children without one parent's care and children without parents' care, divorced and socially insecure, the children from poor families but socially orphans.

Two of the operating children's homes are the specialized ones where about 300 children with physical and mental disorders, and seriously ill children are being cared there.

c. Please describe the arrangements made for inspection of standards in residential care.

By the Decree (No. 1324) of Government, RA dated to August 5, 2004, the following state social minimal criteria for child's care and rearing were adopted:

- 1. information,*
- 2. protection of child's rights*
- 3. child's entry to a children's home and his/her integration*
- 4. care*
- 5. nutrition*
- 6. clothing*
- 7. needs and requirements*
- 8. the child's minor expenses (pocket money)*
- 9. area and its security*
- 10. health*
- 11. education and upbringing*
- 12. leisure time*
- 13. introduction to cultural values*
- 14. relationships between the children and the staff of children's home*
- 15. connection with family and relatives of the child*
- 16. meeting with children*
- 17. means of communication*
- 18. individual life development program*
- 19. consultations and information for the graduates*

- 20. documents of the child leaving a children's home
- 21. training and professional development of staff workers.

The position of the inspector for the children's homes was introduced in the system of the Ministry of Labor and Social Issues, RA in 2003. His/her responsibility is to supervise the application and implementation of the state social minimal criteria for child's care and rearing in the children's homes.

d. Please indicate the criteria according to which parental rights and duties may be abrogated, and to which children may be separated from their families and placed in the care of third parties. Please indicate how the right of both children and parents to express their opinions in such circumstances is secured.

Question K

Please indicate the role of private organisations in providing care and assistance to children and young persons, and the legal framework governing their activities, in particular with respect to state inspection.

A range of NGOs and charitable organizations implementing care and upbringing for the children left without parental care operate in the Republic of Armenia. These organizations are registered in the Ministry of Justice, RA as the charitable organizations and implement care and upbringing for the children left without parental care securing their food, clothes, education, development of professional skills, physical, mental and spiritual development, and preparing their further integration into society.

ARTICLE 17 PARA. 2

“With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

to provide to children and young persons a free primary and secondary education as well as to encourage regular attendance at schools”.

Question A

Please indicate whether free primary and secondary education is universally available in your country. Please indicate the extent to which mainstream education is open to children and young persons with disabilities.

A right to education is stipulated in the Constitution, RA (Article 39), as well as in the Law on "Child's Rights" RA, Law on "Education" RA.

"Everyone shall have a right to education. Basic general education shall be compulsory. The secondary education in state educational institutions is free of charge."

Republic of Armenia secures a right to education irrespective of nationality, race, sex, creed, political and other views, social origin, or other circumstances. The state for the citizens of the Republic of Armenia guarantees basic general education free of charge in state secondary educational institutions based on competition, as well as the right to higher and post-higher education. The state provides the pupils of 1 to 3 grades studying in the state secondary institutions with manuals on the expenses from the budget except the manuals of foreign languages and music and the relevant manuals of elementary education for the children from socially insecure families. The state creates conditions for the education of the citizens with special needs and their subsequent social adaptation.

Question B

Please indicate as far as possible the extent of truancy in primary and secondary schools.

There are about 400 children who do not attend schools due to various reasons in the Republic of Armenia.

Please indicate what measures are taken to encourage regular attendance and what sanctions exist for truancy.

The pupils who had been absent in the lessons for 40 days or 240 hours and more during the school year give exams at least for 5 subjects and the annual grades are given on the base of these exams. At high school in case of the same absent days the pupil is quitted from the school. The behavior of pupil whose attitude was unconscientiously towards the study can be considered as "unsatisfactory" and the question of further study at school is decided by the Pedagogical Council of school.

Question C

Please indicate any measures or initiatives to encourage regular attendance in favour of children and young persons from minority groups (eg. ethnic or linguistic minorities) and vulnerable groups (eg. those with disabilities, those suffering from dyslexia, those in long-term care, those from disadvantaged backgrounds).

The inclusive programmes for children with needs of special educational conditions are being implemented in the country in order to include them in the secondary schools. The aim of the programmes is to organize the education of children with mental and/or physical problems at the nearest general school without taking away the child from the family.

