



Armenia: Analysis of Gaps in the Protection of Refugees and Asylum Seekers



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In July 2007, UNHCR introduced the Strengthening Protection Capacity Project-South Caucasus (SPCP-SC) with financial contribution from the European Commission in three countries of the Southern Caucasus region: Azerbaijan, Armenia and Georgia. SPCP-SC is coordinated by UNHCR's Representation in Georgia.

The Gap Analysis Report is part of the SPCP project and was elaborated by UNHCR Armenia in close cooperation with the Armenian State Migration agency.

FOREWORD

In July 1993 Armenia acceded to the 1951 Refugee Convention. From 1988 to 1992, the country was engulfed in the conflict over Nagorno Karabakh, which brought about 400, 000 refugees from Azerbaijan. The overwhelming majority of them has either moved from Armenia to other countries, or has naturalized. More recently, after the war broke out in Iraq, Armenia has been registering a steady number of applicants from Iraq.

The following analysis of the protection situation in Armenia is focused on the refugee and asylum seeker population. Its aim is to set out clearly current gaps in government and community protection capacities as a necessary first step to the development and implementation of measures to remedy those gaps. It is being undertaken on the heels of Armenia's signing of the European Neighbourhood Policy (ENP) programme, which sets out strategic objectives of cooperation between Armenia and the European Union in the areas of migration and asylum for the 2007-2013 time period. This gaps analysis is part of UNHCR'S larger Strengthening Protection Capacity Project – Southern Caucasus (SPCP-SC), financed by the European Commission which is dedicated to the strengthening of protection responses to forced displacement in the region.

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LIST OF ABBREVIATIONS

ARCS	Armenian Red Cross Society
CIS	Commonwealth of Independent States
COI	Country of Origin Information
CRINGO	Caucasian Refugee IDP NGO Network
CTD	Convention Travel Document
DRC	Danish Refugee Council
ENP	European Neighbourhood Policy
GoA	Government of Armenia
ICRC	International Committee of Red Cross
IDP	Internally Displaced Person
MOLSI	Ministry of Labour and Social Issues
MSE	Ministry of Science and Education
NGO	Non-governmental Organization
NRC	Norwegian Refugee Council
NSS	National Statistical Service
NSS	National Security Services
RA	Republic of Armenia
RSD	Refugee Status Determination
SGBV	Sexual gender-based violence
MA	Migration Agency
SPCP-SC	Strengthening Protection Capacity Project – South Caucasus
SPU	Social Protection Unit
TA	Temporary asylum
UMCOR	United Methodist Committee on Relief
UNDAF	United Nations Development Assistant Framework
UNDP	United Nations Development Programme

UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNHCR	United Nations High Commissioner for Refugees
WFP	World Food Program
ZAGSe	Regional Civic Status Registration Department

EXECUTIVE SUMMARY

Armenia continues to host a significant number of *prima facie* refugees from Azerbaijan, who fled their places of origin in 1988-1992. Hopes for their return are virtually nonexistent as prospects for a peaceful solution are remote.

Armenia hosts 841 individually recognized refugees and temporary status holders (a form of complementary protection) mainly from Iraq and a few others from various countries of the region. The number of Asylum seekers from Iraq is steadily increasing.

The Government of Armenia (GoA) and UNHCR have given priority to the local integration of all ethnic-Armenian refugees living in Armenia as for the overwhelming majority of these persons, there are neither repatriation prospects, nor a will to repatriate. Moreover, integration of these refugees is, to some extent, facilitated by their cultural ties with the local population and, on the whole, well perceived by host communities and the authorities. However, their integration faces tremendous challenges in view of the difficult economic situation in Armenia.

The Republic of Armenia has ratified the 1951 Refugee Convention, its 1967 Protocol and a number of other human rights instruments relevant to refugees. Although it has adopted a refugee law and established asylum institutions, the current asylum system does not live up to international standards. However, the Government of Armenia has shown continuous commitment to working with international partners and improving its asylum system as well as finding permanent solution to refugees' problems.

The following are the key gaps identified in this report:

Legal and Administrative Framework

Although the asylum legal framework is quite developed, there are gaps in the Law on Refugees of 1999 which need to be addressed in order for the law to fully comply with international standards. The absence of a reference to the right to seek asylum in the Law on State Borders places asylum seekers who attempt to enter or stay in Armenia without authorisation at risk of detention and/or *refoulement*.

Admission

Border guards have insufficient knowledge of international protection principles, including access to the territory and the referral of claims without penalisation. Despite the continuous activities aimed at increasing border guards' awareness, they refer principally to the Law on State Borders in their work, so that the safeguards against *refoulement* and detention provided by the Law on Refugees are rarely implemented in practice.

Registration

In the absence of a reliable electronic registration system of asylum seekers, data is not accurately updated.

Refugee Status Determination (RSD)

The capacity of the government to conduct fair and efficient RSD is limited, as premises and equipment are sub standard. Moreover, RSD procedures need to be further developed in order to comply fully with European standards. Although Armenia lacks a unified mechanism to consider claims under the 1951 Convention and complementary forms of protection the new draft law will address this issue if adopted by the Parliament.

Complementary protection is often granted to persons who could be refugees, without proper analysis of the merits of the claims under the 1951 Convention. Armenia has not adopted mechanisms of temporary protection.

Risk to security from violence and exploitation

There is an absence of information on sexual and gender based violence (SGBV) within refugee communities, although there are indicators that many refugee women are subjected to domestic violence and other form of SGBV¹. Similarly there are indicators that violence against children is widespread but unreported. There is no proper government mechanism to address these issues.

Essential services

35%² of the population of Armenia lives at or below the poverty line with refugees and asylum seekers believed to be among the most vulnerable groups in the community.

Accommodation

A shelter programme aimed at providing all *prima facie* refugees with permanent shelter has not yet been completed due to budgetary constraints leaving some vulnerable refugees without a housing solution.

By law, all individually recognised refugees and temporary asylum holder status may request shelter assistance; however the Government cannot implement this provision due to its limited resources. As a result many refugees and TA holders in need of shelter are not assisted.

Education

The drop-out rate of children from refugee families is 2-3 times higher than that of Armenian nationals. Insufficient livelihoods mean that refugee families are unable to cover essential costs such as textbooks and clothing leading to poor completion rates.

Employment

In general, the job market in Armenia is saturated and opportunities for refugees to become self-reliant are extremely limited. Alternatives cannot be found in income generation projects as none are implemented by UNHCR or its partners.

Educational and vocational programmes

Limited financial resources prevent the government from organizing vocational trainings for individuals registered at unemployment centres. UNHCR's implementing partners provide some vocational training opportunities for refugees but these are insufficient to meet demand and significantly expand livelihoods.

Comprehensive durable solution strategy

The preferred solution for most refugees in Armenia is local integration as prospects for repatriation are extremely remote. The population is very receptive towards refugees, and the government has actively facilitated their integration. In spite of this favourable context, the socio-economic integration of refugees remains a critical issue, as many refugees face difficulties affording shelter and finding employment.

¹ The information was provided by Women Rights Center, see the Report on Nationwide Survey Findings on Domestic Violence and Abuse of Women in Armenia, (The report focuses only on the situation of domestic violence and does not cover all the issues related to SGBV).

² « in the beginning of the 1990's poverty incidence was about estimated at 55% while the incidence of very poor people was 23%. Since 1999 an economic recovery started leading to a decline in incidence of poverty to 35% and of the very poor to 6.4% by 2004 » *The living conditions of refugees in Armenia : Millennium Development Indicators and Coping Behaviour*, country report, NIDI, 2007, p.1.

1. FAVOURABLE PROTECTION ENVIRONMENT

1.1 Demographic profile

In Armenia there are two discernable groups of refugees. One group is comprised of ethnic Armenians who fled from Azerbaijan in 1988-1992 during the conflict between Azerbaijan and Armenia over the territory of Nagorno-Karabakh. The other group is comprised of refugees from other countries and they number at just over 841 persons, the majority coming from Iraq.

Also of concern to UNHCR, are former *prima facie* refugees from Azerbaijan who have acquired Armenian citizenship. They are commonly referred to as 'naturalized former refugees'. They remain of concern to UNHCR because the overwhelming majority has not fully economically and socially integrated in Armenia. They remain dependent on assistance from the Government of Armenia (GoA), UNHCR and other international organizations.

Available demographic data is not accurate. UNHCR, with the assistance of NRC and TACIS have conducted and completed a census to provide precise data.

