



ARMENIAN YOUNG LAWYERS ASSOCIATION

(Information brochure)

One of the major goals of the Armenian Young Lawyers Association is to assist in raising the level of legal awareness of the people and in disseminating legal information. To that end the organization established 7 offices in Yerevan and in the RA regions, which provide legal advice and information to citizens on a *pro bona* basis.

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To obtain further information, other informational brochures as well as free legal advice you need to go to the offices located at the following addresses:

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2. City of Yerevan, 1 Komitas St., apt. 237, tel. 22-37-86;
3. Town of Gavar, Regional Governor’s Office, 4th floor, tel. 2-55-03;
4. City of Gyumri, 77 Proshian St., tel. 3-82-36;
5. Town of Goris, 3 Mashtots St., 2nd floor, tel. 2-58-61;
6. Town of Kapan, 1 A. Manukian St., apt. 72, tel. 6-25-11;
7. City of Vanadzor, Hayk square, Town Hall, room 222, tel. 2-23-17.

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APARTMENTS-RELATED LEGAL RELATIONS

Inviolability of the apartment

Article 21 of the RA Constitution and Articles 1 and 9 of the Apartment Code stipulate that each person is entitled to inviolability of the apartment: it is prohibited to enter a person's apartment against his will. The apartment may be searched only by a court ruling and according to the procedure established by law.

The RA citizens have the right to get and possess the apartment according to the procedure established by law. No one may be evicted from the living space he or she occupies or be subjected to limitations on the use right to the living space except on the basis and according to the procedure stipulated by law.

The procedure for receiving the apartment

People in need of improving their housing conditions shall have the right to receive housing for their use. They shall be put on a list by the authorities in the area of their residence. The housing is allocated in order of priority established by the list depending on the length of being on the list and on the total amount of living space that is expected to be put into commission. Citizens who have the priority or extraordinary right to receive the apartment space shall be put on a separate list.

The norm of the living (floor) area has been set at nine square meters per person. While granting the housing, it shall be prohibited to have individuals over nine years of age and of opposite sex, with the exception of spouses, reside in the same room. Citizen's place of work, his health status as well as other noteworthy circumstances shall be taken into consideration when housing is granted. While making a decision on the size of the living area to be granted, another factor, which shall be taken into consideration, is whether there is a pregnant woman in the family.

Granting the housing

The housing shall be granted by the community with the participation of the relevant commission. On the basis of the decision to grant housing, the community shall issue a warrant, which shall serve as the only legitimate grounds for occupying the granted housing. The warrant can be issued only for unoccupied, isolated living space. The warrant may be invalidated by court ruling only.

The lease contract for the living space shall be concluded only in a written form. The tenant shall have the right, by consent of the family members residing with him, to bring, in compliance with the established procedure, in for residence his spouse, children and parents as well as other persons. The family members' consent shall not be required in case of minors coming to reside with their parents. The tenant of the living space shall have the right, by consent of his family members residing with him and by lessor's consent, to sublease the housing. In case the tenant or his family members are absent temporarily, the living space shall be reserved for them for up to six months. The tenant of the living space and the family members residing with him may, by mutual consent, authorize other citizens to reside temporarily (temporary residents) in the living space in their use without concluding a sublease contract with them and without collecting payment for the use of the living space.

Privatization of apartments

The privatisation of the RA State-, public and community-owned apartments is the allocation of apartments (living space) for free to citizens, provided the latter wish to get them. The privatized apartments shall be considered the citizens' ownership.

The privatization of apartments allocated prior to January 1, 1999 shall be carried out by community heads (in the city of Yerevan - by a mayor). The privatization of apartments shall be effected on the basis of the application addressed to the head of the relevant community or to the mayor of Yerevan by the tenant of a given apartment, provided there is a written consent of all adult

family members residing with him. The privatization shall be effected within a two-month period after the application has been handed in.

The privatization of the apartment shall be officially registered in the name of any adult family member and shall be held by all family members in joint ownership in common or in joint ownership in shares.

The ownership of the privatized apartment shall have to be registered in the territorial offices of the Real Property State Cadastre. The owners of the apartment shall be issued the certificate of ownership.

Citizens who shall be leaving the Republic of Armenia forever shall retain their ownership of the privatized apartment.

Should the privatization request be denied, the decision can be appealed against in the court.

The privatization of State-owned apartments allocated after January 1, 1999 shall be carried out in the regions (*marzes*) by regional governors (*marzpetner*) and in Yerevan – by the Yerevan city mayor. The privatization of apartments shall be effected on the basis of the application addressed to the governor of a given region (to the mayor of Yerevan) by the tenant of the apartment, provided there is a written consent of all adults who have the use right to the living space in the apartment in question. The privation application can be submitted only within one year after the lease agreement has been concluded with the tenant of a given apartment. The privatization shall be effected within a one-month period after the application has been handed in. After the privatization the apartment shall be held in joint ownership in common by the individuals who had the use right to the apartment.