Question D

Please indicate what proportion of children and young persons complete the secondary education cycle successfully and the existing possibilities for those for whom it is not the case.

The majority of children attending school successfully graduate from the secondary educational institutions.

ARTICLE 18: THE RIGHT TO ENGAGE IN A GAINFUL OCCUPATION IN THE TERRITORY OF OTHER PARTIES

ARTICLE 18 PARA. 1

"With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

to apply existing regulations in a spirit of liberality;"

Question A

How is this paragraph observed in your country, both with regard to wage-earners and with regard to others?

According to the Labour Code of RA /Article 2/ the objective of the labor legislation is:

- 1. Establish state guaranties for labor rights and freedoms for natural persons, i.e., citizens of RA, citizens of foreign country, persons without citizenship (hereinafter citizen) ,*
- 2. Contribute to the creation of favorable labor conditions,*
- 3. Protect the rights and interests of the employees and employers.*

According to the Article 3 of the same Code workers has right to:

- freedom of employment, including the right to employment, which should be freely selected or agreed upon by each person; the right to administer the labor capacities, choose the profession and type of activity;*
- legal equality of parties of labor relations irrespective of their gender, race, nation, language, origin, citizenship, social status, religion, marital and family status, age, philosophy, political party, trade union or public organization membership, other factors unrelated to the employee's professional qualities;*
- equality of the rights and opportunities of the workers;*
- provision of the timely and complete remuneration at the rate not lower than the minimal salary stipulated by the law.*

The foreign citizens, the persons without citizenship have the same labour rights in the Republic of Armenia as the citizens of RA if there is no other provision stipulated by law.

Question B

Please indicate the number of permits granted compared with the number of applications made.

There are no such analyses.

Question C

Please state whether your country applies restrictions to the right to engage in a gainful occupation by nationals of other states and if so, please mention the grounds.

The state ensures the implementation of labour rights according to the provisions of Labour Code of RA and other laws. The labor rights may be restricted only by law, if such restrictions are necessary for public security, public order, public health and morals, rights and interests of the others, honor and good reputation.

According to the Labour Code of RA /Article 178/ the wage of an employee shall depend upon the amount and quality of work, the results of the activities of the organization and the labor demand in the labor market.

ARTICLE 18 PARA. 2

"With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake: to simplify existing formalities and to reduce or abolish chancery dues and other charges payable by foreign workers or their employers;"

Question A

Please describe the formalities which must be observed by nationals of the other Contracting Parties and the members of their families or by their employers, with regard to their residence in the country and the exercise of an occupation, whether they are seeking paid employment or wish to engage as self-employed, distinguishing between wage-earners or salaried employees, self-employed traders or craftsmen, heads of agricultural or non-agricultural concerns, various professions.

The foreign citizens, the persons without citizenship have the same labour rights in the Republic of Armenia as the citizens of RA therefore such analyses have not been conducted.

Please state what derogations have been made to the rules normally applicable and with regard to what categories of persons.

According to the RA law "On income tax" in the Republic of Armenia income taxpayers are resident (hereinafter referred to as "residents") and non-resident individuals of the Republic of Armenia. For the purposes of this law an individual that, during any twelve month period starting or ending in a tax year (from January 1 to December 31 inclusive) has been residing in the Republic of Armenia for a total duration of 183 days or more, or whose center of vital interests is in the Republic of Armenia, as well as an individual in the civil service of the Republic of Armenia who is temporarily working outside the

territory of the Republic of Armenia, shall be considered a resident.

ARTICLE 18 PARA. 3

"With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:
to liberalise, individually or collectively, regulations governing the employment of foreign workers;"

Question A

Please specify whether, and if so under which conditions, a foreign worker may:

- a. change his place of occupation;
- b. change his occupation;
- c. claim the renewal of the permit.

The foreign citizens are free to chose between the activities mentioned in the "a", "b" and "c" points.

Question B

Please describe the situation of the holder of a work permit if he loses or gives up his job while the permit is still valid.

There is no labour permission set by legislation of RA for foreign citizens. In case the foreign citizen loses or refuses work he/she is free to chose other work or job place.

ARTICLE 18 PARA. 4

"With a view to ensuring the effective exercise of the right to engage in a gainful occupation in the territory of any other Party, the Parties undertake:

the right of their nationals to leave the country to engage in a gainful occupation in the territories of the other Parties."

