

REPORT

**ON THE SITUATION OF HUMAN RIGHTS
OF FOREIGN CITIZENS SEEKING ASYLUM
IN THE REPUBLIC OF ARMENIA
DUE TO POLITICAL PERSECUTION**

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The report presents an analysis of the opportunities for the realization of the rights of foreign citizens who have moved to the Republic of Armenia due to political persecution, within the context of domestic and international obligations, and the legitimacy of the legal restrictions applied to the latter in the Republic of Armenia.

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On the Situation of Human Rights of Foreign Citizens Seeking Asylum in the Republic of Armenia Due to Political Persecution

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As a result of the aggressive war unleashed by the Russian Federation against Ukraine, many individuals have moved to Armenia since the beginning of 2022. They were convinced that RA is the country where they can feel safe from persecution by the authorities of their state, and that their safety, rights and freedoms will be guaranteed in the Republic of Armenia.

The Russian authorities are particularly persecuting people who refused to participate in mobilization as well as journalists, political oppositionists, critics of the war, servicemen who refused to participate in military operations.

In some cases, Armenia is also chosen for residence by persons facing criminal cases, whose persecution is not based on a political context, but the punishment to be applied may be inhumane.

HCA Vanadzor has provided and continues to provide legal protection to 130 foreign citizens from the authorities of non-democratic states (such as the Russian Federation, the Republic of Belarus, the Islamic Republic of Iran). The mentioned persons are provided with legal advice, judicial protection ensuring their rights in the European Court of Human Rights in cases of alleged violations of their fundamental rights, representation in relations with state and law enforcement agencies.

The situations are different depending on the pursuing state, for example, in the case of the citizens of the Republic of Belarus and the Islamic Republic of Iran, the authorities of those states necessarily apply to the authorities of the Republic of Armenia with a request for extradition, and especially for those persons whose prosecution was initiated solely for political reasons.

The Republic of Belarus submits a request for extradition of persons who participated in demonstrations against the falsification of presidential election results in the country after 2020 or criticized the policy of the authorities.

In the cases of citizens of the Russian Federation, the picture is basically the opposite, that is, requests for extradition are submitted in cases where, according to them, the persecution is manifested in cases of crimes that do not have political connotations, for example, requests for extradition are submitted regarding persons accused of economic crimes.

During the year 2023, only 2 extradition requests were submitted to Armenia by the Russian Federation / *within the framework of the organization's affairs*/, in both cases, Armenia made decisions to reject the extradition requests, on the grounds that the alleged crimes did not constitute a crime in Armenia, maintaining the principles guaranteed by the conventions ratified by the Republic of Armenia.

Those citizens of foreign countries who are in Armenia as a result of being subjected to political persecution in their country are arrested on the basis of a criminal case initiated against them and on the basis of the search. However, even in such cases, their security is ensured by Armenian law enforcement agencies, as there is no risk of extradition. In the exceptional cases that have already been recorded, when a citizen of the Russian Federation was found and arrested by the officers of the Russian law enforcement agencies in the territory of the Republic of Armenia and transferred to the military base No. 102 located in the city of Gyumri, the picture and risks are different and unpredictable, in this case there is clearly a kidnapping of a person, then the risk of illegal detention and extrajudicial extradition, which has already been recorded.

Thus, on December 8, 2023, the Organization received an alert that Russian citizen Dmitry Leonidovich Setrakov was illegally arrested by Russian law enforcement officers on December 6 or 7, 2023 in the territory of the Republic of Armenia and was taken to Russian military base No. 102 located in Gyumri, Shirak Marz, and was kept in illegal detention on the territory of the military base. The law enforcement officers of the Russian Federation, without any legal basis, arrested D. Setrakov within the jurisdiction of Armenian law enforcement officers and unlawfully detained him for 27 days, based on criminal prosecution initiated in the Russian Federation under Article 337 of the Russian Criminal Code. After holding him in detention for several days, servicemen from the Russian military base, without authorization and illegally, conducted an extrajudicial extradition and transferred Dmitry Setrakov to Russia.¹

On the same day of receiving the alert, the Organization submitted a crime report to the General Prosecutor's Office of the Republic of Armenia. The report concerned the

¹ <https://hcav.am/azatutyun-am-11-12-2023/>
<https://hcav.am/azatutyun-am-12-12-2023/>
<https://hcav.am/azatutyun-am-22-12-2023/>

kidnapping of an individual by officers of the Russian military police within the sovereign and legal territory of the Republic of Armenia, and the illegal detention of this individual within the premises of the Russian military base located in Armenia. The Organization requested the immediate initiation of criminal proceedings and a full, complete, and objective investigation into the incident under the RA Criminal Code, targeting representatives of the Russian law enforcement agencies involved in these illegal actions.

As the most effective means of protecting rights, the Organization submitted a complaint to the European Court of Human Rights under Rule 39 of the Rules of Court, requesting urgent measures.

Upon receiving the complaint, the court submitted questions to the Office of the Representative on International Legal Matters of the RA Government, but at the time of receiving the questions from the RA side, the Russian military or law enforcement officers had already extrajudicially transferred Setrakov to the Russian Federation. It is also noteworthy the fact that after receiving questions from the Court within the framework of such an extraordinary case, even the Representative Office on International Legal Matters of RA did not try to clarify what happened, only informing the Court that they were not informed about such a case.

After the proceedings under Rule 39 of the Rules of Court were declared essentially completed, the Organization submitted an application with general rule to the Court, on the basis of the risk of violation of Article 2 of the Convention and violation of Articles 3 and 5.

Based on the report about the crime submitted to the domestic courts, no decision was made, no investigation was conducted, and no attempt was even made to find out how and by whom Setrakov was transferred from the territory of the Republic of Armenia. Even the fact was not discussed, that in the conditions of legal restrictions on crossing the border, due to which Setrakov was arrested, how it was possible to cross the RA state border. Decisions / actions / not to initiate criminal prosecution based on the report of a crime are appealed in domestic courts.

In the second case, the situation was a little different. On April 9, 2024, the Organization received an alert that the citizen of the Russian Federation, Anatoly Nikolayevich Shchetinin, was arrested by the servicemen of the Russian military base, and on April 8, 2024, they tried to extradite him to the Russian Federation, but due to being wanted and legally restricted from crossing the border under the conditions of the ban, it was not possible to remove the restrictions and organize the transfer of Anatoly Nikolayevich Shchetinin from Armenia to Russia. According to the organization's information, there was an attempt to cross the RA border more than once, but the RA border guards did not allow Shchetinin to be taken out of RA.

The organization submitted a crime report to the Prosecutor General's Office of the Republic of Armenia regarding the kidnapping of a citizen of the Russian Federation by servicemen of the Russian military base on the territory of the Republic of Armenia.

On May 6, 2024, in the reply received from the General Prosecutor's Office of RA, they informed that no criminal case was initiated. The organization based on the principle of excluding such crimes in the future appealed the made decisions. During the appeal of the decisions, the Prosecutor General's Office of the Republic of Armenia informed in writing that Shchetinin is voluntarily staying in the territory of the military base. He wrote to the command of the base and asked to be allowed to serve in the base, now he is serving in the military base. The logic of the writing is that Shchetinin voluntarily presented himself at the military base and expressed his desire to serve in the base.