Figures provided by the Migration agency indicate that there are a total of 841 person of concern (either refugee or temporary asylum status holders) from countries other than Azerbaijan in Armenia. The vast majority of this population (806 persons) are temporary asylum status holders from Iraq. They are mainly located in Yerevan. The demographic data



pertaining to age and gender for this caseload is inadequate.

1.2 Major international and regional protection instruments

The Republic of Armenia (RA) ratified the 1951 Refugee Convention and its 1967 Protocol in 1993, and it is also party to a number of other human rights instruments relevant to refugees (see Annex I). The norms contained in international treaties are generally and directly transformed into national law and do not require an additional legislative act to provide them with legal force. However, only a few cases are known in which courts have actually considered these instruments in their decisions.

1.3 Legal and administrative protection framework in the host country

The legal framework for asylum in Armenia is regulated at three levels: the Constitution of the Republic of Armenia, legislation by the National Assembly, and Executive decisions.

The Constitution

The Constitution of the Republic of Armenia was adopted in 1995 and amended in 2005. The reference to asylum institutions is made in article 55 (15) of the Constitution which defines the scope of functions of the RA President. Specifically, paragraph 15 of the Constitution states that the RA President: “shalldecide on granting of political asylum”. In addition, Article 17 of the Constitution provides protection against *refoulement* stating that: “No one may be subjected to torture and to treatment and punishment that are cruel or degrading to the individual's dignity.”

Legislation by the National Assembly

There are two laws regulating asylum in Armenia: the Law on Refugees and the law on political asylum. The law on refugees was passed in 1999, and amended in 2001, 2002 and 2004. It defines the national asylum system. The Law on Political Asylum was adopted in 2001 and provides that political asylum can be granted by the president.

In addition to this core legal framework, provisions regulating certain aspects of asylum can be found in the criminal code and the law for aliens. Article 329 of the Code exempts from criminal prosecution for illegal entry into the territory of the RA those individuals who seek “asylum as defined by the RA Constitution”. The wording of the Criminal Code refers to the political asylum defined in Article 55 (15) of the RA Constitution as this is the only reference to the asylum in the RA Constitution. Therefore, there is some ambiguity as to whether this exemption can be applied in the cases of all *bona fide* asylum seekers.

The Law on Aliens was adopted in 2007 replacing the 1994 Law on Legal Status of Foreigners. Article 6 paragraph 3 of the law provides for the protection of refugees and asylum seekers against *refoulement*. In addition, article 23 (k) of the Law on Aliens provides that refugees can work in the territory of the RA without work permit.

Executive decisions (regulations by the Executive authority)

Rules and regulations for the implementation of refugee related legislations are adopted by the Executive authorities of the republic of Armenia. They are listed in the Annex II.

The administrative framework

The Migration Agency (MA) of the Ministry of Territorial Administration is the main body responsible for the asylum system and migration issues in Armenia. It carries out refugee status determination procedures and facilitates the sustainable local integration of refugees. In parallel, the president’s office receives and handle applications for political asylum lodged under the 2001 law on political asylum.

The Social Protection Units (SPUs) of the marzpetarans (governors’ offices) work closely with the Migration Agency and UNHCR on several refugee-related issues including health, social, and legal matters. They were very involved in the census exercise and among other things training NGOs who conducted it, as well as following up on the results including through facilitating naturalization and assisting in resolving housing problems.

Recognition of UNHCR’s supervisory role

The Law on Refugees requires official bodies to inform UNHCR within 24 hours of the conviction, detention, arrest or prohibition of departure from the RA of a refugee or asylum seeker. It otherwise makes no explicit reference to UNHCR’s supervisory responsibilities.³ According to GoA decision # 655, SMA is not obliged to invite UNHCR to participate in the consideration of asylum claims both at the border and at the MA, including asylum interviews.

³ See Art. 35(1) of the 1951 Convention Relating to the Status of Refugees.

In practice, UNHCR is not always invited to participate in proceedings by the MA, and the MA is not explicitly required to consider UNHCR's recommendations when making decisions.

1.4 Partnerships to strengthen protection capacity

Good partnerships exist in Armenia as between the GoA, UNHCR, and other international and national partners and civil society. Although UNHCR's chief government partner is the MA, it also has good relationships and engagement on refugee related issues with the judiciary, the police and security services, the passport and visa section of the police, the Ministry of Justice, the Ministry of Foreign Affairs, the Armenian Border Guards, and the National Assembly.

In addition, there is a good level of cooperation among UN agencies in Armenia on issues affecting refugees and asylum seekers including in the following areas: displacement, anti-trafficking, elections, ombudsman, and eviction, the rule of law, human rights, HIV/AIDS, food security, housing, and gender development. In this way, UNHCR seeks to ensure that refugee interests are furthered by the projects of other organizations.

The four major local NGOs active in aiding asylum seekers and/or refugees are: Mission Armenia, which provides basic health care, social support, and community empowerment to several thousand socially disadvantaged refugees living in communal centres, mostly benefiting the elderly and vulnerable women. The Young Men's Christian Association/Shelter, which makes available permanent and improved housing; the Bar Association of the Republic of Armenia, which offers legal counselling and court representation; and the Armenian Red Cross Society (ARCS), which delivers material assistance and supports self-reliance. The NGOs' activities are highly dependent on UNHCR funding.

The Caucasian Refugee and IDP NGO (CRINGO) is made up of over 70 voluntary, independent, non-commercial, non-political organizations working in the Caucasus with refugees, IDPs and other persons with related status. The work of these NGOs is financially supported by the DRC, the prominent international NGO working in the area of displacement.

UNHCR organizes regular monthly meetings attended by all NGOs in addition to the separate meetings that are held with each NGO individually. Moreover UNHCR ensures that the MA and NGOs are involved in joint needs assessment and planning exercises.

Efforts to strengthen the protection capacity of civil society in 2007 included the establishment of partnership between UNHCR, the MA, universities and professional academies to encourage academic involvement in the asylum debate. It is hoped that this partnership will result in academic research in the field of asylum and migration. As a first step, a workshop on "International Refugee and Asylum Law" was held to foster the expertise of law professors in the field of asylum and refugee law and to promote the inclusion of this topic in the Universities' curricula.

1.5 Migration policies and refugee protection principles

Located at the crossroads of Europe and the Near East, Armenia is increasingly becoming a transit point for asylum seekers and irregular movers. In 2003 Armenia ratified the UN Convention against Transnational Organized Crime and its Protocols on Trafficking and Smuggling (the Palermo Protocols) and has also signed a CoE Convention on Action against Trafficking in Human Beings on May 16, 2005.

The ratification of the 2003 Convention was followed by the adoption of the New Criminal Code of Armenia. Article 132 of the new code provides a definition of trafficking offences and

sets forth more stringent punishment of offenders. However, the Code does not fully meet internationally recognized standards, as it does not recognize human smuggling as a crime, neither does it contain a provision reflecting the “Saving Clause” of the Palermo Protocol.

The principles of *non-refoulement* and non-penalization are reflected in the legislation regulating the status of refugees and aliens. The legislation provides for the deportation/expulsion of individuals found not to be in need of international protection. However, in practice deportations are rare due to both insufficient capacity and resources within the Government to implement deportation and the fact that readmission agreements have not been concluded with major refugee source countries. At present the Republic of Armenia concluded readmission agreements only with Denmark, Switzerland, Germany and Latvia while a number of agreements with for example Check Republic, Ukraine are in the process of negotiations.

Current capacity of the GoA to manage migration in accordance with international principles is limited. Among current constraints is the fact that the MA is under-staffed, there are no mechanisms at the border for the referral of asylum seekers to the appropriate authorities, and the only reception centre is capable of accommodating a limited number of asylum seekers. There are no administrative contingency mechanisms to fall back on should the country experience higher levels of asylum seekers, which is a possibility given the political instability of the region.

Another problem faced by the GoA is in regard to the return to Armenia of Armenians who have left and claimed asylum abroad. Armenia is not a refugee-producing country, but largely due to poor economic prospects it is estimated that about 1 million Armenians have left the country over the last 12 years. A significant number of those who leave, file asylum applications abroad. European countries are increasingly concerned with their ability to return those who they deny asylum. A number of readmission agreements with Armenia have been concluded or are in discussion.

1.6 Local population receptivity towards refugees

The integration of ethnic Armenian refugees from Azerbaijan has improved both as a consequence of naturalization and the fact that youth easily communicate in Armenian. At one time refugees from Azerbaijan were forced to serve in the Armenian military which they resented. According to the Refugee Law, military service is not compulsory for refugees. They may serve, if they wish so, after giving their written consent. Many Armenians feel that since Azeri refugees have the same rights as citizens, they should therefore fulfil the same national obligations. The fact that some are unwilling to do so – and may even avoid acquiring citizenship for that reason – has led to resentment from the local population.