Please indicate whether there are any restrictions or special conditions affecting the right of such persons to leave the country for this reason and, if so, what the regulations are.

There are no such restrictions or special conditions stipulated by legislation of RA.

ARTICLE 22: THE RIGHT TO TAKE PART IN THE DETERMINATION AND IMPROVEMENT OF THE WORKING CONDITIONS AND WORKING ENVIRONMENT

“With a view to ensuring the effective exercise of the right of workers to take part in the determination and improvement of the working conditions and working environment in the undertaking, the Parties undertake to adopt or encourage measures enabling workers or their representatives, in accordance with national legislation and practice, to contribute:

- a. to the determination and the improvement of the working conditions, work organisation and working environment;*
- b. to the protection of health and safety within the undertaking;*
- c. to the organisation of social and socio-cultural services and facilities within the undertaking;*
- d. to the supervision of the observance of regulations on these matters.”*

Question A

Please describe the rules and/or the mechanisms whereby the right of workers to information and consultation within the undertaking either directly or through their representatives is guaranteed, for example through legislation, collective agreements or other means.

The Labour Code of RA /Article 43/ defines that the employees reserve the right to receive information on labor relations not prohibited by the law. The employers provide the representatives and organizations of the employees the information regarding the labor relations. The extent of the information submitted is conditioned by the level of social partnership.

The information includes:

- 1) information about present and future activities of the employer;*
- 2) information about the possible changes;*
- 3) information about measures to be implemented in case of possible reduction of the employees;*

- 4) *other information about the labor relations, if that information is not considered to be state, internal and commercial secret.*

The procedure and conditions for the submission of the information is defined by the agreement of parties.

Please indicate by whom and on what basis the workers' representatives are designated.

The Labour Code of RA /Article 23/ defines that in labor relations the rights and interests of employees may be represented and protected by the trade unions.

Where an organization has no trade union the staff meeting (forum) may transfer functions of employee representation and interest protection to the corresponding sectoral or territorial trade union. In this case the staff meeting (forum) shall elect a representative (representatives) to participate at the collective negotiations with the given employer in the delegation of sectoral or territorial trade union.

One and the same representative may not represent and protect the interests of both the employees and the employers.

Question B

Please state whether workers' participation concerns all of the areas covered by Article 22:

- the determination and improvement of the working conditions, work organisation and working environment;
- the protection of health and safety within the undertaking;
- the organisation of social and socio-cultural services within the undertaking;
- the supervision of the observance of regulations on these matters.

According to the Labour Code of RA state control and supervision over adherence of employers to the regulatory provisions of the labor legislation, other normative legal acts containing norms of labor law and collective contracts shall be exercised by State Labor Inspectorate (Article 34) and non-state supervision shall be exercised by trade unions (Article 35).

Question C⁸

If some workers are not covered by provisions of this type either by legislation, collective agreements or other measures, please indicate the proportion of workers not so covered.

The provision has full coverage on all groups of employees.

Question D⁹

Please indicate whether certain undertakings are excluded from the obligations contained in Article 22 on the grounds that they employ less than a certain number of workers. If so, please state the specified number of workers below which undertakings are not required to comply with these provisions.

The organizations are not excluded from such obligations.

Question E

Please indicate whether there are certain undertakings, such as religious undertakings or other undertakings within the meaning of para. 4 of the appendix to Article 22, excluded from the rights guaranteed in this provision. If so please provide details on this subject.

Such organizations are also not excluded from such obligations.

Question F

Please describe the legal remedies available to workers or their representatives who consider that their rights under this provision have not been respected. Please indicate the applicable sanctions.

⁸ See Article I and the appendix thereto.

⁹ See paragraph 6 of the appendix to Article 22.

