



POLICY BRIEF

Closing the policy gaps concerning an eventual mass influx of asylum seekers to Armenia

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Since 2000, the Republic of Armenia has received 3,339 asylum seekers

EXECUTIVE SUMMARY

By acceding to the 1951 Geneva Convention Relating to the Status of Refugees and its Protocol in 1993, Armenia launched the creation of its asylum system, which eventually resulted in the adoption of the Law on Refugees in 1999. Ever since, Armenia has received some 3,400 asylum seekers, granting protection to 2,271 persons. Most of these people escaped from armed conflicts in the Middle East. Whereas Armenia thus received some 200 persons per year on average, this number in reality oscillated when hostilities or armed conflicts erupted in the regions of origin.

To present, the Law on Refugees and its subsequent amendments have failed to set out a concrete policy for addressing an eventual mass influx of asylum seekers at the Armenian border. In this context, the Law on Refugees and Asylum of 2008 (amended in 2015) referred to the provision of temporary protection. Nonetheless, the standing legislation remains incomprehensive as it fails to set forth concrete measures to ensure an immediate emergency response, including the accommodation and support required by those in need, or clear provisions on their necessary documentation.

This Policy brief suggests amending the Law on Refugees and Asylum in a way to stipulate the elaboration of an Action Plan setting out the adequate steps to be taken by the competent authorities in case of a mass influx of asylum seekers. Such measures foremost relate to the construction of camps, the provision of emergency assistance and the granting of temporary protection at the very Border Crossing Points (BCP).



Armenia provides temporary protection in cases of mass influx

CURRENT CONTEXT

Over the past half century, the mass influx of asylum seekers usually confronted the respective hosting countries with numerous challenges.¹ The international community has looked for ways to provide an adequate policy response for such scenarios, aiming to ensure the protection of those in need. During the 1990s, the military conflicts in Yugoslavia demonstrated the need for special procedures to respond properly to the mass arrival of persons displaced by armed conflicts.² As a result, the EU actively worked on establishing minimum standards for temporary protection. In 2001, it adopted the EU Council Directive 2001/55/EC *On Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts between Member States in Receiving Such Persons and Bearing the Consequences Thereof*. This Directive:

- sets up a scheme for EU Member States to deal with mass arrivals of foreign nationals who cannot return to their countries – in particular due to war, violence or human rights violations;
- puts in place immediate temporary protection for these displaced people;
- promotes a balance of efforts between EU countries in receiving these asylum seekers, however, without stipulating their compulsory distribution across EU countries.

In accordance with this Directive, all EU Member States have since granted temporary protection for a duration of one year, which can be extended by up to two years. When the temporary protection ends, EU countries must take steps to enable the voluntary return of protected people. EU countries must ensure that displaced people are willing to return to their home country. People must be able to file an asylum claim.³ However, due to its complicated procedure, this Directive was never properly enforced.

Since acceding to the Geneva Convention and its Protocol in 1993, Armenia has adopted a policy ensuring the protection of asylum seekers and refugees in accordance with international standards.⁴ The latter policy:

- allows immigrants appearing *en masse* to enter the national territory;
- applies the principle of *non-refoulement* to the concerned individuals by not returning them to countries where their lives or freedoms may be at risk;
- allows persons in need of international protection to stay legally on the national territory guaranteeing their basic human rights and freedoms.

Whereas the previous Law on Refugees⁵ did not address an eventual mass influx of asylum seekers at all, the Law on Refugees and Asylum (2008) does so in its fourth chapter concerning the provision of temporary protection. The three respective articles specify that in cases of mass influx of foreign citizens or stateless persons to Armenia, the Government may grant them temporary protection by virtue of a governmental decree. These provisions apply if the concerned persons meet the requirements for refugee definition set forth

¹ Examples include the arrival of Vietnamese asylum seekers to Hong Kong, Thailand and Eastern Asian countries, the arrival of Afghans to Pakistan and Iran, or the arrival of Iranians to Turkey.

² European Commission, Migration and Home Affairs, Temporary Protection, https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/temporary-protection_en

³ EUR-Lex, Access to European Union Law, document information "Temporary protection if there is a mass influx of displaced people"

⁴ The national asylum legislation encompasses 23 laws, 42 governmental decrees, 54 orders and 10 standard operating procedures on asylum adopted by the State Migration Service of Armenia.

⁵ The Law was adopted in 1999, amended in 2001, 2002 and 2004 and eventually revoked in 2009.

in the national Law on Refugees and Asylum. Moreover, a temporary protection procedure is established along with the rights and obligations for holders of this status. The Law also defines the grounds for terminating the temporary protection. In 2009, a Governmental Decree established the procedure for issuing identity documents to persons granted temporary protection.⁶

In case of a mass influx, asylum applications are not subject to individual procedures or decisions by the State Migration Service. The limited resources of the Asylum Division (currently consisting of seven employees) are insufficient to handle individual examinations in case of increased numbers. Nonetheless, an eventual mass influx would require an immediate response in accordance with international standards.