It is not possible to get involved in similar cases and personally represent the interests of, for example, Setrakov or Shchetin, because the lawyers of the organization cannot practice law on the territory of the military base. At the same time, the officers of the base and the law enforcement officers attached to it actually do not have the authority and the right to arrest persons found in the territory of RA legal jurisdiction, who have not committed a crime in the territory of the base and to conduct investigative actions with their participation.

In the framework of rights protection, two cases were recorded when Russian servicemen approached Russian citizens and posing as representatives of the RA law enforcement agency, in one case police officers, in the other case of the prosecutor's office, tried to arrest, intimidate, and take these persons under control through pressure.

Two groups of foreign citizens living in Yerevan and Gyumri, who are hiding in RA due to political persecution in their country, have noticed that for several days whatever car is following them, stops in the yard for several hours, and the people in the car wearing Russian military uniform observe themselves, study and follow their movements.

Through the organization's research, we have found out that the car numbers tracking Russian citizens are not registered in the relevant databases, they are license plates allocated for operational intelligence operations, and are actually used by Russian law enforcement officers. The citizens who alerted the organization, out of fear, did not want the organization to deal with the protection of their rights through the implementation of any legal mechanism, thinking that they might be exposed and extradited.

In reality, Armenia remains a safe state for Russian citizens until the moment when the wanted person is under the jurisdiction of RA law enforcement officers during arrest or detention. The picture changes from the moment when the servicemen of the military base No. 102 located in the city of Gyumri find the person under some conditions and transfer him under the control of the Russian law enforcement officers. Similar situations are a direct challenge to the rights of citizens of other states on the territory of the RA, a direct threat to possible extrajudicial extradition.

The citizens of other non-democratic states, the Republic of Belarus, the Islamic Republic of Iran, whose rights are protected by the Organization, are in a slightly different situation. In all cases when citizens of the Republic of Belarus have been arrested in the Republic of Armenia on the basis of criminal prosecution initiated against them in that state for political purposes, the Republic of Armenia informs the state of citizenship about the discovery and arrest of the person, followed by the submission of the extradition request.

Belarus, where the death penalty still remains a form of punishment in the 21st century, through its state's general prosecutor's office, guaranteeing the inviolability of the rights and freedoms of the person subject to extradition, submits a request to the RA general prosecutor's office to extradite its citizens, and the prosecutor's office based on such a "guarantee", has been extending the terms of detention for months, assuring the court that it has received a letter of assurance that the person's human rights will not be violated.

The Republic of Belarus submitted an extradition request for a 24-year-old citizen of Belarus who evaded mandatory military service. On February 28, 2022, the latter was subjected to administrative arrest for a period of 15 days by the decision of the Minsk court, and during that same time period, he was subjected to violence, torture and inhumane treatment and punishment on a daily basis, just for daring to participate in demonstrations and gatherings. The inhumane treatment was carried out for punitive purposes, and the entire process of administrative arrest and the period of imprisonment was accompanied by threats. Moreover, the Belarusian law enforcement officers threatened that during the military service, he will be subjected to even more cruel and degrading treatment and that the service will be accompanied by punitive manifestations. Having no other way to escape, Belarusian citizen Maksym Vartkiavichus simply ran away from Belarus.²

² <https://hcav.am/quo-vadis-hcav-26-04-2024/>

Non-democratic states, such as the Republic of Belarus, the Islamic Republic of Iran, and the Russian Federation, which subject their citizens to political persecution, seek asylum in the Republic of Armenia as one of the effective means of protecting their rights, which is also guaranteed by international conventions. The Organization is aware of three cases involving citizens of the Republic of Belarus, for whom extradition requests have already been submitted. The Organization is involved in defending the rights of two of these citizens.³

It is noteworthy that during the examination of the petition for detention for the purpose of extradition, the representative of the Prosecutor General's Office of the Republic of Armenia is trying to assure the court that the Republic of Belarus has assured with the submitted petition that the purpose of the extradition is not to persecute the person for political motives, race, religion, nationality or political views. And all this is presented after a person testifies in court about political persecution and torture.

Regarding one of the citizens of the Republic of Belarus, the Migration and Citizenship Service of the Ministry of Internal Affairs of the Republic of Armenia made a decision by which the citizen of Belarus was recognized as a refugee and was granted asylum.

Obtaining refugee status is already a circumstance excluding extradition and in this case the person is released and a decision is made to reject the extradition petition.

In the presence of evidence base, even the competent authorities of RA do not grant the person asylum and refugee status, thereby making the extradition of persons to a country subject to political persecution, for example, the Islamic Republic of Iran, a reality. Such an approach and the decisions made are highly unacceptable from the point of view of human rights, that is why the HCAV office has initiated appeals in courts.

1. The main rights of foreign citizens and the possibilities of realizing these rights within the framework of RA domestic legislation.

According to Article 3 of the Constitution of the Republic of Armenia:

1. The human being shall be the highest value in the Republic of Armenia. The inalienable dignity of the human being shall constitute the integral basis of his or her rights and freedoms.

2. The respect for and protection of the basic rights and freedoms of the human being and the citizen shall be the duty of the public power.

³ <https://hcav.am/statement-18-03-2024/>

According to part 1 of Article 6:

1. State and local self-government bodies and officials shall be entitled to perform only such actions for which they are authorised under the Constitution or laws.

According to Article 5, Part 1 of the RA Law on Foreigners:

1. In the Republic of Armenia, foreigners shall have the rights, freedoms, and responsibilities equal to the citizens of the Republic of Armenia, unless otherwise provided for by the Constitution, laws, and the international treaties of the Republic of Armenia.

The Republic of Armenia, as a legal and democratic state, has undertaken national and international legal obligations, by virtue of which all bodies of public authority, including the state and all state-legal structures, are restricted by the supreme value of human rights. Moreover, in the absence of clear regulations, the citizen of another state, which is the highest value, has all the rights, freedoms and responsibilities related to the citizen of the Republic of Armenia. Among these rights are all the rights set forth in Chapter 2 of the RA Constitution: basic rights, freedoms and responsibilities of the human being and the citizen.

According to the possibility of realizing human rights, foreigners, in addition to having the same rights and responsibilities as RA citizens, also have the right to obtain legal status in RA based on respective legal mechanisms, thereby making their long-term residence in RA legal and having the possibility to access legal guarantees arising from the given status.

Foreigners in RA, on the basis of appropriate legal procedures, can obtain:

- ***RA citizenship***

The grounds, procedure and conditions of acquisition are defined by the RA Law "On Citizenship of the Republic of Armenia" (adopted on 06.11.1995), "The list of documents necessary for obtaining citizenship of the Republic of Armenia and terminating the citizenship of the Republic of Armenia, the procedure and deadlines for submitting them, as also on approving the list of church structures that provide baptism documents confirming Armenian nationality" by the RA Government Decree (adopted on

November 23, 2007)⁴, RA Government Decree No. 411 of March 25, 2010, No. 1390 of November 23, 2007, Decree N 1154 dated October 4, 2007, Decree N 1110 dated September 20, 2007 by legal acts, by other related normative legal acts.

- *Temporary, permanent or special residence status*

The procedure and conditions are defined by the Law of the Republic of Armenia "On Foreigners" (adopted on 25.12.2006), "The list of documents to be submitted with the application for obtaining a temporary or permanent residence status (extending the residence status) in the Republic of Armenia, the procedure for considering the application... on approval" by the decree of the RA Government (adopted on 07.02.2008) "On exempting the citizens of EU member states from the requirement of an entry visa to RA" by the decree of the RA Government (adopted on 04.10.2012) and other legal acts.