The Labour Code of RA /Article 26/ defines that an employer must:

- 1) respect the rights of the representatives of the employees and do not interfere with their activities. The activities of the representatives of the employees may not be terminated at the employer's will;*
- 2) when making decisions that may affect the employees' legal position, hold consultations with the representatives of the employees and, in cases provided for by this Code, obtain their consent;*
- 3) ensure conduct of collective negotiations within short period of time;*
- 4) consider the proposals submitted by the representatives of the employees within the term set in this Code and where such term is not set – no later than within one month and respond to it in writing;*
- 5) provide free of charge necessary information on issues related to the work to the representatives of employees;*
- 6) perform other obligations provided for by collective contracts;*
- 7) ensure other rights of the representatives of the employees established by the legislation.*

Labour Code of RA /Article 119/ stipulates that:

- 1. Employees elected to representative bodies of employees (trade unions), may not be dismissed from work under Article 113 of this Code during the period for which they fulfil their authorizations without the preliminary consent of the state labour inspector, except for the cases specified in the clauses 1, 2, 5-7 of section 1 of the Article 113 and section 1 of Article 123 of this Code without prior consent of the labor inspector.*
- 2. The employer shall apply to the state labour inspector for receiving his consent for the dismissal of the representative of employees. The labor inspector must reply within 14 days from the receipt of the application of the employer. The labor inspector shall make the decision on his consent or rejection of the dismissal of the employee in written form.. If the labor inspector fails to reply to the employer within the defined period, the employer shall be entitled to terminate the employment contract.*
- 3. The employer shall be entitled to appeal in the court the decision about the refusal of the dismissal of the employee. The court may recognize such a decision as invalid if the employer proves that this decision substantially violated his interests.*

ARTICLE 24: THE RIGHT TO PROTECTION IN CASES OF TERMINATION OF EMPLOYMENT

“With a view to ensuring the effective exercise of the right of workers to protection in

cases of termination of employment, the Parties undertake to recognise:

- a. the right of all workers not to have their employment terminated without valid reasons for such termination connected with their capacity or conduct or based on the operational requirements of the undertaking, establishment or service;
- b. the right of workers whose employment is terminated without valid reason to adequate compensation or other appropriate relief.

To this end, the Parties undertake to ensure that a worker who considers that his employment has been terminated without a valid reason shall have the right to appeal to an impartial body.”

Question A

Please state the valid grounds for termination of employment provided by national legislation and whether national legislation prohibits certain cases of termination of employment.¹⁰

The Labour Code of RA /Articles 109, 110, 111, 112, 113 and 114/ defines that an employment contract shall be terminated upon the consent of the parties, in case the contract expires, upon the initiative of the employee, upon the initiative of the employer in the following cases:

1. *upon the consent of the parties /when the mutual consent is made for termination of an Employment Contract/;*
2. *in case the contract expires /when the employment contract signed for a definite term expires and parties or one of them does not offer to extend the terms/;*
3. *upon the initiative of the employee /when employee gives a notice to the employer for termination of contract/;*
4. *upon the initiative of the employer /an employer may terminate an employment contract signed for an indefinite term and one signed for a definite term prior to the expiry of the contract:*
 - 1) *in case, when the organization is liquidated (the activity of the sole entrepreneur is terminated),*
 - 2) *in case, when the employer is bankrupt,*
 - 3) *in case, when the number of employees is reduced, which is preconditioned by changes in the volume of production, economic and technological conditions and conditions of organization of work, as well as by production needs,*

¹⁰ See paras. 1 and 3 of the Appendix to Article 24.

- 4) *in case, when the employee is not suitable for the position held or job done,*
- 5) *because of unsatisfactory result of the trial period,*
- 6) *for the employee's non-performance or incomplete performance of his duties,*
- 7) *in case, when the confidence towards the employee is lost,*
- 8) *in case of the long-term inability to work (in case the employee does not come to work for more than 120 consecutive days or for more than 140 days because of a temporary inability to work if it is not defined by the law and other normative acts that the job and title are preserved for a longer term in case of certain diseases),*
- 9) *because the employee reaches the retirement age;*

5. *in other cases envisaged by this code.*

The legislation prohibits the termination of an employment contract by initiative of employer:

- 1) *during the period of temporary inability of the employee to work;*
- 2) *during the leave of the employee;*
- 3) *after a decision on a strike is adopted and during the strike in case the employee partakes in this strike in the manner defined by this code*
- 4) *during the implementation of duties imposed on the employer by state and local self-governance bodies, except the temporary military service.*

The following shall not be considered as legitimate reasons for the termination of the employment contract:

- 1) *membership in a trade union or involvement in the activities of a trade union beyond the working time or, with the consent of the employer, also during working time;*
- 2) *performance of the function of employees' representative at any time;*
- 3) *raise claims to the employer for violation of laws, other normative acts or the collective contract;*
- 4) *gender, race, nationality, language, origin, citizenship, social state, religion marital and family status, convictions or views, affiliation in political parties and public organizations;*
- 5) *age, except for the cases when an employee is already entitled to the full old age pension or is in receipt of it.*

Please specify whether these grounds appear in legislation or regulations or whether they are derived from court decisions or other sources.

