



# The European Union’s “Support to Migration Policy Development and Relevant Capacity Building in Armenia” Programme

Եվրամիության «Աջակցություն Հայաստանում միգրացիոն քաղաքականության և համապատասխան կարողությունների հզորացմանը» ծրագիր

## Policy Brief Համառոտագիր



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Ծրագիրը ֆինանսավորվել է Եվրամիության կողմից



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International Center for Human Development  
Մարդկային զարգացման միջազգային կենտրոն



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Migration Agency of the Ministry of Territorial Administration of RA  
ՀՀ տարածքային կառավարման նախարարության միգրացիոն գործակալություն

# Our Right to Freedom of Movement: the regulation of exit and entry relations an urgency

In one way or another, the realization of the RA citizens' right to freedom of movement is currently associated with a dozen or so laws and legal-normative acts. However, notwithstanding this fact, the legal regulation of the sphere is seriously defective. Perhaps one of the reasons is the fact that in such an important sphere the state has failed to move in the direction of developing an integrated state policy and a subsequent development of a unified and holistic legislation. Certainly this is not an exceptional and unique phenomenon in the world.

But let the world be. As to Armenia, its current passport and migration regulation systems face a number of issues, which put forward the imperatives of innovating these systems and raising their effectiveness in terms of protection of human rights. For instance, does the current passport system allow working out and developing the institute of dual citizenship? Does the so-called 'exit' seal in the passport of the RA citizens totally exclude the chances to avoid military service? There is a need to raise the procedural effectiveness of legal and judicial systems, raise the attractiveness of military service and prevent conscious offences to law. Don't we try to loosen this burden through groundless restrictions on citizens' right to freedom of movement?

The list of the questions can grow and eventually come to a range of concrete circumstances among which the most important one is the fact that the RA citizens' right to freedom of movement and restrictions applied to this right are not defined on the level of law. In the result, the following items are still not clearly defined:

- the legal norms and time limits of restrictions to the right of RA citizens to freedom of movement during entry and exit, the terms of control and monitoring and the responsibilities of relevant bodies in charge of enforcing these restrictions;
- the list of documents, rights and responsibilities of citizens leaving and entering the country;
- the special conditions applied to people of special categories while crossing the border;
- validity standards regarding the passports of RA citizens in the Republic of Armenia and foreign countries, etc.

## System changes or 'cosmetic' rearrangement?

There is an opinion that the gaps in current laws and a number of other legal-normative acts can be amended through relevant changes. However, the relative independence of this sphere, the importance of the issue and the fact that there is a need for not only technical, but some fundamental changes, as well, allows one to claim that adopting a separate law is a necessity.

The anticipated fundamental changes are compelled by the imperative of regulating the realization of RA citizens' right to freedom of movement on the level of legislation, which is the highest level of regulation typical to a democratic state where the rule of law prevails. Until today in our country this sphere is regulated by the legal acts inherited from the totalitarian regime of the USSR and the officials follow the work style which has turned into a routine.

### **What should the new system look like?**

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First and foremost, it should be free of *willfulness and double standards*, which implies

- regulation of relations regarding the realization of all the rights of the citizens and relevant restrictions by law;
- exclusion of any restriction not defined by law;
- approximation of the system to the international legal norms and practice, as well as universally accepted humanitarian principles;
- ensuring unobstructed conditions for the legally accepted mobility of the citizens;
- restraining from passive and inertia-driven work style typical to state institutions, when it is not these institutions making efforts to prove the legality of the restriction applied to the freedom of movement of the citizen, but the citizens themselves, induced to stand for their right to freedom of movement by all means;
- withdrawing from the authoritarian work style practiced in the relations between state institutions and citizens, which is emphatically reflected in the dominant mentality among state officials. It professes that the institutional interests are a priority, whereas the rights and interests of the citizens are of secondary importance;
- a system of state institutions that comprises not only restrictions and penalties, but first and foremost, provides warrants for the realization of the rights of the citizens;
- refusing to use any mechanism that relies on precedent or inertia not prescribed by law and which is not generally defined by law in the practice of state institutions;
- state institutional orientation towards a policy of initiation: state institutions should be motivated and interested in updating and improving their work style instead of justifying their passive administrative activities by the lack of resources;
- readiness and willingness of the state and its institutions to protect the rights and interests of its citizens during emergencies in foreign countries.

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