- *Asylum and refugee status*

The grounds, order and conditions of acquisition are defined by the Law of the Republic of Armenia "On Refugees and Asylum" (adopted on November 27, 2008).

In addition to the possibility of granting the above-mentioned legal statuses, both domestic and international obligations in the Republic of Armenia guarantee the observance and implementation of the appropriate procedure for the deportation and extradition of foreigners from the Republic of Armenia, only in case of adequate grounds.

Thus, the legal mechanisms for deporting foreigners from the territory of the Republic of Armenia, in the form of deportation and extradition, are clearly established by the laws of the Republic of Armenia and international conventions, and any deviation from them would be a violation of such fundamental human rights as the rights to life, prohibition of torture, free movement, respect for private and family life, effective means of legal protection, fair trial, and the right to be punished solely on the basis of law.

In particular, according to Article 31 of the Law on Foreigners of the Republic of Armenia, if the foreigner has not voluntarily left the territory of the Republic of Armenia in the cases provided for in Article 30 of this law, then the authorized state administration body of the Republic of Armenia **initiates a deportation case and submits it to the court.**

⁴ See the electronic link to the decision:
<https://www.arlis.am/documentview.aspx?docid=180370>

A foreigner who is subject to deportation from the Republic of Armenia shall enjoy all the rights provided by the laws of the Republic of Armenia for judicial protection. (Article 33)

As a result of the investigation of the deportation case, the court makes a decision to deport or reject the deportation of the foreigner. The decision of the court on deportation specifies the date of deportation of the foreigner, the route, the crossing point of the state border, the cost of the deportation, the place of residence before leaving the territory of the Republic of Armenia, the obligation to appear at the appropriate department of the state administration body authorized in the field of police at certain intervals, as well as on the ban on leaving the place of residence without a permit, on detention or release in the case of arrest pending deportation in the cases provided for in Chapter 6 of this law.

The decision of the court to refuse the deportation mentions the duty of the state administration body authorized in the field of police to grant temporary residence status. (Article 33) A foreigner may appeal the decision on deportation in accordance with the law. In case of appeal of the decision on deportation, the deportation of the foreigner from the Republic of Armenia is suspended. (Article 33)

As a result of the study of the Datalex information system, it turns out that a large number of cases have been examined and are still being examined in the administrative court of the Republic of Armenia, mainly regarding the deportation of the citizens of the Islamic Republic of Iran from the territory of the Republic of Armenia. Deportation cases are initiated mainly in cases where foreigners have committed a crime on the territory of the Republic of Armenia and, according to the judgments, they must be deported after serving their sentence.

Regarding extradition of a foreigner, then:

"The extradition of foreigners is carried out in accordance with the procedure established by the Criminal Procedure Code of the Republic of Armenia and the international treaties of the Republic of Armenia.

Extradition of foreigners is prohibited if the act for which the foreigners are being prosecuted is punishable by death, or there are serious grounds for suspecting that they may be subjected to torture, cruel, inhuman or degrading punishment or treatment. (Article 41)"

The above-mentioned legal norms testify that in the previously described situations, foreigners settled in the Republic of Armenia cannot be extradited from

Armenia and returned to the state by which the citizen is subjected to political persecution without observing any procedural norms.

The approach indicated by the domestic legislation of the Republic of Armenia was established on the basis of the obligations ratified by the Republic of Armenia by international conventions.

In particular, according to the European Convention on Extradition (adopted on 13.12.1957, Paris), extradition is not carried out if the crime for which it is requested is recognized by the requested party as a political crime or related to a political crime.

2. The same procedure shall apply if the state has reasonable grounds to believe *that the request for extradition for an ordinary criminal offense is made for the purpose of persecuting and punishing a person for his race, religion, nationality or political opinion*, or that the individual may be harmed for any of these circumstances.

In accordance with Article 26 of the Convention, the Republic of Armenia has made reservations and declarations regarding the following:

1) In relation to Article 1 of the Convention, reserves the right to refuse extradition in the following cases:

a) if in the case of extradition, the person to be extradited will be subject to criminal liability by an extraordinary court in the territory of the requesting state, or if the sentence to be executed against the person to be extradited has been rendered by such a court;

b) if there are sufficient grounds to believe that due to the age or health condition of the person to be extradited, the extradition will worsen the health condition of that person or threaten his life;

c) if the person subject to extradition is granted political asylum in the territory of the Republic of Armenia.

Referring to the cases of extradition and/or deportation of a person, the European Court of Human Rights, as a rule, examines these matters in light of the protection of the rights enshrined in the European Convention on Human Rights and Fundamental Freedoms (hereinafter also referred to as the ECHR Convention), specifically Article 2 – Right to life, Article 3 – Prohibition of torture, and Article 8 – Right to respect for private and family life.

Thus, *Article 2 of the Convention prohibits the extradition and deportation of a person to another state if there are substantial grounds for believing that the person will be in real danger of being executed there ("Al Nashiri v. Poland", § 577, "F.G. v. Sweden" [MP], § 110)*. In another case, ***where there is a reasonable claim that deportation may result in an interference*** with the stateless person's right to respect for private and family life, Article 13 of the Convention, read in conjunction with Article 8 requires the state to provide the interested person with an effective opportunity **to appeal the expulsion decision** or the refusal to grant residence status, **as well as an effective opportunity to examine the issues related to the case with sufficient depth and due process guarantees by a competent domestic court providing sufficient guarantees of independence and impartiality.** ("De Souza Ribeiro v. France" [MP], § 83, "M. and others v. Bulgaria", §§ 122-132, "Al-Nashif v. Bulgaria", § 133).

The process of study, examination and decision-making of extradition cases by RA should be aimed at strict adherence to international principles, otherwise RA will violate human rights.

2. Restrictions of rights applied to foreigners in RA and their legality

As mentioned above, citizens of different states, being subjected to political or other persecution in the states of their citizenship, leave their states and arrive in Armenia, either to settle in Armenia, or to leave Armenia as a transit state to a third country. However, in RA, the latter face restriction of rights due to persecution in the state of their citizenship. Basically, the rights to free movement, personal freedom, respect for private and family life are restricted.

2.1. Restriction of the right to free movement.

Referring to each of the rights restricted in RA, let us record that the restrictions on the right to free movement of foreigners began to bear large volumes, especially after 2022, against the citizens of those countries who escaped political persecution in the Russian Federation or the Republic of Belarus and moved to RA on that basis, when after arriving in Armenia, the latter were arrested by the competent state authorities of the Republic of Armenia and their right to free movement in the Republic of Armenia was restricted.

Thus, in proceedings challenging the legality of restrictions on the right to free movement and obliging the removal of such restrictions in both extrajudicial and judicial stages, the RA Ministry of Internal Affairs presents the decree of the Government of the

Republic of Armenia No. 884-N dated June 22, 2006, "On establishing the border electronic management information system of the Republic of Armenia, the order of its operation, and approving the list of users of the system" as the legal basis, referring to the provisions of sub-point "E" of point 5 of chapter 2 of the decree.⁵

According to the above-mentioned decree, the sources of data provision necessary for the operation of the border electronic management information system (hereinafter also referred to as the BEMI system) are:

5. Data received through computer connection from the subscription points of the Police of the Republic of Armenia (hereinafter referred to as "police"):

e) the data of persons under search (the number of the criminal proceeding that is the basis of the search, the initiator, the mandatory data for contacting him, the relevant article of the Criminal Code, the measure used, the data on the termination of the search) at the time of announcing or terminating the search.