The attitude of the local population varies towards to asylum seekers, persons with temporary asylum status, and refugees who do not originate from Azerbaijan. Persons from non-CIS (Commonwealth of Independent States) countries face language and

cultural barriers, including ethnic Armenians from Iran and Iraq who speak an Armenian dialect that differs from the language spoken in Armenia. Those from CIS countries have fewer problems integrating, mainly because most of them are either ethnic Armenians or are able to communicate in Russian.

While refugees of non-Armenian origin are not the victims of overt or systematic discrimination, xenophobia or violence, some level of ethnic bias may exist⁴.

UNHCR produces bulletins in order to raise public awareness on refugee issues in the country. However, there is no specific national strategy for promoting refugee issues.

1.7 Refugees and national, regional and development agendas

The high unemployment rate in the country, language barriers and overall poor living conditions of refugees prevent them from being perceived as contributors to the economy of the country. Therefore, refugee issues are consolidated within national and development agendas.

UN Country Team in Armenia is successfully engaged in the Common Country Assessment/UN Development Assistance Framework (CCA/UNDAF) exercise, which covers a five-year period from 2005-2009 and works to achieve the aims included in the Poverty Reduction Strategy Paper (PRSP) and Millennium Development Goals. As refugees are among the most disadvantaged and vulnerable groups in Armenia they are included in the exercise designed to help the poorest segments of society.

⁴ Based on the participatory assessment conducted by UNHCR and its implementing partners, including SMA, refugees from Iraq reported that they have difficulties to find job because they were told that they are Arabs and the children in the school were also ostracized.

2. ADMISSION IN SAFETY AND REGISTRATION

2.1 Access to the territory

Russian border guards are responsible for patrolling Armenia's borders with non-CIS countries. Therefore they come into first contact with asylum seekers at the borders with Turkey and Iran. Although the MA and UNHCR had initiated trainings for border guards, this is far from being satisfactory. Generally border guards need more training to increase their knowledge about asylum seekers. The main international airport in Yerevan is guarded jointly by Armenian border guards, placed under the national security service, and Russian border guards. The four points of entry with Georgia are guarded by Armenian border guards only.

The Migration Agency is responsible for refugee status determination (RSD). The MA is not present at the border and while border authorities are supposed to refer asylum applicants to the MA, this does not happen in practice. Border guards have limited knowledge on asylum law in general and RSD procedure in particular, and they are not always informed about the existence or the role of MA.

Concerns have been raised concerning initial screening done by the National Security Service and the refusal of border authorities to permit the entry of those without proper documentation regardless of their protection needs.

In addition to these concerns, there is a risk that an asylum seeker, suffering from specific infectious disease could be denied entry. According to the RA Law on Aliens (Article 8 (d)), a request for visa of entry to the Republic of Armenia to an alien may be rejected if the person suffers from infectious (transmissible) diseases, which is threatening public health. This provision does not apply to persons who came to Armenia especially with the aim of treating and curing this disease. Infectious diseases are listed in GoA decision # 49 which entered into force on February 13, 2008 and includes plague (lung type), cholera, active tuberculosis, tropical malaria, white pneumonia, bird flue and HIV/AIDS. However, UNHCR has no information on the implementation of this decision.

2.2 Non-refoulement at entry-points

The Law on Refugees, as well as the law on alien includes the right of *non refoulement*. This right is however not included in the Law on State Borders or the Law on Border Guards.

Border guards consider that they are bound only by the Law on State Borders or the Law on Border Guards, and therefore, based on these laws, consider all those attempting to enter without proper papers or authorisation, including asylum seekers, to be illegal entrants and thus subject to removal. In such a context, *bona fide* asylum seekers are at risk of being denied entry and *refouled* based on their lack of proper documentation, contrary to the provisions of the 1951 Convention⁵.

2.3 UNHCR access to new arrivals at entry points

UNHCR is required to obtain a permit from the National Security Service in order to have access to border points.

⁵ The evidence suggests that during the conflict between Georgia and Russia un-documented Georgians were stranded at the border.

Due to limited capacity, UNHCR is only able to visit border areas on an irregular basis. There are no NGOs involved in border monitoring. To increase the capacity UNHCR has involved ARCS to monitor the border but it is not fully operational. As a result there is only limited information available on the situation at the border.

2.4 Individual registration of refugees and asylum seekers

Refugees and asylum seekers are registered as families and each family member's name is recorded. Persons above 16 years of age are informed that they can be registered separately if they choose. Individual ID cards are issued.

Registration is conducted by the MA and usually takes place a few days after an asylum application has been filed. There are sufficient female registration officers.

2.5 International registration standards

Registration information includes: name, date of birth, country of origin, sex, and marital status. A fully electronic system is not in place for asylum seekers. One consequence is that registration data is not easily updated and is often out of date. Deaths are not systematically recorded.

2.6 Information regarding rights and responsibilities

The MA and UNHCR have worked closely to develop a leaflet for asylum seekers that explains their rights and obligations and provides basic information on refugee status determination procedures. It is distributed at the MA office that receives asylum applicants and is available in English, Armenian, Russian, Turkish, Farsi, and Arabic. Brochures are also available at entry points.

UNHCR implementing partners inform refugees and asylum seekers of changes in the quantity, type or delivery of services and assistance during meetings they hold with the beneficiaries. UNHCR monitors the process.

2.7 Limited restrictions on movement

Asylum seekers must apply to the police for permission to travel outside of their area of residence. Authorization must be in written form and communicated to the police of the new area of residence. This restriction does not apply to refugees.

3. FAIR AND EFFICIENT STATUS DETERMINATION

3.1 Group determination

There is no legal provision for group determination. Nevertheless, refugees who arrived as a part of the mass influx from Azerbaijan were recognized, *de facto*, on a *prima facie* basis.

3.2 Individual refugee status determination

The Law on Refugees provides for individual refugee status determination. Those deemed to have entered the country illegally (without proper documents or permission) must apply within 24 hours after entry, while others can do so any time after arrival.

Nobody, by law, has been barred from RSD. In practice, only one category has been denied access to RSD, that of persons who have fled Nagorno-Karabakh and are unable or unwilling to return. The denial of access to asylum procedures was justified by the fact that this group was naturalised as Armenian citizens.

3.3 Fair and efficient first instance procedure

Asylum applications must be made in writing directly to the office of the MA in Yerevan. Those admitted into the procedure are registered by eligibility officers in an interview process. The eligibility officer also assists the applicant to fill out the asylum application form.

By law, RSD interviews have to be conducted within 7 days of the application being made. An official of the MA is assigned to the case and the examination on the merits must be held within one month which can be extended up to three months if additional material is needed.

Applicants may request an interviewer and interpreter of a particular sex. Applicants also have the right to legal representation. Although the Law on Refugees provides for *pro bono* legal advice, in practice this is not provided by the Government. A UNHCR-funded NGO, the Armenian Red Cross, offers legal advice and representation in court, if required, independently of the MA. Similarly, interpretation is normally provided by UNHCR, due to the MA's restricted financial resources.

Although quite developed, and guaranteeing a decision on asylum claim within a reasonably short period of time, there are a few gaps in the asylum procedure. In practice, and despite a good level of cooperation between UNHCR and the MA, the Office is not always informed in a timely manner of the arrival of asylum seekers, RSD interview schedules and decisions on refugee and temporary asylum (TA) status. Therefore UNHCR is not always in a position to provide expertise to MA with the result that some cases may not be decided in accordance with international principles. Other weaknesses relate to the fact that there are only three eligibility officers, one of who is a woman. MA premises and equipment are inadequate to conduct proper RSD. Notably eligibility officers lack rooms to conduct interviews in full confidentiality and lack computers. The interpreters are not required to take an oath of confidentiality for the asylum testimony they hear which may compromise confidentiality.

The Law on Refugees lacks a specific provision granting derivative status to family members of persons recognised as refugees.

In the case that an asylum application is rejected by the government, UNHCR may recognize the applicant as a refugee under its mandate if there is reason to believe that the person has well founded protection concerns.

3.4 Appeal

Applicants receive the decision on their asylum claim in writing in the Armenian language. The decision does not clearly state the reason of rejection. It mentions that the applicant has one month to appeal the decision either through administrative manner or to Court, but the right to appeal and the procedures for doing so are not available to applicants in a language the applicant necessarily understands. Therefore, those who do not read or understand Armenian may not be fully informed of their right to appeal a negative decision.