Therefore, the government would first need to determine whether the concerned asylum seekers should receive temporary protection, which would equip them with rights equal to those of recognized refugees. In case of a positive decision, the police issues identity documents valid for one year. Unless the temporary protection is terminated within their validity period, the police replaces these identity documents by convention travel documents. Persons granted temporary protection neither enjoy political nor voting rights (except at local level). They can neither become members of a political party in Armenia, nor be elected or appointed to hold office in public administration bodies or local governments.

POLICY OPTIONS

Considering recent events in the Middle East and Armenia's geographic proximity to this region, a mass influx of asylum seekers to Armenia remains a realistic scenario. In spite of its provisions on temporary protection, the standing legislation would certainly prove inadequate, should a mass influx occur. Therefore, the adoption of an Action Plan to address the current policy gaps must be established on a statutory level. Where legislative grounds are absent, the state is unable to duly implement its policy.

The statutory powers granted to the State Migration Service are limited to the provisions of its legal status. As other governmental agencies retain jurisdiction over a number of issues relating to the legal status, a joint Action Plan applicable to all competent public bodies is urgently needed. It must ensure the necessary rights to asylum seekers, which remains impossible at present, due to existing legislative gaps.

The law requesting such Action Plan should also define the specific timeframe, within which the government is to approve the Action Plan. A period of six months following the entry into force of the respective law would seem adequate in this respect.

There is a need to establish a statutory requirement for the government to adopt a relevant plan of action.

⁶The Governmental Decree of the Republic of Armenia on Establishment of the Sample of Refugee ID Granting Temporary Protection and Procedures for Replacing the Said Document with a Convention Travel Document (November 26, 2009; No. 1367-N)

⁷The previous legislation contained a provision limiting the right to temporary protection to asylum seekers from neighboring states. Since this restriction was lifted in 2015, all asylum seekers enjoy the right to asylum along with additional derivative rights (social, medical, educational, cultural, etc.).



Moreover, it is essential to define the number of people constituting a 'mass influx', thereby triggering the implementation of such Action Plan. Neither the standing legislation in Armenia, nor the international treaties it adhered to, define what exactly amounts to a 'mass influx'. The asylum legislation of the EU is also lacking an exact number. This number will necessarily differ from country to country. It is important to balance the size and speed of the influx against Armenia's size and capacity to process the individual status determination. There is also a need for clearer, less equivocal recognition that the launching of a temporary protection regime is preceded by an actual mass influx.⁸ A preparedness plan will enable a timely response to the mass influx.

In case of a mass influx of more than 2,000 asylum seekers to Armenia, the Action Plan should include the implementation of the following measures:

1. Measures at border crossing points (BCPs)
2. Measures to create/build a temporary accommodation (camp)
3. Provision of urgent medical and social assistance
4. Provision of temporary protection in Armenia

1. Measures at border crossing points

- Organization of the border crossing of the affected persons without delay
- Organization of trainings for the staff of the BCPs on entry procedure for asylum seekers
- Ensuring the daily operation of the police station to maintain public order and security
- Ensuring the daily operation of medical centers to provide medical care

2. Measures to create/build a temporary accommodation (camp)

- Transfer of persons from the BCP to the camp
- Allocation of up to two hectares of land for installation of tents and creation of a camp. Allocation and installation of tents at their disposal (100 tents with 20 beds; or 70 tents with 30 beds)
- Provision of a separate tent for the staff members of the State Migration Service to deploy their activities
- Provision of a separate tent for the staff members of medical aid posts and for social workers to deploy their activities
- Provision of a separate tent for the police to deploy their activities
- Providing 6-8 potable water and sanitary facilities in the camp
- Ensuring power supply

3. Provision of urgent medical and social assistance

- Allocation of necessary food and shelter from the state reserves
- Involvement of social workers to provide food and accommodation
- Engaging with states, international organisations, international and foreign nongovernmental organisations concerning the provision of the necessary
- assistance to the concerned asylum seekers (financial assistance, medication, other necessary supplies)

⁸Such approaches are set forth in UNHCR (2001) Protection of Refugees in Mass Influx Situations: Overall Protection Framework, Global Consultations ec/gc/01/4 on International Protection. See par. 14 in particular.