The cited norm considers the fact of a criminal search against an individual as a basis for applying restrictions on the individual's rights within the BEMI system, however, there is no mention of the search applied to a person by another state and in the territory of another state and **its application legality in RA**. At the same time, the said legal norm does not cite that the fact of being searched in the territory of another state can be a basis for restricting the right to free movement of a person. Accordingly, the circumstance of being a source of data necessary for the operation of the BEMI system, the criminal investigation announced against a person in another state cannot be a justification for restricting the right to free movement of a person in the Republic of Armenia.

That is, for the Ministry of Internal Affairs of the Republic of Armenia, which has the authority to operate or use the BEMI system, the decision to announce a criminal search against a person by the law enforcement officers of another state, for example, the Russian Federation or the Republic of Belarus, can only be a "source of providing data necessary for the operation of the BEMI"; **which has nothing to do with the legality of restricting the fundamental right of a person in the Republic of Armenia based on the data received**.

Turning to the second legal justification, the Ministry of Internal Affairs of RA, in response to lawsuits or extrajudicial writings, refers to the Agreement (hereinafter also

⁵ See the electronic link to the cited decree:
<https://www.arlis.am/documentview.aspx?docid=165352>

the Agreement) signed between the CIS countries on "Information exchange in the fight against crime"⁶

This agreement was established on May 22, 2009, in the city of Astana. The member states of the Agreement are the Republics of Armenia, Belarus, Kazakhstan, Kyrgyzstan, Moldova (with reservation), Tajikistan, Uzbekistan and Ukraine (with reservation) and the Russian Federation (hereinafter also Parties).

The agreement entered into force in the Republic of Armenia on October 27, 2010.

With this document, the Parties agree that in order to "prevent, identify, disrupt, detect and investigate crimes, they provide information free of charge according to requests, which are in operational-informational, investigative, criminal and other records, archives, and also carry out their exchange of scientific-technical, informational-analytical materials and normative legal acts in the field of fighting crime subject to their management. Within the framework of this Agreement, cooperation is carried out in accordance with the legislation of the States of the Parties and international obligations. The parties cooperate through their competent bodies.

*The cooperation of the competent bodies of the parties is carried out **by sending information and making requests for the provision of information (hereinafter 'request')**. Information may be transferred to the other Party on an initiative basis, if there are grounds to believe that it is of interest to that Party.*

"The competent authority of the Requested Party shall take all necessary measures to ensure complete, timely and quality execution of the request."

Thus, in accordance with the referenced Agreement, the competent authority of the Republic of Armenia, namely the Ministry of Internal Affairs, considers the restriction of the right to free movement of citizens of the Russian Federation and/or Belarus in Armenia to be lawful and has the legal basis to apply such restrictions. All clauses of the mentioned Agreement, without exception, refer to the obligation to exchange information between the Parties in the fight against crime, which is manifested either by the request of the Party or by the obligation to send requests and respond to them properly. All clauses of the mentioned Agreement, without exception, refer to the obligation to exchange information between the Parties in the fight against crime, which is manifested either by the request of the Party or by the obligation to send requests and respond to them properly. Under these circumstances, there is no question of limiting the

⁶ See the electronic link to the Agreement:
<http://www.parliament.am/library/APH/175.pdf>

right to free movement of any of the citizens of the State Party within the framework of this Agreement, its permissibility or on its legality.

The right to free movement, being a fundamental right of a person and a citizen, has a very high threshold of permissibility of restriction, according to which the right to free movement can be restricted only in exceptional cases defined by law, pursuing only a legitimate and permissible goal defined by law.

Accordingly,

According to Article 40 of the RA Constitution:

1. Everyone who is legally present in the territory of the Republic of Armenia has the right to move freely and choose a place of residence.

2. Everyone has the right to leave the Republic of Armenia.

3. Every citizen and anyone who has the right to reside in the Republic of Armenia on legal grounds has the right to enter the Republic of Armenia.

4. The right to free movement may be restricted only by law for the purposes of state security, crime prevention or detection, public order, health and morals, or the protection of the fundamental rights and freedoms of others. The right of a citizen to enter the Republic of Armenia is not subject to restriction.

According to Article 2 of Protocol No. 4 of the European Convention on Human Rights and Fundamental Freedoms:

1. Everyone who is legally present in the territory of any state has the right to move freely within the borders of that territory and freely choose a place of residence.

2. Everyone has the right to leave any country, including his own.

3. No restrictions should be applied to the exercise of these rights, except for those restrictions that are provided by law and are necessary in a democratic society in the interests of state security or public safety, the maintenance of public order, the prevention of crimes, the protection of health or morals or in order to protect the rights and freedoms of other persons.

4. The rights set forth in point 1 may also be subject to restrictions in some areas, which are applied in accordance with the law and are justified by the public interests of a democratic society.

In summary, it should be noted that considering it fundamentally unacceptable to restrict the rights of a person being politically persecuted in another country within the territory of the Republic of Armenia, except in cases where the person has committed a

criminally prosecutable act within the territory of the Republic of Armenia, Helsinki Citizens Assembly Vanadzor has provided free legal advice to one hundred and thirty foreign citizens for nearly two years, engaged in the protection of the human rights of foreigners on domestic and international platforms, achieving the restoration of the rights of up to two dozen foreign citizens, in particular, the removal of restrictions on the right to free movement applied to the latter in RA and enabling unhindered crossing of state border of RA.⁷

At the same time, it should be fair to note that despite the application of restrictions on the right to free movement applied to foreigners, it was possible to create a certain cooperative dialogue within the framework of this issue with the competent state body, the RA Ministry of Internal Affairs, as well as the RA Human Rights Defender's Office and the RA Prosecutor General's Office, as a result of which the restrictions applied in RA against foreigners on the basis of being subjected to political persecution by their states are removed and their unimpeded exit from RA is allowed. Therefore, developing this positive trend, we have as a vision the legal and legitimate expectation of not applying any restrictions to foreigners on such a basis in RA at all, and we continue to make efforts in the direction of eliminating the norms and practices that hinder this.

2.2. Restrictions on the right to freedom of assembly and the right to protection of personal data.

According to part 1 of Article 6 of the Constitution of the Republic of Armenia:

1. State and local self-government bodies and officials shall be entitled to perform only such actions for which they are authorised under the Constitution or laws.

According to parts 1 and 2 of Article 34:

- 1. Everyone shall have the right to protection of data concerning him or her.*
- 2. The processing of personal data shall be carried out in good faith, for the purpose prescribed by law, with the consent of the person concerned or without such consent in case there exists another legitimate ground prescribed by law.*

According to part 1 of Article 44:

⁷ See a more detailed description of the activity of the HCAV on the topic under discussion: <https://hcav.am/extradition-28-11-2023/>

1. Everyone shall have the right to freely participate and organise peaceful, unarmed assemblies.

During the previous two years, cases of restrictions on the realization of the rights guaranteed by the relevant legal norms were recorded in RA. In particular, on February 16, 2024, during the peaceful action dedicated to the memory of Alexei Navalny near the Russian Consulate General in Gyumri, RA Police officers demanded the passports of all foreign citizens participating in the action, filled in the data in them and listed the participants of the action, which is an unlawful interference with the right to peaceful assembly and a violation of the right to free assembly.