Since 1st of January 2008 the judicial reforms resulted in the establishment of administrative Courts. All decisions of administrative bodies, including rejection by the MA of an asylum claim, shall be initially lodged with the Administrative Court. The decision by the latter can be further appealed to the cassation court. Decision of the administrative court, even if appealed by a claimant enters into force immediately from the moment of publication and can be appealed to the Cassation Court within one month. The administrative court considers issues of fact and law while the Cassation Court is restricted to questions of law. Given that the system has been newly established the office does not have information on the process of implementation of the new procedures as well as its possible impact on asylum seekers.

Those who appeal are entitled to legal counsel and are exempt from court fees. Legal Counsel is provided by the UNHCR IP. There has not been to date any successful appeal of a negative first instance decision. The fact that asylum seekers are not always informed of reasons for negative decisions on their cases may help to explain this phenomenon.

The Law on Refugees also provides for a parallel administrative appeal procedures. Administrative appeals may be lodged with the Prime Minister; however, they lack any procedural regulation. In practice administrative appeals are usually returned to the MA for review. As the practice of the MA to date has been to confirm its original decision, administrative appeals do not present an effective remedy to asylum seekers.

Asylum seekers whose appeal cases are pending are not provided by law with any identity documents or certificate to safeguard against removal pending a final decision on their case. In Practice, validity of the Asylum seeker's ID cards is extended by the MA upon request by the asylum seeker. In practice, there have never been any reports of asylum seekers being removed during the appeal process.

3.5 Full and inclusive interpretation of the refugee definition

The refugee definition contained in the Law on Refugees is the same as that of the 1951 Convention. The 2004 amendments to the Law brought the cessation clauses and exclusion clauses in line with the 1951 Convention.

3.6 Country of origin and legal information

UNHCR regularly shares country of origin information (COI) with the government, and conducts training of MA staff and implementing partners on how to use COI in the context of RSD. A major obstacle to the appropriate and effective use of COI is the limited amount of material available in Russian and/or Armenian.

3.7 Complementary and temporary forms of protection

A complementary form of protection, named 'temporary asylum' (TA), is provided by law for persons whose well-founded fear of persecution is not linked to a convention ground. In practice, while applying to the MA, asylum seekers have to apply either for refugee status or

for temporary protection. In almost all cases Iraqi asylum seekers are provided with TA status although they could have valid grounds for obtaining refugee status.

TA status carries fewer entitlements than those accorded to Convention refugees. Unlike the latter, TA status must be renewed every year, it does not entitle the bearer to lump sum assistance or to a Convention travel document. TA holders do not have the right to vote in local elections.

There is no temporary protection mechanism in place in Armenia. TA is not a tool which can be used to provide protection to those arriving as part of a mass influx without resort to individual procedures. Hence there is no administrative or legal contingency mechanisms which would help the government manage large refugee flow.

The absence of a temporary protection mechanism is of particular concern in a context where Armenia is surrounded by countries/regions where the political situation is increasingly volatile and could bring about, at any time, large number of persons seeking asylum in Armenia.

4. SECURITY FROM VIOLENCE AND EXPLOITATION

4.1 Non-arbitrary arrest and/or detention

On the one hand, the law on refugee exempts from criminal prosecution asylum seekers who entered Armenia illegally, on the other hand, the law on State border bars entry of all persons who do not have permits or visa. As border guards are bound only by the law on state border, in practice asylum seekers who have illegally entered are detained by border officials for up to 72 hours and then turned over to the National Security Service (NSS). They can be detained until a final decision on their case is reached, which could be over a year.

Detention orders must be approved by a court. A detention decision can be appealed by the asylum seeker before the appeal court. Detention is immediately terminated upon recognition of refugee status.

UNHCR is not systematically informed by NSS of the detention of asylum seekers. The Office usually receives notice from the International Committee of the Red Cross (ICRC), which regularly visits the detainees.

4.2 Mechanisms to prevent and respond to sexual and gender-based violence

Armenia is signatory to the Declaration on the Elimination of Violence against Women. It has also acceded to the Rome Statute of the International Criminal Court, which defines rape, sexual slavery, enforced prostitution, and other forms of sexual violence as crimes against humanity.

The Revised National Action Plan on the Advancement of Women that was adopted in 2005 deals with violence against women, but does not provide detailed prescription on how to address the problem. Rape and spousal rape are considered crimes and carry a maximum 15-year prison sentence. The Criminal Code does not criminalize domestic violence but does criminalize sexual violence, trafficking, some forms of sexual harassment such as lewd acts and indecent behaviour. Many of these offences are not clearly defined. Punishments range from fines to imprisonment.

Due to a high degree of socio-economic vulnerability, refugee women in Armenia are likely to be exposed to SGBV in its various forms and are believed to be particularly vulnerable to trafficking and prostitution. High rates of alcoholism among collectively sheltered refugees increase levels of violence against women. But in practice, there is little information on the prevalence of SGBV. Effective reporting and response mechanisms in society as a whole are not sufficiently in place. Moreover, UNHCR has not yet developed standard operating procedures to identify and respond to SGBV.

Social workers working with UNHCR's implementing partners have been trained to identify and address problems that concern the refugee community, including possible instances of SGBV, so that these cases can be properly sent to the appropriate medical institution. Two local NGOs, Maternity Fund and Women Right Centres operated shelters in the outskirts of the capital cities. These shelters, opened to everyone without any status restrictions, are no longer operational due to funding shortfalls. Presently there are no facilities specifically to address the needs of women and victims of sexual violence.

Training sessions have been conducted for migration officials and MA staff in order to improve understanding of the gender dimension of refugee claims, as well as for implementing partners. This needs to be reinforced and training extended to other governmental staff involved in refugee issues, in addition to persons of concern.

4.3 Specific programmes to protect children

Armenia has ratified the Convention on the Rights of the Child and has significantly amended the Law on Refugees to achieve greater compliance with international standards. In 2003, the RA adopted a 10-year National Action Plan on the Protection on Children's Rights, which is a comprehensive plan to address child related issues and to develop the necessary institutional mechanisms to protect children's rights. Every year all line Ministers are required to include the activity plan and the budget in their yearly plan and at the end of the year they have to report to the Minister of Labour and Social Issues (MOLSI), who is the head of the Child Protection National Committee. The MOLSI compiles all the information and reports to the Prime-Minister.



Local child protection bodies operating in all marzes of Armenia are responsible for monitoring situation of child, identification, reporting, prevention and referral of cases related to children. Besides, cases related to physical exploitation and abuse related to children are dealt with by Juvenile Police.

Health, education and social services are available for all children including refugee children.

However these services may not be always accessible for particular groups of refugee children, especially for those living in the remote rural areas.

UNICEF observations noted that some of the schools in refugee communities are still located in temporary buildings, have poor learning environment, as well as insufficient physical conditions of facilities. Since 2004 UNICEF promotes the introduction and implementation of Child-Friendly Schools (CFS) in Armenia. In 2004 the "Child Friendly School" concept was approved by the Ministry of Education and Science. Based on this approval, and to assist in the process of developing such schools, during the period of 2005-2007 the CFS standards and indicators were developed and pilot tested in one region of Armenia. A child friendly school acts in the interests of the "whole" child, which includes his or her health, nutrition and overall well-being. CFS promotes practices of equality and justice among its students, and among its staff, and enforces principles of non-discrimination.

Based on statistics released by the Ministry of Labour and Social Affairs, there are 10, 000 children with special needs in Armenia. Services to assist children with mental and/or physical disabilities exist, but they are not sufficient to cater for all children in need. Locally, there are primary health care facilities, rehabilitation centres, and community centres. Primary health care facilities, rehabilitation centres, and community centres are available for every child, including refugees.

Sexual and other forms of physical and psychological abuse as well as child labour are among the child protection issues that are believed to place children in Armenia at risk. The

phenomenon of child labour is widespread in rural areas of Armenia due to poverty as exposed by the recent report on Child Labour conducted by UNICEF. Given that refugees and naturalized refugees are especially vulnerable, child labour is believed to be common among this group.

Physical and sexual child abuse is often unreported largely because of the stigma attached to the abuse in society. On an institutional level, this makes it difficult to provide effective support to children. Moreover, according to information from UNICEF, children in Armenia are often subject to psychological abuse, but there is no information on the extent to which this is a problem for refugee children specifically.

A regulation providing for mechanisms to prevent, identify, report and follow up incidents of child abuse and neglect through care and service providers working with children, such as doctors, teachers, and police, has been drafted but not yet approved by the Government.