The above-mentioned grounds are stipulated by the Labour Code of RA /Part 15/.

Provide examples of case law on this point.

Such examples are not available.

Please state whether termination of employment is notified in writing.

Termination of employment is notified in written form.

If so, whether the employer is required to state the reasons for dismissal in the notification.

The Labour Code of RA /Article 115/ defines that the basis and reason of dismissal as well as year, month, day of dismissal shall be mentioned in the notification on the termination of the employment contract:

Please state what are the workers' rights in cases of unilateral amendments by the employer to the substantive conditions of the employment contract.

The Labour Code of RA /Article 38/ defines that the protection of labor rights, in accordance with cognizable cases set by the Code of Civil Procedures of the Republic of Armenia, shall be exercised by the court.

Labor rights shall be protected by trade unions according to the procedure set by this Code and laws regulating their activities

The protection of the labor rights shall be exercised in the following ways:

- 1) through recognizing that rights;*
- 2) by restoring the situation existing before the violation of the right;*
- 3) by preventing and eliminating the actions, which violate the right or create a danger for its violation;*
- 4) by recognizing the act of state or local self-governance bodies invalid ;*

- 5) *by not applying the act of state or local self-governance bodies by the court that contradicts the law;*
- 6) *by self-protection of the right;*
- 7) *by enforcing to perform obligations for in-kind;*
- 8) *by reimbursing the damage;*
- 9) *by confiscating fines;*
- 10) *by terminating or modifying the legal relationships;*
- 11) *in other ways prescribed by law.*

According to the Labour Code of RA /Article 105/ stipulates that:

1. In the event of changes in production, economic, technological and work organization conditions as well as in other cases preconditioned by the needs of the production an employer shall be entitled to change the conditions of the employment contract. If an employee does not agree to work under he changed working conditions, he may be dismissed from work under Article 113 of this Code in accordance with the established procedure for terminating an employment contract.

2. The conditions of an employment contract set in clauses 1, 3 and 4 of section 1 and section 2 of the Article 84 of this Code may be changed with the prior written consent of an employee, except for the cases established in Article 106 of this Code.

3. An employer may change the conditions of remuneration for work without the written consent of an employee only in case of changes in the conditions of remuneration of work by the law or collective contract.

Question B

Please state whether workers who consider that they have been dismissed without valid reason have a right of appeal to a tribunal or an impartial authority.

The right for the appeal of the case is three years except the cases envisaged by the RA Labor Code. For some kinds of demands the special terms can be defined by laws which are shorter or longer in comparison to limitation period.

Limitation period does not apply to the demands for reimbursement of the damage of employee's honor and dignity protection, his/her salary as well as to the of employee's life or health.

The provisions on limitation period of Civil and Civil Procedures Codes of the Republic of Armenia can be applied to labour relations in case of the absence of provisions on the limitation period application by the labour legislation.

Please state where the burden of proof lies.

On the party which appealed.

Question C

If the court or tribunal to which the appeal lies considers that the termination of employment is unjustified, please indicate whether the worker is entitled to adequate damages (and describe how the level of damages is determined) or to any other form of compensation (and indicate what such compensation consists of).

The Labour Code of RA /Article 241/ defines that the amount of the damage to be compensated shall comprise direct losses and the income, which has not been received.

The damage shall be computed taking into account those expenses of the victim, which he has been incurred or will incur to restore the rights violated, the damage or loss of his property (real loss), as well as not received incomes, which that person would receive under the normal conditions of civil turnover, if his rights would not be violated.