The HCAV received many calls and written applications from Russian citizens participating in the peaceful action, stating that "...during the mentioned action, officers of the RA Police compiled a list of the participants, for which they mandated the presentation of identification documents. They recorded the passport series and number, data on the presence/absence of registration within the territory of Armenia (including the registration address if present), information on the participants' employment and occupation, as well as required the participants' phone numbers or other contact details."

The news spread on the Internet also indicate⁸ that the protest actions dedicated to the memory of the Russian opposition figure, organized by his numerous ideological followers, were banned by the competent authorities of the Russian Federation. This prohibition has, in effect, influenced the peaceful assembly planned for the same purpose within the sovereign territory of the Republic of Armenia.

By illegally collecting the data of the people participating in the assembly, RA police officers, in fact, prevented them from exercising their right to freedom of assembly, created a direct threat of further persecution of them through fear and collected personal information. In particular, according to the cited media materials:

"The Prosecutor's Office of Russia has warned citizens not to participate in the demonstrations held after Navalny's death. Supporters of the deceased opposition figure had earlier announced plans for a mass demonstration in Moscow."

⁸ See, <https://www.sibreal.org/a/politsiya-zaderzhivaet-uchastnikov-aktsiy-pamyati-navalnogo-za-tsvety-i-podhody-k-pamyatnikam/32827190.html>

“Полиция задерживает участников акций памяти Навального”.

<https://www.golosameriki.com/a/navalny-was-detained/7509977.html>

“В России в день похорон Навального полиция задержала более 120 участников акций памяти политика”

<https://meduza.io/news/2024/03/05/v-moskve-k-uchastnitse-aktsii-pamyati-navalnogo-domoy-prishla-politsiya#:~:text=%D0%9F%D0%BE%D0%BB%D0%B8%D1%86%D0%B8%D1%8F%2C%20%D0%BF%D0%BE%20%D0%B4%D0%B0%D0%BD%D0%BD%D1%8B%D0%BC%20%20%AB%D0%9E%D0%92%D0%94%2D,%D0%B2%20%D0%9C%D0%BE%D1%81%D0%BA%D0%B2%D0%B5%20%D0%BD%D0%B0%20%D0%91%D0%BE%D1%80%D0%B8%D1%81%D0%BE%D0%B2%D1%81%D0%BA%D0%BE%D0%BC%20%D0%BA%D0%BB%D0%B0%D0%B4%D0%B1%D0%B8%D1%89%D0%B5>.

“В Москве задержали как минимум четверых участников акций памяти Навального”

"The Russian Prosecutor's Office has announced, 'We warn that the mass event has not been authorized and will be responded to within the limits of the law.'"⁹

Meanwhile, according to part 1 of Article 6 of the Constitution of the Republic of Armenia:

- 1. State and local self-government bodies and officials shall be competent to perform only such actions for which they are authorised under the Constitution or laws.*

Referring to the position presented by the European Court of Human Rights (hereinafter also referred to as ECHR) on the discussed rights, 'The Court first and foremost reaffirms that ***one of the foundations of a democratic society, the right to freedom of assembly***, includes a number of exceptions that must be interpreted narrowly, and the necessity for any restriction must be convincingly justified. When considering whether restrictions on the rights and freedoms guaranteed by the Convention can be considered "necessary in a democratic society", the Contracting States are granted a certain, but not unlimited, range of discretionary powers. (*see the case of Kudrevičius and others, cited above, § 142*).

The right to personal data protection is considered by the ECHR within the framework of Article 8 of the European Convention on Human Rights, (hereinafter, also ECHR) which concerns the right to respect for private and family life. The Court's case law on Article 8 generally recognizes the importance of privacy and the values associated with it. Those values include, inter alia, well-being and dignity (Beizaras and Levitskas v. Lithuania, § 117), the development of personality (Von Hanover v. Germany (No. 2) [GC], § 95), physical and mental integrity ("Söderman v. Sweden", [GC], § 80), relations with other persons ("Kouderk and Ashot Filipaki Partners v. France" [GC], § 83), ***protection of personal data*** ("M.L. and V.V. v. Germany", § 87) and the image of the person ("Reklos and Davourlis v. Greece", § 38).

Comparing the legal norms set out above with the factual circumstances described, we find that in connection with the mentioned case, illegal and impermissible behavior was demonstrated by the RA Police officers, the constitutional and conventional rights of foreign citizens in RA to freedom of assembly and protection of personal data were violated. According to HCAV, such an action submitted by the report of the crime and the request to carry out an official investigation, should be properly investigated and receive its adequate legal assessment, in order to prevent further possible violations of the freedom of assembly.

2.3 The restriction of rights of personal liberty and immunity

⁹ See, <https://www.azatutyun.am/a/32822873.html>

In all the discussed cases, foreigners who are persecuted for their political views in the territory of another state, upon arriving in Armenia, are being arrested for several hours either immediately at the airport or at the border checkpoints

According to parts 1 and 2 of Article 27 of the RA Constitution:

1. Everyone shall have the right to personal liberty. No one may be deprived of personal liberty otherwise than in the following cases and as prescribed by law:

(1) the person has been sentenced by a competent court for committing a criminal offence;

(2) the person has failed to obey a legitimate court order;

(3) for the purpose of ensuring the fulfillment of a certain obligation prescribed by law;

(4) for the purpose of bringing a person before a competent authority where there exists a reasonable suspicion that the person has committed a criminal offence, or a justified necessity of preventing the committal of a criminal offence by the person or his or her fleeing after having done so;

(5) for the purpose of placing a minor under educational supervision or bringing him or her before a competent authority;

(6) for the purpose of preventing the spread of contagious diseases dangerous for the public, as well as the danger posed by persons with mental disorder, drug addicts and alcoholics;

(7) for the purpose of preventing the unauthorized entry of a person into the Republic of Armenia, or for deporting or extraditing a person to another state.

2. Everyone deprived of personal liberty shall be promptly informed, in a language which he or she understands, about the reasons for deprivation of liberty, whereas in case a criminal charge is brought — also about the charge.

Article 5 of the European Convention on Human Rights also defines the right to personal liberty and immunity, according to which:

1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

The study of the ECHR case law proves that the 'right to freedom' declared in Article 5(1) of the Convention refers to personal liberty but in its classical sense, which is the physical liberty of the person. The purpose of the said provision is to ensure that **no person is arbitrarily deprived of his liberty**. It should be noted that this does not refer to restrictions such as freedom of movement. This circumstance clearly follows from the terms "deprived of liberty", "arrest" and "detention", which are also present in Article 5,

Clauses 2-5 of the Convention. It also follows from a comparison of the provisions of Article 5 and other articles of the Convention and its annexed protocols. The majority of foreigners who are criminally prosecuted for political purposes in the countries of their citizenship, upon arrival in RA, firstly encounter the restriction of freedom, secondly, sometimes the restriction of freedom is carried out on the territory of RA by the competent bodies of another state. In this case, the issue concerns the presence of representatives from the Russian security service at the border control checkpoint at "Zvartnots" airport. These representatives not only monitor the entry and exit of individuals to and from Armenia, but also have a highly controversial mandate. This mandate allows them to detain indefinitely, without the presence or participation of Armenian authorities, foreign citizens, including those from Russia and Belarus, who have arrived in Armenia escaping political persecution in Russia. They gather information about these individuals and only then permit their entry into Armenia.¹⁰ The HCAV office has addressed the mentioned question many times, considering it problematic both from the perspective of the sovereignty of the Republic of Armenia and the protection of human rights.¹¹ On March 6, 2024, the Security Council of the Republic of Armenia sent an official letter to the Russian Federation, regarding the withdrawal of its border troops from "Zvartnots" airport and the cessation of their activities at the airport.¹² In particular, Secretary of the Security Council of the Republic of Armenia Armen Grigoryan clarified: "Armenia's position is that Armenian border troops should fully carry out their service at 'Zvartnots' airport."¹³