In regard to cases of unaccompanied and separated children, MA informs UNHCR and ARCS. The latter is required by law to coordinate with the ICRC to facilitate tracing of the child's relatives. The children are referred to the appropriate guardianship and custodian body of the factual place of residence of the child that places them in a special institution and appoints a guardian to ensure protection of his/her rights and representation in all legal actions, including RSD.

Although article 18 of the Law on Refugees provides that refugees have the right to family reunification, there are no clear mechanisms to effect this right.

Neither UNHCR nor its implementing partners provide training to their staff or local authorities on protection issues and guidelines of relevance to child refugees and asylum seekers.

5. ESSENTIAL SERVICES ASSURED

5.1 Refugees and asylum-seekers participate

Refugee Committees have been established by *prima facie* refugees from Azerbaijan and refugees from Iraq. They are usually made up of refugees living in the same collective centres or communities. There are areas where refugees have not formed committees, which resulted in extremely limited participation.

At present, refugees participate in the design and development of UNHCR self-reliance programmes. However regular needs assessments are conducted by UNHCR's partners and feed into planning processes. In 2006 participatory assessment was conducted with refugees to identify the concerns and capacities of refugees from different age, gender and diversity backgrounds while in 2007 a door to door visit of refugees was undertaken.

5.2 Identification of urgent protection risks

There are no government mechanisms to help identify refugees and asylum seekers with special protection needs. ARCS has worked with UNHCR to develop a questionnaire that – supplemented by a needs assessment form – is expected to help identify special cases of concern.

In the meantime it is UNHCR's implementing partners who identify those with specific needs (i.e. one parent household, unaccompanied minors, elderly) and bring them to the attention of UNHCR. Mission Armenia provides basic health care, social support and other assistance to several thousand socially disadvantaged refugees living in communal centres, mostly benefiting the elderly and vulnerable women.

5.3 Nutritional well-being

Refugees have access to food, water, and clothing on the same terms as nationals. In total, 35% of the residents of Armenia live at or below the poverty line. Refugees figure disproportionately among this group.

UNHCR has been implementing projects to improve access to safe water to refugee populated villages. The Office also advocates for the inclusion of refugees into the plans of other development agencies, especially those designed to improve community infrastructure, e.g. water.

UNHCR partners, Mission Armenia and ARCS provide basic food assistance to the most vulnerable refugees with the support of the World Food Program (WFP), the Tufenkyan Foundation NGO and Caritas. This is mainly provided via soup kitchens, which are open to the most vulnerable segments of the population, including refugees. However, soup kitchens only operate in a limited number of locations, leaving many vulnerable refugees without access to food support. Those most in need of food assistance are the elderly and persons eligible for social benefits whose monthly income is greatly inferior to the standard minimum food basket.

In addition, asylum seekers are provided with a 3 month assistance package by ARCS which includes food to cover the period of examination of their asylum applications.

5.4 Basic domestic and personal items

Refugees receive only limited assistance with basic domestic and personal items. In the absence of state assistance programmes, UNHCR distributes sanitary supplies and hygienic

items to vulnerable women and the elderly living in communal centres and provides clothing assistance to refugees through two of its partners, the ARCS and Mission Armenia.

In the Reception Centre for Asylum Seekers, MA provides residents with items and services needed to live in dignity. In addition to MA's support, UNHCR through its implementing partner the ARCS, provides financial assistance and clothing as available to the most vulnerable cases according to established procedures and set criteria. The reception's capacity is limited and can accommodate only 20 persons.

5.5 Adequate housing

Shelter overview

Asylum seekers waiting for their refugee status to be determined live in a small, overcrowded reception centre. Although located in a reasonable distance from essential services, there is not much space for basic household activities, storage of non-food items, privacy, or recreation.

About 400,000 ethnic Armenians who crossed the border in the course of the Nagorno-Karabakh war more than a decade ago were accommodated by the government in public buildings, and there are still many refugee families living in dilapidated communal centres such as hotels and former student hostels. The conditions in these centres are even more basic than those prevailing in the reception centre. The sub standards living conditions have been pointed out by the Human rights commissioner of the Council of Europe.

Individually recognized refugees and TA holders face also tremendous challenge in finding and paying for a flat. The large majority of them live in Yerevan or surrounding towns, where rents are very high. They often have to pay higher rents than the local population due to language barriers which make it difficult for them to negotiate for a more reasonable rent. According to the law, they are eligible for housing assistance (referred to as



temporary residence in the Law on Refugees) however, there is no available space since all existing accommodation is occupied by refugees from Azerbaijan.

National housing strategy

For years, Armenia had been in need of a comprehensive national housing strategy and programme for all disadvantaged groups in the country, living in temporary and sub-standard housing. At the beginning of 2005, the government allocated the equivalent of about 3 million USD for a programme providing shelter to refugees and naturalized former refugees from Azerbaijan living in communal centres. This programme has helped many refugees but not all to improve their living conditions. The 2005 government program aimed at eight

provinces had only a 60% implementation rate. In 2006 and 2007 an additional government programme was introduced to address shelter needs in Yerevan and Kotayk Marzes, where the majority of refugees and naturalized former refugees live. To date the implementation rate of this programme is also 60%.

Families that live on their own land in containers and half-completed houses are not included in the government housing programme. Many, but not all, have been assisted by UNHCR and NRC.

Housing rights and eviction

Refugees who go to court with cases of violation of their housing rights are exempt from court duties. Similarly, they are exempt from notary duties when ratifying contracts for residence leases.



Special needs

UNHCR has been providing permanent shelter to the most vulnerable. Among these are the elderly, female-headed households, and families with many children. However, due to chronic funding shortages, only a small number of families benefit every year from UNHCR's shelter assistance (i.e. reconstruction and renovation of existing buildings as well as in exceptional cases

construction of new apartment blocks).

Many refugees and temporary status holders continue to face shelter problems in Armenia. Some refugees from Azerbaijan still live in sub standard premises and have not yet benefited from any assistance to improve their living conditions. In addition, the government does not have the capacity to provide shelter assistance to individually recognised refugees and TA holders (mainly from Iraq). Many of them have rapidly depleted all of their resources and cannot afford the very high costs of renting an apartment in urban areas. In 2008, owing to UNHCR funding and lobbying with the GoA, a former college building in Ararat province and one floor in Nor-Nork communal center in Yerevan were provided for remodelling into social apartments. Consequently more than 50 vulnerable Iraqi refugees will receive appropriate housing. In Armenia, lack of proper shelter is a life threatening issue due to the harsh climate conditions, especially during severe winter months.

5.6 Health care

For the most part, asylum seekers, refugees and persons granted complementary protection have access to emergency health care as well as primary preventive and curative health care on the same basis as nationals. The law also safeguards equal access to health care for women and men.

The government is technically obligated to provide applicants for refugee status and temporary asylum with free medical services and referrals to state institutions if needs are identified during RSD procedures. The services that are offered, however, are minimal.

Recognized refugees and TA holders have the right to free medical care in the same terms as nationals providing they meet vulnerability criteria set up by the Law. However, there are cases where hospitals barred them from free medical care.

Refugees' medical problems

Refugees suffer from health problems linked to poverty and poor housing conditions, such as malnutrition and tuberculosis. Psychosomatic illnesses, such as gastric and cardiac problems, depression, and anxiety, are widespread. Due to shared living spaces, infectious diseases tend to spread among refugee communities.

In regard to reproductive health, the 2004 Law on Reproductive Rights promotes women's right to access health care facilities. Also, with the support of UNHCR, Mission Armenia has provided nurses at medical service points with training to raise awareness about reproductive health among female refugees, and UNFPA has been active since 1995 in this field.

HIV/AIDS

According to the Article 7 of the Law on the Prevention of the Disease Caused by Human Immunodeficiency Virus, foreigners and stateless persons, have to present a certificate confirming that they have passed HIV/AIDS test in order to receive a visa permitting a stay in Armenia of more than 3 months. Otherwise they are required to undergo to be tested for HIV/AIDS in the territory of Armenia within one month of arrival. However, in the case of refugees, asylum-seekers and persons with TA it is not clear whether the same provisions apply since there is no provision for it in the Refugee Law and UNHCR is not aware of HIV/AIDS tests being applied.

UNHCR implemented through the National AIDS centre a behavioural survey to identify prevalence and risk amongst the population of concern. The results of the survey indicate that their general awareness on HIV aids is lower than the host community. Amongst the population surveyed, no case of person living with HIV and aids was identified.