Inasmuch as the remedy for unfair or unlawful termination of employment is monetary, please indicate:

a. whether this applies to all enterprises, regardless of their size;

The monetary compensation of damage is applicable for all organizations regardless of their size.

b. whether there is a minimum level of damages;

No minimum level of damage compensation is defined. It is subject of full compensation.

c. whether the choice of damages (instead of reinstatement) is left to the worker, the employer or the court.

The choice of damage compensation can be made by the mutual consent between employee and employer or court.

Question D

Please list the categories of workers excluded from this protection and indicate how they are in conformity with item 2 of the Appendix to Article 24.

All categories of workers have right to protection by the order prescribed by law in cases of dismissal.

If workers who are employed under a fixed-term contract are excluded (item 2 of the Appendix to Article 24) from this protection, please provide a definition of a fixed-term contract.

All categories of workers have right to protection by the order prescribed by law in cases of dismissal regardless the terms of contract.

If there is a trial period of employment for this protection, please indicate its length.

During the trial period an employee has all rights and takes all responsibilities that are defined by the Labour Code, other laws and normative legal acts as well as collective and employment contracts.

ARTICLE 27: THE RIGHT OF WORKERS WITH FAMILY RESPONSIBILITIES TO EQUAL OPPORTUNITIES AND EQUAL TREATMENT **ARTICLE 27 PARA. 1:**¹¹

“With a view to ensuring the exercise of the right to equal opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

to take appropriate measures:

¹¹ See appendix to Article 27

- a. to enable workers with family responsibilities to enter and remain in employment, as well as to re-enter employment after an absence due to those responsibilities, including measures in the field of vocational guidance and training;
- b. to take account of their needs in terms of conditions of employment and social security;
- c. to develop or promote services, public or private in particular child daycare services and other childcare arrangements;”

Question A

Please describe the measures taken to implement this provision, in particular the measures taken in the field of vocational guidance and training, including retraining.

According to the Labour Code of RA /Article 201/ the employees who have been notified about the annulment of the employment contract in cases envisaged by clauses 1, 2 and 3 of section 1 of article 113 of this code may be sent to take up training for a profession meeting the needs of the local labor market or to improve their qualifications. The arrangement for their training shall be specified by the legislation of the Republic of Armenia.

Question B

Please describe the measures taken to implement this provision, especially measures concerning the length and organisation of working time.

Please indicate the measures taken to allow workers with family responsibilities who so wish to work part-time and to allow them to return to full-time employment. Where appropriate, please describe the rules applying to these different forms of work, their supervision and the applicable social protection (please specify in particular qualifying conditions for social security, the benefits which these workers may claim, etc.).

According to the Labour Code of RA /Article 141/ part daily working time or part weekly working time shall be set:

- 1) *by agreement between the employee and the employer;*
- 2) *by request of the employee due to his/her health status in accordance with medical conclusions;*

3) *on request of a pregnant woman and an employee raising a child until it reaches one year of age;*

4) *on request of a disable person based on the medical conclusion;*

5) *on request of an employee nursing a sick member of his family, according to the medical conclusion , however no longer than for six months and for each day not longer, than the half of established working time.*

2. *Part-time work may be by agreement established by decreasing the number of working days per week or shortening a working day (shift), or doing both, if otherwise stipulated by the medical conclusion. Part-time work during a working day may be divided into parts. The duration and order for its provision stipulated in clauses 1-4 of the paragraph 1 of this article is established by the consent of the parties and can be included in the employment contract.*

3. *Part-time work shall not serve as a basis for any limitation when defining the duration of the annual leave, calculating the length of service, as well as during promotion, requalification and exercise of the labour and other rights of the employee.*

According to the Article 187 of the Labour Code of RA in cases envisaged by the legislation of the Republic of Armenia, as well as by mutual agreement between the employee and employer the pay for incomplete working time (an incomplete working day or week) shall be proportionate to the actual time spent at work or the actual work carried out.

The social guarantees of workers are set by collective and employment contracts.

ARTICLE 27 PARA. 2

“With a view to ensuring the exercise of the right to equal opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

to provide a possibility for either parent to obtain, during a period after maternity leave, parental leave to take care of a child, the duration and conditions of which should be determined by national legislation, collective agreements or practice;”

Please indicate the statutory provisions or other provisions that ensure parental leave. Where collective agreements are concerned, please indicate the sectors in which such

leave is provided. Please indicate the length of this leave and the practical conditions governing it (eligibility, apportionment, payment).