Let's remind that the powers regarding the border guard mission carried out by the Russian border guard troops on the territory of the Republic of Armenia are defined by the agreement signed on 30.09.1992 "between the Republic of Armenia and the Russian Federation on the status of the border guard troops of the Russian Federation on the territory of the Republic of Armenia and their activities".¹⁴ ***Unlike the other powers defined by the agreement, there has never been, nor is there currently, any authorization in the agreement for the Russian border troops to carry out border control activities at "Zvartnots" airport.***

¹⁰ See similar cases found in the HCAV proceedings:

Irina Belacheu- <https://hcav.am/statement2-19-07-2023/>

<https://hcav.am/statement-19-07-2023/>

Maria Rose- <https://hcav.am/epress-30-05-2023/>

<https://hcav.am/maria-rose-17-07-2023/>

Related video:

<https://www.youtube.com/watch?v=4zBpNWbDkGY&t=63s>

¹¹See, <https://hcav.am/lragir-am-6-5-19-1/>

¹² See, <https://www.rbc.ru/rbcfreenews/65f02b469a79472a9cf53582>

¹³ See, <https://news.am/arm/news/811026.html>

¹⁴ See the contract:

<https://uic.am/wp-content/uploads/2015/08/Paym-sahmanapah-arm.pdf>

As of August 1, 2024, the service of the Russian border troops at "Zvartnots" airport will be terminated, as announced officially by the Prime Minister of Armenia, Nikol Pashinyan.¹⁵

2.4 General domestic and international standards of permissibility of restriction of fundamental human rights and freedoms

Referring to the issue of restricting human fundamental rights and freedoms, let us record that they must be fixed exclusively by law and be only defined by active legal principles.

According to the **principle of proportionality** defined by Article 78 of the RA Constitution: The means chosen for restricting basic rights and freedoms must be suitable and necessary for achievement of the objective prescribed by the Constitution. The means chosen for restriction must be commensurate to the significance of the basic right or freedom being restricted.

In connection with this principle, the Constitutional Court of the Republic of Armenia expressed the following position in its decision No. 649 that *"according to the fundamental principles of international law on the protection of human rights, the restriction of human rights can be implemented only by law, guaranteeing proportionality, without distorting the essence of the right. (as a result of the restriction, the right is not deprived of its content, its existence is not endangered)"*.

According to the principle of certainty defined by article 79 of the RA Constitution "When restricting basic rights and freedoms, laws must define the grounds and extent of restrictions, be sufficiently certain to enable the holders and addressees of these rights and freedoms to display appropriate conduct.

At the same time, in accordance with the principle of inviolability of the essence of provisions on fundamental rights and freedoms defined by Article 80, the essence of the provisions on fundamental rights and freedoms laid down in this chapter is inviolable.

The constitutional rights and freedoms are the fundamental rights of an individual, which fully define the constitutional status of an individual. Human rights and freedoms have several features, by which they differ from other, non-basic rights and freedoms of a person.

- 1) the fundamental rights, freedoms and responsibilities are fixed in the Constitution*
- 2) they directly express the relationship between a state and an individual*
- 3) these rights and freedoms are permanent and inalienable, that is, the state can not restrict or abolish them by its own discretion.*

¹⁵ See, <https://www.azatutyun.am/a/32939365.html>

Therefore, higher standards should apply to restrictions of fundamental rights, they should be based on ensuring the security of a democratic state and society or other public interests and needs, and in any case, they should maintain the requirement of not harming the essence of the right. Otherwise, any restriction on fundamental human rights and freedoms is inadmissible.

By summing up, let us record that the vast majority of above mentioned restrictions on the human rights of foreigners do not have legal basis, by virtue of which, it would be possible to consider the above-mentioned restrictions widely applied to foreigners in the territory of the Republic of Armenia as legitimate. Therefore, the Republic of Armenia, by carrying out its positive responsibilities and demonstrating political will, is obliged to show consistency to exclude the unjustified cases of restriction of person rights, and in case of already having allowed it, to immediately eliminate the consequences of the violation and make efforts to restore the right, so that the inalienable rights and dignity of a person are not violated.

3. The ratio of the international obligations assumed by RA in the context of legal relations between the member state of the Council of Europe and the CIS

Referring to the legality of the possibilities of realizing the human rights of foreign citizens in the Republic of Armenia and the restrictions applied to them in the Republic of Armenia, it is necessary to take into account the international obligations assumed by the Republic of Armenia, combining the legal obligations of the member state of the Council of Europe and the legal obligations of the Republic of Armenia as a member of the Commonwealth of Independent States.

It is recorded in the Convention on the Law of International Treaties (adopted on 23.05.1969, Vienna, entered into force on 16.06.2005) that *"the codification and progressive development of the law of treaties implemented by the Convention will contribute to the goals stated in the Charter of the United Nations , especially the maintenance of international peace and security, the development of friendly relations between peoples and the realization of their cooperation with each other..."*

According to the Law of the Republic of Armenia "On International Treaties", "an international treaty signed by the Republic of Armenia or to be acceded to becomes legally binding for the Republic of Armenia after completion of the necessary domestic procedures through ratification by the National Assembly of the Republic of Armenia or approval by the President of the Republic." (Article 10) The international agreement of the Republic of Armenia entered into force is subject to unconditional implementation. (Article 18)

The Republic of Armenia is a full member of the Council of Europe (hereafter also CE) since January 25, 2001.

The process of Armenia joining the Council of Europe began in 1995. On January 26, 1996, the RA National Assembly received the status of a special guest at the CE Parliamentary Assembly. On November 9, 2000 according to the decision of the Committee of Ministers of the Council of Europe No. 2000/13, Armenia received the invitation to become a member of the Council of Europe. The permanent representation of the Republic of Armenia in the Council of Europe operates in Strasbourg. Since joining the Council of Europe, Armenia has taken necessary steps to meet its obligations towards the Council.¹⁶

After the accession of the Republic of Armenia to the Council of Europe, all the conventions provided for by the accession were ratified by the Republic of Armenia. With the expert support of the CE Secretariat and the "European Commission for Democracy through Law" (Venice Commission), relevant codes and laws of RA were amended in different years.

Since its accession, Armenia cooperates with CE monitoring and expert bodies such as:

The expert group of the CE on combating exploitation (trafficking) of people,¹⁷

CE European Commission against Racism and Intolerance,¹⁸

CE Gender Equality Commission¹⁹

CE Consultative Committee of the Framework Convention on the Protection of National Minorities²⁰

Through these and similar diverse collaborations, the Council of Europe promotes the identification of member states' legislations in the field of advancing fundamental principles of human rights. The aim is to develop a coordinated policy and ensure the application of the accepted laws and standards in member states.