Antiretroviral treatment is coordinated by the National AIDS Centre. Refugees have access to awareness resources and means of protection on the same basis as nationals. Nevertheless, due to severe resource restrictions, state medical service providers do not receive adequate training with respect to reproductive health, including HIV/AIDS. It has been reported that medical service providers discriminate against people living with AIDS.

There have not been any HIV/AIDS cases registered amongst refugee children, whereas 10 have been identified amongst local children (i.e. 2.2 % of the total number of persons infected with HIV aids in Armenia).

5.7 Education

Refugees and asylum seekers have access to education on the same terms as nationals.

Free primary education

Education from 1st to 9th grade is obligatory for all children in Armenia. Refugee and asylum seeking children have access to free primary education that is financed by the state. However, the costs of learning materials and textbooks, as well as indirect fees, are problematic.

The school attendance rate in the country is rather high up to 8th grade, but there is no specific data on refugee children's enrolment in schools.



School drop-out rates are high and mainly occur after 8th grade. Between 25-30% of children entering 1st grade do not graduate from the 10th grade. While the enrolment of boys and girls is 50-50%, drop out rates are higher among boys. However, recent UNICEF study on School Wastage shows that “in the past 3 years, the chance of younger students in lower grades (7-13 years old) dropping out has

proportionally increased at an even faster rate.

Reasons for leaving school early include poor economic conditions, lack of textbooks and clothing. In rural areas the need to do seasonal farming work also causes long absences during the school year, and this often results in dropping out altogether. According to research conducted by UNICEF in 2002, the dropout rate of children from refugee families is 2-3 times higher than that of nationals. The main causes for this are economic pressures, language problems, and slight cultural barriers.

Schools in general suffer from a shortage of textbooks. Further to a recommendation by the World Bank a rental system has been introduced for textbooks, according to which children pay a small amount for them each year. The average period of use for each textbook is 4 years. Schools also suffer from a scarcity of furniture, lack of learning/teaching materials, and insufficient laboratory equipment. Parents are often left to cover such expenses. Poor heating in many schools is thought to also contribute to higher drop out rates for both refugee and Armenian children during colder months of the year.

Educational needs of disabled children

Special facilities and schools for disabled children exist. The Law on Education of Persons with Special Educational Needs” was entered into force on September 1, 2005 and give children meeting certain criteria the right to free education in their own homes.

Higher education

According to national legislation, refugees as well as persons granted with temporary asylum status are considered as foreigners in the RA, therefore, are not entitled to free of charge higher education on the same terms as nationals. However, they have access to higher education provided they can pay the fees. There are limited opportunities for scholarships offered by the local higher educational institutions. There are no statistics on refugee enrolment in higher education institutions.

6. DOCUMENTS CONFIRMING PROTECTED AND CIVIL STATUS

6.1 Identity documents

The 1999 Law on Refugees provides for the issuing of ID cards to asylum seekers, refugees and persons granted temporary asylum status. Those applying for refugee status or temporary asylum status within 3 days should be issued with ID card by the MA confirming their application. The ID card is valid for the reviewing period, ranging from one to three months and confirms that the person is lawfully in the RA. However, by law the ID card is not issued for the period of the appeal of rejection decision to the Courts, in practice the validity of the ID card is extended by the MA upon request of the asylum seeker.

Refugees of 16 years of age and older are issued an ID card by the relevant department of the RA Police for a three-year period with the possibility of extension for an additional two years and further extension if the circumstances in the country of origin do not change. Children under 16 years of age are included in the ID card of their parents or legal guardians. However, the Law does not provide for the issuance of a refugee ID card to unaccompanied children below the age of 16.

Persons granted TA status are issued ID cards by the MA with a validity of one-year and the possibility of extension. According to the article 21.3 of the Refugee Law the TA ID is a basis for lawful residence in the territory of the RA.

Although ID cards lack security features to prevent replication, in practice fraudulent ID documents is not a serious problem. ID documents bear the logo and signature of the competent authority. While MA has officially informed all branches of government, including GoA representations abroad, about the issuance of these documents, there have been reports of denial of entry to refugees holding these IDs as border officials were not familiar with them. Refugee and TA IDs are in passport format and include detailed data.

6.2 Travel documents

Refugees are issued free Convention Travel Documents (CTD) upon application to the central office of the passport and visa department of the RA Police. CTDs are valid for one year and can be renewed, as in the territory of RA, also abroad by missions of the Republic of Armenia. The CTD stipulates that it is not valid for travelling to the country of origin. Refugees are not required to apply for a re-entry visa to return to Armenia in case of their departure, nor do they need to apply for an exit visa to leave.

Misconceptions and misuse

CTD holders are not properly informed about the scope of CTD related rights (e.g. visa-regimes/travel). In the past, refugees from Azerbaijan pressed for the issuance of CTDs, believing that these would give them the right to travel abroad without visas and search for better economic opportunities outside of Armenia. This hope was soon dashed as refugees found out that CTDs would also require visas even to go to neighbouring Georgia, and that in practice embassies were reluctant to give visas on CTDs fearing that refugees would enter their country and remain there. Many refugees have reported that their requests to get visas from different embassies have been rejected several times.

In 2001 Armenia signed the European Agreement on the Abolition of Visas for Refugees. This instrument allows CTD holders residing in signatory states to travel between states without visa for a period of no longer than three months, and not for the purpose of taking up gainful employment. However, Armenia has not ratified the agreement, and thus it has not come into force for Armenia. There are worries that if it went into effect, refugees would flock to Western European nations for economic reasons and overstay in destination countries, in

breach of the terms of the agreement. This then could lead to large scale deportation of Armenian CTD holders and negatively affect refugees wishing to take advantage of the agreement for legitimate reasons. There are concerns that such a development could also cause problems for Armenian passport holders, as destination countries might tighten their border control and scrutinize the issuance of visas to anyone from Armenia.

TA holders

According to the law, TA holders are not entitled to Convention Travel Documents (CTD). In order to travel outside of Armenia, they need to use their national passports. In practice this has caused problem to many TA holders whose passport has expired as, for the vast majority of them (Iraqi), their country does not have a representation in Armenia and the nearest embassy is found in Moscow. As a result, many of them are unable to renew their passport and therefore travel outside of Armenia.

6.3 Documents confirming civil status

The Regional Civic Status Registration Departments (so-called ZAGSes) are the governmental bodies responsible for the issuance of newborn, marriage, and death certificates. After changes in legislation since 2003, the ZAGSes have dual supervision by the Ministry of Justice and municipalities. Monitoring of ZAGSes' day-to-day activities is done by the municipality, while the Ministry of Justice is in charge of appointing staff and monitoring their performance.

There are a large number of non-registered newborns in remote, rural refugee villages of Vardenis region. This is due to a number of reasons including the weak infrastructure, limited medical/state service outreach to rural areas, financial difficulties, and corruption within some Civic Status Registration Departments. Mothers frequently choose to deliver their babies at home without official medical assistance, and the births are often not reported, which can lead to future statelessness. Parents are not fully informed of the importance of registering their children at birth and that there is a general reluctance to do so because of poor socio-economic conditions and problems within the registration system.

Changes in the leadership of the Regional Civic Status Registration Departments have led to some improvement. Nevertheless, the refugee census conducted by UNHCR and MA, revealed 58 cases of unregistered births i.e. children without birth certificate of which 41 were in Vardenis sub region of Gegharkunik marz.

The 2005 Family Code of the RA does not sufficiently protect recognition of unregistered marriages, putting family unity at risk. Specifically, article 1.2. of the Code states that only marriages registered in Civic Status Registration Department are recognized as lawful in the RA. According to the law, marriages, including polygamous ones, concluded outside of the territory of RA, can be considered valid only after certification/legalization of the marriage by the consular services of the concerned state. This is an evident obstacle for refugees.

7. EQUAL BENEFIT AND PROTECTION OF THE LAW

7.1 Access to effective remedies in law

The Criminal Procedure Code of the Republic of Armenia establishes rights regardless of citizenship. In contrast to the Civil Procedure, it also grants free legal assistance to anyone in need, which is provided by the Institute of Public Defender. However, RA Civil Procedure Code and the Law on Advocates guarantees legal aid in few occasions which includes cases of alimony and compensation cases for damages caused to health⁶. No information, however, can be provided on the quality of rights' protection afforded to refugees and asylum seekers should they effectively become subject to criminal procedures: so far there have only been several criminal cases (of illegal entry to the country) that were immediately suspended upon refugee applications being filed.