Please provide information on the extent to which men and women take parental leave.

Please indicate if the two parents may take parental leave at the same time.

Labour Code of RA /Article 173/ stipulates that:

1. Parental leave before the child is three years of age shall be granted at the choice of the mother (step-mother), father (the step-father), grandmother, grandfather of the family or any other relatives, who are actually raising the child as well as of the employee who has been the guardian of the child. The leave may taken as a single period or be used in parts. The employees entitled to this leave may take it out of turn.

2. During the period of this leave the employee shall retain his job/position, with the exception of cases envisaged by the clauses 1 and 2 of section 1 of the Article 113.

ARTICLE 27 PARA. 3

“With a view to ensuring the exercise of the right to equal opportunity and treatment for men and women workers with family responsibilities and between such workers and other workers, the Parties undertake:

to ensure that family responsibilities shall not, as such, constitute a valid reason for termination of employment”.

Please indicate the statutory provisions that ensure the application of this provision and provide any relevant decisions delivered by the competent national courts.

Please specify the guarantees provided for a person dismissed because of their family responsibilities.

There is no restriction envisaged by legislation of RA for persons with family responsibilities.

ARTICLE 28: THE RIGHT OF WORKERS’ REPRESENTATIVES TO PROTECTION IN THE UNDERTAKING AND FACILITIES TO BE ACCORDED TO THEM

“With a view to ensuring the effective exercise of the right of workers’ representatives to carry out their functions, the Parties undertake to ensures that in the undertaking:

a. they enjoy effective protection against acts prejudicial to them, including dismissal, based on their status or activities as workers’ representatives within the undertaking;

b. they are afforded such facilities as may be appropriate in order to enable them to carry out their functions promptly and efficiently, account being taken of the industrial

relations system of the country and the needs, size and capabilities of the undertaking concerned”.

Question A

Please indicate all forms of worker representation in the undertaking provided in law, with details on any variations which may apply by economic sector or size of undertaking and indicate how workers’ representatives are designated.

The issue of workers representation in an enterprise is regulated by the Labour Code of RA and the RA law on Trade Unions.

The Labour Code of RA /Article 22/ defines that employers and employees may acquire, change, waive or deny labor rights and obligations through their representatives. Employers and employees may be represented both in collective and individual labor relations. Representation in collective labor relations shall be regulated by this Code and other laws, whereas representation in individual labor relations shall be regulated by the Civil Code of the Republic of Armenia.

Representation in collective labor relations shall occur, if that representative is representing the will of over 50% of the employees. Obligations of general nature assumed through such representation are binding on all employees, who do not have the special powers endowed to the representative of the collective, who fall within the scope of such obligations.

The Labour Code of RA /Article 38/ defines that labor rights shall be protected by trade unions according to the procedure set by this Code and laws regulating their activities.

A representative/delegate is elected by the assembly of employees who is represented in the delegation of regional or branch trade unions and participates in the collective negotiations held with the employer.

The trade union is independent from state, local self-governing bodies, employers and other organizations and parties. It is not accountable to them and is not subject to any supervision by them except the cases envisaged by law.

Currently the branch unions of trade unions operate in Armenia and they are included in the federation of trade unions of Armenia.

Question B

Please indicate how effective protection is ensured to workers’ representatives in the undertaking against any act prejudicial to them on the grounds of their status or activities as workers’ representatives in the undertaking (general or specific legal provisions, etc.).

1. *The Labour Code of RA /Article 119/ defines that the employees elected to representative bodies of employees (trade unions), may not be dismissed from work under Article 113 of this Code during the period for which they fulfil their authorizations without the preliminary consent of the state labour inspector, except:*