By joining the Council of Europe, the Republic of Armenia, has initially acquired such obligations²¹ as:

1. *to sign, at the time of its accession, the European Convention on Human Rights (ECHR), and its complementary Protocols No. 1, 2, 4, 6, 7, and 11.*

¹⁶ See, <https://www.mfa.am/hy/international-organisations/5>

¹⁷ See, <https://rm.coe.int/greta-third-evaluation-report-on-armenia/1680a6b4ba>

¹⁸ See, <https://rm.coe.int/sixth-report-on-armenia/1680ab9e33>

¹⁹ See, <https://rm.coe.int/2021-annual-report-on-the-implementation-of-the-gender-equality-strate/1680a710cf>

²⁰ See, <https://www.coe.int/en/web/minorities/armenia>

²¹ See, , <https://pace.coe.int/en/files/16815/html>

2. *to ratify the ECHR and Protocols Nos. 1, 4, 6 and 7 thereto during the year following its accession;*
3. *to sign and ratify, within one year of its accession, the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and its protocols;*
4. *to sign the European Social Charter within two years of its accession and ratify it within three years of accession, and to strive forthwith to implement a policy consistent with the principles of the Charter;*

Regarding domestic law:

- *to adopt, within one year of its accession, the second (specific) part of the Criminal Code, thus abolishing de jure the death penalty*
- *to adopt, within six months of its accession, the law on the ombudsman*
- *to adopt, within one year of its accession, a new law on the media;*

human rights:

- *to fully implement the reform of the judicial system, in order to guarantee, inter alia: within its framework, ensure the full independence of the judiciary; guarantee full and immediate access to a defense lawyer in criminal cases (compulsory for minors); if necessary, the costs should be borne by the state;*
- *to adopt, within three years of accession, a law on alternative service in compliance with European standards and, in the meantime, to pardon all conscientious objectors sentenced to prison terms or service in disciplinary battalions, allowing them instead to choose, when the law on alternative service has come into force to perform non-armed military service or alternative civilian service;*
- *and other obligations*

Dr. Claus Neukirch, the Director of Programme Co-ordination at the Council of Europe, during the presentation of the 2023-26 program of actions implemented by the Council of Europe for Armenia, speaking about the qualitative growth in the field of cooperation between the Council of Europe and Armenia, specifically noted:

“... We have excellent cooperation with various government agencies and departments, which has made it possible to expand our support to include several new areas. Now we deal with the issues of human rights protection in the armed forces as well, we deal with electoral and justice sector reforms, the fight against economic crimes, issues related to biomedicine, probation, refugees, local democracy. Within a year, there is visible progress in all directions. We congratulate the Armenian authorities for ratifying the 13th

Protocol. That is about the abolition of the death penalty. The plan of action is based on the supremacy of human rights. We also work with civil society, emphasizing the principles of transparency and non-discrimination.”²²

By becoming a member of the Council of Europe, Armenia has undertaken the mission of implementing active measures in the field of human rights protection. This is primarily carried out through a policy of aligning Armenian legislation with European international standards.

In addition to Armenia's accession to the Council of Europe and the fulfillment of its resulting obligations, it should be noted that Armenia also has cooperative agreements with the European Union, such as the Comprehensive and Enhanced Partnership Agreement signed on November 24, 2017.²³ The reference to the agreement is notable for the fact that its European member states have committed to *“strengthen their dialogue and cooperation on migration, asylum and border management with a comprehensive approach, paying attention to legal migration and cooperation to prevent illegal migration and human trafficking”*. At the same time, by ratifying the agreement and being a part of it, Armenia has committed to *“gradually aligning its legislation with relevant parts of European Union legislation, effectively implementing it as part of its efforts towards extensive reforms, and developing its administrative and institutional capacities to the extent necessary for the implementation of this Agreement.”*

Thus, summarizing Armenia's active membership in the Council of Europe and its cooperative relations with the European Union, it should be noted that Armenia is also concurrently engaging in dialogue with the Commonwealth of Independent States (CIS), which was founded in 1991 and initially included only Russia, Ukraine, and Belarus as members.

The objectives of the CIS members (Parties), outlined in the Charter adopted on January 22, 1993, serve as the base for the CIS's activities and pertain to the following:

- cooperation in political, economic, environmental protection, humanitarian, cultural and other fields,
- comprehensive and proportionate economic and social development of the participating states within the framework of the CIS,
- *ensuring human rights and fundamental freedoms in accordance with the general principles and norms of international law,*
- cooperation in the direction of ensuring international peace and security, as well as in taking effective measures to reduce armaments and military expenditures, to achieve general and complete disarmament,
- peaceful settlement of existing disputes and conflicts between the state parties in cooperation,

²² <https://shorturl.at/VNfzr>

²³ See, <http://www.parliament.am/drafts.php?sel=showdraft&DraftID=9798&Reading=0>

- support to the citizens of the participating states in the matter of free movement and communication in the territory of the CIS, etc.

In subsequent years, as part of fulfilling commitments within the CIS framework, the procedure of signing and ratifying interstate treaties and agreements aimed at addressing diverse issues among member states and incorporating them into national law have commenced. Within the framework of that process, RA has ratified and become a party to such conventions, agreements or international treaties with the CIS members in the field of human rights protection, such as, for example,

It is the Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters (adopted on January 22, 1993, Minsk), within which: *“The Contracting Parties shall provide each other with legal assistance in carrying out procedural and other actions stipulated by the legislation of the requested Contracting Party, in particular, drafting and transmitting documents, conducting searches, confiscating, transferring and handing over material evidence, conducting expert examination, interrogating parties, defendants, witnesses, and experts, initiating criminal prosecution against persons who have committed a crime, searching for and extraditing them, recognizing and executing court decisions and civil lawsuits in civil cases, judgments, writs of execution, as well as by handing over documents.”* *“When carrying out an assignment to provide legal assistance, the requested body applies the legislation of its country.”*

Thus, it turns out that the Republic of Armenia, having joined the Council of Europe, assuming the international obligations due to the latter's membership, including the formation of unified principles in the field of human rights protection, and by having several agreements with the European Union, simultaneously continues to bear obligations as a member state of the CIS. CIS membership and the fulfillment of obligations within its framework are in direct contradiction and incompatibility with the obligations taken by RA as a member of the Council of Europe. Moreover, when, on February 25, one day after one of the main CIS member states, the Russian Federation, launched a war against Ukraine on February 24, 2022, the Committee of Ministers of the Council of Europe, in consultation with the PACE, invoked Articles 7 and 8 of the organization's charter and initiated the process of expelling the Russian Federation from the Council of Europe. As a result, by the decision of the Committee of Ministers of the Council of Europe on 16.03.2022, the Russian Federation, after 26 years of membership in the Council, was excluded from the Council.²⁴ With this removal, in fact, a number of conventions and agreements were suspended for Russia, including the European Convention on the Protection of Human Rights and Fundamental Freedoms, by which Russian citizens were actually deprived of the opportunity to use the European Court of

²⁴ See, <https://www.coe.int/en/web/portal/-/the-russian-federation-is-excluded-from-the-council-of-europe>
[https://search.coe.int/cm#{%22CoEObjectId%22:\[%220900001680a5d7d9%22\],%22sort%22:\[%22CoEValidationDate%20Descending%22](https://search.coe.int/cm#{%22CoEObjectId%22:[%220900001680a5d7d9%22],%22sort%22:[%22CoEValidationDate%20Descending%22)

Human Rights as an important mechanism for the protection of rights.²⁵ Another reason for the recorded incompatibility is that the Republic of Belarus, a member of the CIS, is the only European state that was not even a member state of the Council of Europe at all, due to continuous and unpunished violations of human rights. One of the reasons for not being a member of the Council of Europe is that in the 21st century, the death penalty is defined by the Belarusian legislation as a means of criminal responsibility.²⁶

Summarizing, we can record that, being a member state of the Council of Europe, the obligations of the Republic of Armenia in the field of human rights are in deep and substantial conflict with the obligations taken by it as a member state of the CIS.