Nevertheless, as for the local population, refugees and asylum-seekers do not have effective remedies by the national courts for the acts violating their rights. This protection is poor due to the lack of national capacity.

Legal aid is provided by the public sector and largely unaffordable for refugees, asylum seekers, and citizens alike (it is less affordable for the most vulnerable groups such as women, children, elderly, ethnic minorities with a language barrier, etc). It is not provided free of charge by the state (except in criminal proceedings), but by contracted lawyers or NGOs and/or international organizations depending on the availability of funds. The access of asylum seekers and refugees to quality legal services is jeopardized by its dependence on non-state actors, whose capacity to provide assistance is contingent upon their respective funding situations.

There is a joint effort by the MA and UNHCR to establish legal aid clinics at the universities. This will require intensive capacity building activities, in order to ensure delivery of quality legal assistance to beneficiaries.

7.2 Other dispute resolution that respects international legal principles

Overall human rights protection

Human rights in Armenia came under greater scrutiny with the country's accession to the Council of Europe in 2001. Following the adoption of the Law on the Ombudsman in 2003, Armenia has for the first time a national institution for monitoring human rights through the office of the Human Rights Defender. It has a staff of about 25 lawyers. Meanwhile, the monitoring capacities of civil society remain underdeveloped.

Training

Training for law professors, inclusion of refugee law in the curricula of the universities, capacity building activities for the border guards on the principles of *non-refoulement* and non-penalization, including their role in RSD, is expected to be organized in 2007-2008 in partnership with the EC.

⁶ Art. 6 of the RA Law on Advocates

8. ABILITY TO ACHIEVE SELF-RELIANCE

The Armenian population in general has been experiencing impoverishment and a widening gap between rich and poor. Since the independence of the country, the lack of equitable economic recovery and continuing budget shortfalls in the social welfare sectors has made it difficult for refugees to realize their economic and social rights.

8.1 Wage earning employment

Legal provisions regulating the access of aliens to the labour market do not refer specifically to asylum seekers, and hence it is interpreted that asylum seekers do not have the right to lawful employment. However, in practice, asylum seekers may have access to labour market.

Refugees and holders of TA have the same right to work as nationals with the exception of holding positions of civil servants reserved for citizens. Access to legal employment and other state services is conditional upon being registered in the national social security system and having a social security card.

While refugees have access to the labour market, high unemployment in general restricts their capacity to become self-reliant. Furthermore, there are several factors that put refugees at a disadvantage with respect to the local population. First, they may be found less competitive because they lack Armenian language skills. Many Azeri refugees, particularly among the older generation, still feel more at ease speaking, reading, and writing in Russian, while Iraqi refugees feel more comfortable in Arabic or eastern Armenian, a dialect not understood by the host community.

Secondly, most refugees arrived in Armenia with only a few belongings. They have often not succeeded in (re-) building their economic base, which would enable them to develop and prosper. Furthermore, they suffer from a lack of family ties and tend to be isolated from the local networks through which recruitment occurs.

Thirdly, large numbers of refugees from an urban background, often highly educated with professional skills, were placed in rural areas upon arrival. It has been hard for them to successfully adapt to their new environment and its agriculture-based economy.

8.2 Social security and just favourable conditions of work

Refugees receive equal treatment as nationals when it comes to legislation on employment standards (remuneration, hours of work, health and safety, protection from exploitation) and social security (state benefits, such as unemployment insurance, old age and disability benefits). In addition, according to Refugee Law, refugees and asylum-seekers are subject to the same taxes and at the same rate as nationals.

There are no specialized state bodies that regulate refugee employment or social rights. Refugees, like citizens, can apply to the State Labour Department to report violation of their rights. No complaints from them have been received. NGOs have also reported back positively on the situation refugees face in practice in terms of hours, pay, and disability allowances. However, it is impossible to say what the situation is like for the large number of workers in the informal sector and shadow economy. They may be more at risk of rights violations than those who are formally employed.

While refugees have access to the national welfare system on the same terms as locals, the system is simply not able to adequately meet the needs of the socially disadvantaged. The

problem is not so much discrimination against refugees as it is the limited financial capacities of the state, which impact citizens as well as refugees. Unemployment benefits, disability benefits, and pensions are minimal. Within the Poverty Reduction Strategy Paper, the Armenian state benefit distribution system is to be reviewed and adapted to the needs of the most vulnerable, including refugees. However, this has not yet been implemented.

Refugees are not informed about their employment rights by the Migration Agency, as they should be, and heavily rely on NGOs and the public media.

8.3 Trade and self-employment

Refugees and those with TA status have the same right to self-employment as nationals. They do not face any restrictions on conducting business activities, and they are free to engage in liberal professions as long as their diplomas are recognized. Asylum seekers, however, cannot until their legal status in the country is defined and regularized by law.

There is no systematic approach towards employment creation for refugees through an incentive system. However, foreign citizens and stateless persons conducting business activities in Armenia as well as the employers who use their paid labour by law are freed from the obligation of making social payments. This is also applicable for refugees and TA holders.

Given an absence of private capital assets, the creation of self-employment opportunities very much depends on the availability of credit, which refugees have trouble accessing. UNHCR gave one of its implementing partners, the International Organization for Migration, a revolving fund to provide small loans to refugees for business start-ups. The programme was very successful, and repayment rates were good. However, other organizations have reported difficulties, and refugee micro-lending activities have been gradually downscaled over the years. This is mainly due to an audit's recommendation that UNHCR hand over its micro-credit programme to agencies which enjoy stronger expertise in this field such as UMCOR. This has been done, but there has not yet been any assessment of UMCOR's activities in this field.

The Poverty Reduction Strategy Paper made the promotion of self-employment through small and medium enterprise development and micro-lending a priority and it specifically refers to female-headed households, the unemployed, and refugees and displaced persons. Based on this strategy paper, in 2006 a UN working group designed a project on sustainable livelihoods for vulnerable persons (including refugees and IDPs). However the project has yet to secure funding. In addition, a micro credit and self-employment commission has been formed by the government with the participation of NGOs to oversee the PRSP implementation process. A work plan was developed but no activity has ever been implemented.

Most refugees in rural areas have access to land plots. These are usually allocated and rented by the local administration. Although farming is primarily of a subsistence nature, a lot of refugees are able to produce enough surpluses to market their produce commercially.

8.4 Recognition of foreign diplomas

According to the Ministry of Science and Education (MSE), there is no formal procedure in Armenia for the recognition of foreign diplomas. Those from CIS countries, however, are recognized de facto as well as based on the agreements concluded within the framework of CIS. Diplomas of refugees who fled Azerbaijan from 1988 to 1992 were recognized automatically as they were Soviet diplomas. Within the framework of the Lisbon Process,

Armenia has committed itself to establishing a formal procedure, and this is currently one of the primary concerns of the MSE.

In practice, access to higher education is guaranteed provided that a person's educational qualifications meet the requirements of Armenian third-level institutions.

8.5 Right to own property

The Constitution prohibits foreigners and stateless persons from owning land, with the exception of cases stipulated by Law (article 28). The Land Code provides such an exception for those foreigners and stateless persons who hold exceptional resident permit in Armenia. This permit is granted only to persons of Armenian ethnicity for a 10 year period. Those with TA status and refugees of Armenian ethnicity are not eligible.

The Land Code also permits foreigners and stateless persons with the right of use of the land. In addition, persons lawfully staying in the country, including refugees and TAs have the right to immovable (with the exception of land) and movable property.

Intellectual property rights are comprehensively protected by the RA Civil Code which covers everybody without any restriction based on residence status.

Although land cannot be owned by refugees and those with TA status, the Government has on occasion allocated them land plots for long-term use. For example, housing constructed for Azeri refugees was eventually transferred to them and the land attached leased at a favourable rate.

Residential and land taxes are low and people working in the agricultural sector are exempt from income taxes.

8.6 Educational and vocational programmes

Vocational training that the Ministry for Social Security is supposed to organize for individuals registered at unemployment centres does not actually take place, largely due to lack of funding.

There are no refugee-specific state vocational training or apprenticeship programmes implemented in the country. However, in line with the Poverty Reduction Strategy Paper, the system of providing state vocational training and employment mediation services is to be restructured in a way that focuses on the needs of the most vulnerable segments of the population. Refugees are explicitly mentioned. There has not yet been any new development in that regard.

UNHCR's implementing partners provide vocational training for refugees from Azerbaijan living in communal centres, which targets adolescents and mainly includes computer, sewing and knitting, and hairdressing classes. In order to promote integration and social equality, the training is also available for members of the local community. Individually recognized refugees are also given the opportunity to attend vocational training classes, funded by UNHCR upon need, but few of them have expressed a wish to do so. Asylum seekers have access to vocational training funded by UNHCR only once their status is determined.