- 1) *in case, when the organization is liquidated (the activity of the sole entrepreneur is terminated);*
- 2) *in case, when the employer is bankrupt;*
- 3) *because of unsatisfactory result of the trial period;*
- 4) *for the employee's non-performance or incomplete performance of his duties;*
- 5) *in case, when the confidence towards the employee is lost;*
- 6) *upon an effective court decision, according to which an employee is imposed a sentence, preventing him from continuing his work.*
- 7) *when an employee is deprived of special rights to perform certain work in accordance with the procedure prescribed by legislation;*
- 8) *when an employee is unable to perform these duties or work in accordance with a conclusion of the medical-social expertise commission;*
- 9) *when an employee under 14 to 16 years of age and one of his/her parents, the child's foster parent or guardian, or his attending doctor or the state labor inspector demand that the employment contract shall be terminated.*

2. *The employer shall apply to the state labour inspector for receiving his consent for the dismissal of the representative of employees. The labor inspector must reply within 14 days from the receipt of the application of the employer. The labor inspector shall make the decision on his consent or rejection of the dismissal of the employee in written form. If the labor inspector fails to reply to the employer within the defined period, the employer shall be entitled to terminate the employment contract.*

3. *The employer shall be entitled to appeal in the court the decision about the refusal of the dismissal of the employee. The court may recognize such a decision as invalid if the employer proves that this decision substantially violated his interests.*

4. *The guarantee envisaged in section 1 of this Article may be applied to those who are not representatives of employees, if this is envisaged by the collective employment contract.*

Articles 23 and 25 of the RA Law "On Trade Unions" stipulate that state bodies, local self-governing bodies, employers and other organizations, and their officials as well as other persons are not competent to violate the trade union's and its members' rights envisaged by legislation of the Republic of Armenia.

The issues of absence of trade union elective bodies' members due to their social responsibilities' implementation, participation in trade union events and payment

*during this period are regulated by the legislation of the Republic of Armenia and the collective contract (agreement) signed with the employer.
Other guarantees for the persons elected in the bodies of trade union can also be envisaged by the collective contract (agreement).*

Question C

Please describe the legal remedies available to workers' representatives who consider they have suffered acts prejudicial to them on the grounds of their status or activities as workers' representatives.

The RA Law "On Trade Unions" /article 23/ defines that the violating the trade union's or its representative's rights or hindering the organization's regulations enactment, persecuting the leaders and representatives of the trade unions assumes the responsibility, stipulated by the legislation of the Republic of Armenia.

The protection of labor rights, in accordance with cognizable cases set by the Code of Civil Procedures of the Republic of Armenia, shall be exercised by the court.

The protection of the labor rights shall be exercised in the following ways:

- 1. through recognizing that rights;*
- 2. by restoring the situation existing before the violation of the right;*
- 3. by preventing and eliminating the actions, which violate the right or create a danger for its violation;*
- 4. by recognizing the act of state or local self-governance bodies invalid ;*
- 5. by not applying the act of state or local self-governance bodies by the court that contradicts the law;*
- 6. by self-protection of the right;*
- 7. by enforcing to perform obligations for in-kind;*
- 8. by reimbursing the damage;*
- 9. by confiscating fines;*
- 10. by terminating or modifying the legal relationships;*
- 11. in other ways prescribed by law.*

In these cases please indicate where the burden of proof lies.

The party that is liable for damage.

Question D

Please indicate the facilities provided for in law, in collective agreements or in practice for workers' representatives to enable them to carry out their functions promptly and efficiently. Please describe any additional provision made in collective agreements, and provide representative examples.

The RA Law "On Trade Unions" /Article 23/ defines that an employer provides to the trade unions with necessary conditions for implementation of works foreseen by the regulation of trade unions by order stipulated by collective contract (agreement).

The Labour Code of RA /Article 26/ defines that an employer must respect the rights of the representatives of the employees and do not interfere with their activities, when making decisions that may affect the employees' legal position, hold consultations with the representatives of the employees, ensure conduct of collective negotiations within short period of time, consider the proposals submitted by the representatives of the employees and respond to it in writing / no later than within one month /, provide necessary information free of charge on issues related to the work to the representatives of employees, provide necessary information free of charge on issues related to the work to the representatives of employees, perform other obligations envisaged by the collective contracts, ensure other rights of the representatives of the employees established by the legislation.

Please indicate also any restrictions or exemptions permitted in law or commonly accepted in collective agreements.

It is prohibited for state authorities, local self-governing bodies, employers, other organizations and individual persons to hinder or interfere to the exercising the rights defined by the regulation of trade unions except the cases stipulated law.