4. The activities of the HCAV office in the direction of protecting the rights and freedoms of victims of political persecution by the Russian Federation and the Republic of Belarus.

During the last year, 127 citizens of the Russian Federation and 3 citizens of the Republic of Belarus applied to the HCAV office for protection of their rights and restoration of violated rights.

All citizens have been provided with free oral legal assistance. Written legal assistance has been provided to 50 of those who applied. To protect their rights, the organization has sent inquiries and letters to the competent authorities of the Republic of Armenia, including the RA Ministry of Internal Affairs, the RA General Prosecutor's Office, the RA Ministry of Justice, the RA Ministry of Foreign Affairs, the RA National Security Service, the RA Office of the Human Rights Defender, and other competent bodies according to subordination. To date, 20 citizens are being represented by attorneys in the state and judicial courts of the Republic of Armenia, as well as in the European Court of Human Rights. Citizens are provided with legal protection at the Migration and Citizenship Service of the RA Ministry of Internal Affairs in matters of asylum.

The criminal proceedings initiated for the purpose of political persecution in the Russian Federation or the Republic of Belarus and the ongoing criminal prosecution have formed the basis for legal restrictions in RA, in particular the restriction of the right to free movement for the vast majority of citizens who have applied to the HCAV. This is a gross violation of the rights of foreign citizens residing in the territory of the Republic of Armenia. Therefore, all necessary efforts aimed at eliminating these violations have been undertaken and are being undertaken in order to provide a systemic solution to this problem. One of the most important tasks of the organization's activity is the restoration of human rights through systemic solutions. For this purpose, in order to protect the

²⁵ [Բուսաստանը հեռացվեց Եվրոպայի խորհրդից \(hetq.am\)](http://hetq.am)

[Բուսաստանը դուրս է գալիս Եվրոպայի խորհրդից | Ֆակտոր տեղեկատվական կենտրոն \(factor.am\)](http://factor.am)

²⁶ See, <https://70.coe.int/achievements-en.html>

“The Council of Europe has succeeded in creating a death penalty free zone in almost every country in Europe. *Only Belarus, which is not a member state, still carries out executions.*”

human rights of foreigners, we have been writing with relevant letters to the RA Human Rights Defender's Office, the RA General Prosecutor's Office, the RA Ministry of Internal Affairs and the RA Ministry of Justice for months, by which a demand was constantly presented to eliminate the restrictions on the freedom of movement illegally applied by the Republic of Armenia especially to the persons subjected to political persecution. In response to the submitted letters, they said that the issue is under their consideration and attention and measures will be taken.

In response to one of the applications submitted in one of the regular cases, the Ministry of Internal Affairs of the Republic of Armenia informed that I. Belacheu's restriction to cross the border was removed taking into account the applications constantly submitted by the HCA Vanadzor office in order to solve this issue and a practically applicable and feasible format was developed, according to which the rights to free movement and freedom of persons who have taken refuge in the territory of the Republic of Armenia are not restricted. As a result of a systemic solution to the issue, the right of 20 beneficiaries of the organization to freely enter and move within the Republic of Armenia is not restricted. They have been able to cross the Armenian border without hindrance when entering or traveling to another country for which they have a humanitarian visa.

In summary, we can say that in order to eliminate the violations of the right to free movement of foreigners, the organization proposed a systemic solution formula to the RA authorities, who have made it applicable by giving it legal force, bringing to life the real protection of the rights of dozens of citizens in the territory of the Republic of Armenia. Referring to the cases of the citizens of Russia and Belarus, we should mention again that in almost all cases it is a regularity to use the criminal proceedings initiated by the Russian Federation or the Republic of Belarus against its citizens as a tool of political persecution. Because of the vast majority of criminal cases against citizens, the proposed articles were added to the Criminal Code of the Russian Federation on February 24, 2022 after the war unleashed by Russia against Ukraine. These articles are called to suppress and silence people who criticize the behavior of their authorities, express beliefs and positions against the war.

Speaking from the already recorded results, let us state that during the presented period:

- 20 citizens who have the legal status of being accused in criminal proceedings due to their political positions in Russia, and on that basis were subject to restrictions on the right to free movement in RA /*exit ban from RA/, the legal restrictions have already been removed in an extrajudicial order and the latter have been given the opportunity to use the humanitarian visas received from other states and to leave the RA state border unhindered.

- For three of the citizens, RA made decisions to reject the extradition requests submitted by Russia, and the latter have also already left RA.²⁷
- As a result of the prompt response and legal support provided in at least 10 cases of citizens who applied to the HCAV office, Russian citizens who were unjustly detained in Armenia have been immediately released.²⁸
- Currently, 9 lawsuits are pending in the Administrative Court of the Republic of Armenia regarding the obligation to remove the restrictions applied by the Republic of Armenia or to recognize the restrictions applied but already removed as illegal.
- Extrajudicial legal protection mechanisms have been implemented in the case of about 20 foreign citizens.
- In the case of five of the citizens who applied to the organization, in addition to legal assistance in domestic courts, relevant applications were also submitted to the European Court of Human Rights.
- In the remaining cases, the citizens, applying to the HCAV office, received oral legal advice related to settling in RA on legal grounds, in particular obtaining residence status, registration, obtaining citizenship, obtaining asylum and refugee status, obtaining a work permit, health care or other issues related to different branches of RA law.

Summarizing the activity of the organization in the field of protection of the rights of foreigners, it is necessary to record the important and inseparable idea, that the Republic of Armenia, which is considered a legal state, as a result of massive violations of human rights, should not become an instrument for the implementation of illegal demands of non-democratic states recognized as aggressors by the international community, organizations (UN, EU, CE, OSCE), and is obliged to carry out only those actions that result from the principle of protecting and guaranteeing human and citizen rights and freedoms.

²⁷ See the publication of the HCAV office:

<https://hcav.am/en/maria-rose-17-07-2023/>

²⁸ See, <https://www.aravot.am/2023/07/20/1356484/>

Recommendations:

1. To recognize as unconstitutional the obligations taken by the Republic of Armenia within the framework of the CIS, as well as in interstate agreements with the Russian Federation, the Republic of Belarus, the Republic of Kazakhstan, the Republic of Kyrgyzstan, and Turkmenistan, the fulfillment of which will lead to the violation of human rights defined by the obligations assumed by the Republic of Armenia, as member of the Council of Europe.

2. Exclude the extradition of foreigners in all cases where there is a real risk of ill-treatment in the state by which the person is searched.

3. In cases with the purpose of political prosecution, exclude the bans on the exit and entry of persons from RA using the BEMI system.

4. Exclude deprivation of liberty on the basis of extradition petitions received from dictatorial and non-democratic states and states that use the death penalty as a form of punishment, and immediately reject the petitions presented using the international principle.

5. To grant the right of political asylum to all foreign citizens who were subjected to political persecution in their countries and chose RA as a safe state from the point of view of violation of rights.