4. Provision of temporary protection in Armenia

- Deployment of nine staff members of the State Migration Service to the BCP
- Establishing of 2 working groups
- Establishing a registry for the people received (including electronic registry maintenance)
- Assigning a registry number to each family, including a photographic record
- Taking a photography of each person (3x4cm) and ensuring its printing at the end of each day
- Elaboration of identity documents for asylum seekers based on the data filed in the electronic registry; issuance of identity documents within three days
- Enquiries addressed to the National Security Service and the Police
- If necessary, cooperation with representatives of the National Security Service, the Police and other public bodies, UNHCR and other NGOs
- Implementation of the Governmental Decree on Provision of Temporary Protection to Individuals Entering the Republic of Armenia within a Mass Influx
- Provision of identity documents and legal residence to persons enjoying temporary protection by the Passport and Visa Department of the Police.

POLICY RECOMMENDATIONS

The current asylum legislation of Armenia lacks clarity regarding the rights deriving from the provision of temporary protection in mass influx situations. Ensuring these rights requires a clear policy and well-defined powers for the various responsible public bodies. The research conducted suggests the introduction of the following legislative changes:

- To amend Article 61(4) of the Law on Refugees and Asylum by introducing therein the wording: "The Government of the Republic of Armenia approves the Action Plan in Case of Mass Influx of Asylum Seekers to the Republic of Armenia, which shall include the following measures to be implemented by all competent authorities: measures at the BCPs; activities related to the establishment of a temporary accommodation (camp); provision of urgent emergency assistance; granting of temporary protection in Armenia".
- To adopt a Governmental Decree on Provision of Temporary Protection to Individuals Entering the Republic of Armenia within a mass influx (see sample draft in the Annex);
- The Action Plan shall be tested through practical exercises involving all competent authorities;
- To propose to the State Migration Service to identify indicators for the definition of a "mass influx" (size of influx, non-feasibility to launch an individual examination procedure etc.).

Matching gaps in case of mass influx situations.



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RELATED PUBLICATIONS

- Official website of the State Migration Service under the Ministry of Territorial Administration and Development of the Republic of Armenia: www.smsmta.am
- UNHCR (2001) Protection of Refugees in Mass Influx Situations: Overall Protection Framework, Global Consultations ec/gc/01/4 on International Protection: <http://www.unhcr.org/protection/globalconsult/3ae68f3c24/protection-refugees-mass-influx-situations-overall-protection-framework.html>
- European Commission, Migration and Home Affairs, Temporary Protection: https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/temporary-protection_en
- International Journal of Refugee law, 01 September 1994, Morten Kjaerum, "Option Temporary Protection in Europe in the 1990s", page 1
- EUR-Lex, Access to European Union Law, document information "Temporary protection if there is a mass influx of displaced people", link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A133124>

REFERENCES

- Convention Relating to the Status of Refugees, Geneva, 28 July 1951
- Council Directive 2001/55/EC of 20 July 2001 on Minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof
- Law on Refugees, March 1999
- Law on Refugees and Asylum, 29 November 2008
- Law of the Republic of Armenia on the Amendments in the Law on Refugees and Asylum, 16 December 2015
- Governmental Decree of the Republic of Armenia on Establishment of the Sample of Refugee ID Granting Temporary Protection and Procedures for Replacing the Said Document with a Convention Travel Document (November 26, 2009; No. 1367-N)

Sample of Draft Governmental Decree of the Republic of Armenia**DECREE**

2018, N -N

on Provision of Temporary Protection to individuals entering the Republic of Armenia within a mass influx

According to Article 61(4) of the Law on Refugees and Asylum of the Republic of Armenia, the Government of the Republic of Armenia hereby decrees:

1. Adopt an Action Plan in Case of Mass Influx of Asylum Seekers to the Republic of Armenia.
2. Assign the bodies specified in the Action Plan approved under paragraph 1 of this Decree to conduct activities set forth in the Action Plan within their powers.
3. The State Migration Service under the Ministry of Territorial Administration and Development of the Republic of Armenia shall not accept individual asylum applications at the national border crossing points. It shall register the individuals immigrating to the Republic of Armenia within a mass influx as asylum seekers.
4. Provide temporary protection to the individuals immigrating to the Republic of Armenia during the mass influx and registered with the State Migration Service.
5. Persons granted temporary protection by the Republic of Armenia are recognized as refugees and have the rights and obligations of refugees set forth in the Law on Refugees and Asylum.
6. The principle of non-refoulement recognized under the Law on Refugees and Asylum and international law applies to individuals who are granted temporary protection. Such individuals shall not be deported, extradited or otherwise returned to a country where substantial risk of cruel and inhuman or degrading treatment or punishment including torture persists.
7. To determine that the Police adjunct to the Prime Minister of the Republic of Armenia issues persons under temporary protection an identification document confirming their status.
8. This Decree shall take effect on the day following its official publication.