In addition, there are other organizations that organize and fund vocational training for refugees, mainly consisting of computer classes, but it is usually conducted for short periods of time and targets small numbers of beneficiaries.

Whenever vocational training is organized, it is accessible to women and men equally. Reports indicate that female participants outnumber men and that in some cases women

count up to 65 % of the total participants. This can be explained by the fact that men have largely migrated to Russia for work and as a result, most vocational training offered by NGOs focuses on traditional female education, such as hairdressing and sewing. It has been reported that refugees, particularly women, have been able to successfully find employment as a result of UNHCR vocational training.

Vocational trainings however cannot benefit everyone as they are very limited in number and subject. They have focused since their establishment on only three topics: hair dressing, computing and tailoring.

Many refugees and asylum seekers, including refugees from Azerbaijan who are ethnic Armenians, need language training. These classes are organized by one of UNHCR's implementing partners and target all individually recognized refugees expressing a wish to study Armenian, as well as 120 refugees from Azerbaijan per year. The only reason for not targeting a greater number of refugees is lack of funds. Although the younger generation of refugees from Azerbaijan



widely speaks Armenian, those over the age of 35 are still in need of language training, as are the majority of individually recognized refugees

9. OPPORTUNITIES FOR DURABLE SOLUTIONS

9.1 There is a comprehensive and coherent strategy for finding durable solutions

Voluntary repatriation is not a prospect for most refugees and persons with temporary status given that conditions in their countries of origin do not permit return in safety and dignity. The absence of a peace settlement between Armenia and Azerbaijan over the Nagorno-Karabakh conflict writes off any repatriation prospects to Azerbaijan. The GoA has facilitated the local integration of ethnic Armenians who have been recognized as refugees and has granted them almost the same rights as citizens.

Return prospects for individually recognized refugees/TA holders from Iraq are similarly remote. Given the deteriorating situation in Iraq, repatriation remains unrealistic in the near future.

9.2 Voluntary repatriation in safety and dignity

A very small number of Iraqi nationals have expressed their wish for voluntary repatriation. However, there is no Iraqi embassy in Armenia and the ICRC Travel Document is not accepted by some transit countries. Therefore even those who express a wish to return may face considerable obstacles in doing so.

9.3 Local integration

Citizens and refugees are effectively granted equal rights, except that refugees cannot vote in national elections, form and be board members of political parties or own land.

As has been indicated throughout this report, the obstacles that refugees face in achieving meaningful local integration tend to be economic, social, cultural and psychological rather than legal in nature.

Integration challenges are linked with a sense of alienation and helplessness among refugees and make it difficult for them to participate fully in social, economic and cultural life. Many are reluctant to acquire citizenship because they fear that giving up their refugee status would leave them worse off due to loss of socio-economic assistance.

9.4 Citizenship

An effective and simplified mechanism for the naturalisation of refugees has been established for refugees from Azerbaijan and all other refugees of Armenian ethnicity. It is overseen by the MA and Social Protection Unit.

The Law on Citizenship of Armenia provides for the acquisition of the citizenship by any stateless person or former citizen of former USSR republics, and of all persons of Armenian ethnicity. To this effect, the MA and Social Protection Unit put in place a simplified procedure which is not formally codified. Applicants need only to approach the police department, and pay a fee of 1, 000 Armenian Dram. A week after these formalities, the applicant officially receives a passport which in Armenia is also an ID proving citizenship. This procedure is valid until the end of 2009 with the possibility but no guarantee of extension.

By law stateless persons should also qualify for citizenship. The procedure for registration of stateless persons and issuance of ID cards to them is provided by GoA decision # 318-N. The office does not have any reliable information on the profile of this caseload.

It should also be noted that refugees from Azerbaijan are considered *de jure* stateless, as they fled during the acquisition process of sovereignty by Azerbaijan, and as they – according to official statements of Azerbaijan - do not meet the requirements of Azerbaijan's citizenship law.

9.5 Resettlement

UNHCR continues to rely on resettlement primarily for urgent security/protection cases. On average 2-3 cases are identified and processed every year. The involvement of UNHCR implementing partners in this area includes drawing possible cases for resettlement to the attention of UNHCR, referring cases to the clinic for medical examination, and keeping in touch as necessary with refugees identified for resettlement. The main constraint faced is the delay in processing cases by resettlement countries.

ANNEX

HUMAN RIGHTS INSTRUMENTS RATIFIED BY ARMENIA

Global human rights instruments relevant to refugees

1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1993

International Covenant on Civil and Political Rights (ICCPR), 1993

ICCPR Optional Protocol 1, ratified 1993

International Covenant on Economic, Social, and Cultural Rights, ratified 1993

International Convention on the Elimination of All Forms of Racial Discrimination, ratified 1993

Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), ratified 1993

Convention on the Rights of the Child (CRC), ratified 1993

CRC Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography, ratified 2005

CRC Optional Protocol on the Involvement of Children in Armed Conflicts, ratified 2005

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), ratified 1993

Regional human rights instruments relevant to refugees

European Convention on Human Rights, ratified 2002

Protocol 1, 2, 3, 4, 5, 7, 8, and 11 to the European Convention on Human Rights, ratified 2002

European Convention Against Torture, Inhuman and Degrading Treatment and Punishment, including its Protocols 1 and 2

European Convention on Extradition

STATUTES AND POLICY DECLARATIONS

National legislation

Refugee Law, 1999

Law on Political Asylum, 2001

Law on State Border, 2001

Law on Border Guards, 2001

Law on Aliens, 2007

Governmental Decisions

Governmental Decision #244 on the creation of the Department for Migration and Refugees under supervision of the Government, 21 April 1999

Governmental Decision # 632 on the duties of the State institution responsible for refugee issues, 16 October 1999

Governmental decision # 633 on creation of the staff of the RA Ministry of Territorial Administration", June 2005

Governmental Decision # 695 on the procedure for issuing refugee IDs and travel documents and approving their samples, 20 November 1999

Governmental Decision # 52 on the movement and selection of residing place of applicants for refugee status in the Republic of Armenia territory, 4 February 2000

Governmental Decision # 82 on the allocation of a lump-sum allowance to applicants for refugee status in the Republic of Armenia territory, 23 February 2000

Governmental Decision # 86 on placing asylum-seekers in the Republic of Armenia territory into special and temporary dwellings, subjecting them to a medical examination, providing free translation and legal services, medical assistance and service, 23 February 2000

Governmental Decision # 594 on the procedure for issuing IDs to applicants for refugee status in the Republic of Armenia territory, 4 July 2001

Governmental Decision # 655 on the refugee status determination (RSD) procedure, 19 July 2001

Governmental Decision # 11-N on the procedure for granting temporary asylum status to foreign citizens and stateless persons, 12 February 2003

Governmental Decision # 12-N on the procedure for issuance of the Temporary Asylum Status ID Card and its description, 20 February 2003

Governmental Decision # 23-N on the state designated institution in charge of dealing with temporary asylum status, 20 February 2003

Governmental Decision #211 on the state body designated to deal with the implementation of the Law on Political Asylum, 07 March 2003

Governmental Decision # 264-A on the steps to be taken in case of possible influx to the RA of displaced persons due to the events in Iraq, 27 March 2003

Governmental Decision # 232-N to approve the sample application form for political asylum status, the list of documents to be attached to it and the procedure of preparation and management of the case-files, 03 April 2003

Governmental Decision # 219-N on the procedure of provision of accommodation and basic assistance to persons granted political status in Armenia, 03 April 2003

Governmental Decision # 282-N on the procedure for issuance of the ID to persons granted political asylum status and approval of its description, 19 April 2003

Governmental decision # 775-A on privatization of residencies of naturalized refugees from Azerbaijan, 13 May 2004

Governmental decision # 747-N on the programme of shelter provision for refugees from Azerbaijan, 20 May 2004

Governmental decision # 903-N on approval of the allowances for purchase of services for the "special dwelling," 26 June 2004

Governmental decision # 1217-A on privatization of residencies of naturalized refugees from Azerbaijan and donation of residencies owned by local citizens to the relevant district authorities of city of Yerevan, 10 September 2004

Governmental decision # 1643-A on allocation of residencies of naturalized refugees from Azerbaijan with the right of privatization, 25 Nov

Governmental decision # 318-N on the issuance of ID cards to the stateless persons and the description of the documents of the persons permanently residing in Armenia, 15 April, 2006