In case the privatization request is denied, that decision can be appealed against in the court.

ALIMONY-RELATED LEGAL RELATIONS

The concept of alimony obligations

To pay alimony means to provide for somebody's livelihood. Alimony is paid by one family member to another.

The alimony obligations between parents and their children are of a long-term nature. Children, if minors, i.e. if there are under 18 years of age, have the right to demand alimony from their parents. If the children have already come of (18 years of) age, they have the right to demand alimony from their parents only if they are disabled and needy.

The legislation currently in force provides not only for the possibility of coercing in making the alimony payment but also in some cases stipulates that criminal proceedings must be instituted against the alimony payment evader.

The size of alimony to be paid to one's children who are minors

The alimony payment for minors shall be imposed on their parents as a forced levy on their earnings (income) at the following rate: for one child – a quarter of the parents' earnings (income), for two children – one third, for three and more children – a half of the earnings but no less than 20 per cent of the minimum wages for each child per month (at present the minimum wages in the Republic of Armenia have been set at 5,000 AMD).

However, there are certain circumstances in which case the court may decrease the above-mentioned rates of the alimony levied for the children who are minors. The court may decrease them in the following cases:

- if a parent who has the obligation to pay alimony has other minor children living with him/her who, in case the alimony is levied at the rate stipulated by law, will be less provided for, in financial terms, than children who were awarded the alimony,
- if a parent who pays alimony is a person with disability of the first or second category,
- if children who were awarded alimony are employed and earn enough.

The court has the right to decrease the size of alimony or to exempt from paying it if children are in full care of the State or non-governmental organization.

Besides, parents who pay alimony to their children who are minors can also be required to share in the additional expenses brought about by exceptional circumstances (in case a child comes down with a very serious disease or there is a need of a prosthetic appliance or of a high-calorie diet, etc.).

The claim can be brought to the court to levy the alimony from parents for the benefit of the children irrespective of whether the parents are divorced or not.

The children's obligation to support their parents

Legislation on marriage and the family also requires that children take care of their old-age parents and support them. The parents have the right to demand alimony from their children in case 2 conditions are met:

- a) if parents are unable to work (pensioner, disabled),
- b) if they are needy.

The right to demand alimony from his child(ren) also has the parent who, regardless of his/her age or capacity to work, is engaged in taking care of that(those) child(ren)'s children who are 8 years of age as well as of his/her sisters and brothers and therefore does not work.

The size of the share to be contributed by each child towards the support of their parents, who are unable to work and are in need of support, shall be decided by court as a fixed amount to be paid every month depending on the financial and family situation of parents and children.

Alimony obligations of other family members

Other family members have only a secondary obligation to pay alimony, only in addition, when it is impossible to levy alimony from those individuals whose primary obligation is to pay it (parents, children or spouse).

It is incumbent on grandfather and grandmother to provide the livelihood to their grandchildren if the latter do not have parents or cannot get the required support from the parents.

Brothers and sisters have the obligation to provide the livelihood both to their blood siblings (i.e. who are related through both parents) as well as to their half-brothers and half-sisters and to stepbrothers and stepsisters (i.e. when they are related only through one parent).

Step-father and step-mother have the obligation to provide the upkeep their minors as well adult step-sons and step-daughters who are in need of support and are unable to work, if those step-children were in their care and were brought up by them and do not have parents or cannot get from their parents amount sufficient for livelihood.

According to Article 100 of the RA Marriage and Family Code, "the alimony shall be paid personally by the individual who has the obligation and is willing to do so or, as per his written request, through the administration of the institution where he works or receives old-age pension or scholarship". In any case, the alimony recipient has the right to take the application to the court at any time requesting that alimony be levied.

The forced levy of alimony on the basis of the court ruling

Alimony can be levied in 3 ways to from parents for the benefit of their children who are minors:

- a) as a share of earnings,
- b) as a fixed amount of money,
- c) and as a combination of a share and a fixed amount of money.

The following documentation has to be attached to the application requesting that alimony be levied:

- a) a copy of a marriage certificate or of a divorce certificate, if the marriage was dissolved,
- c) copies of birth certificates of those children for whose benefit the alimony is demanded,

- d) a certificate from the employer of the individual who has the obligation to pay alimony; the certificate should state the amount of the latter's salary as well as the fact that no deductions are made owing to a writ of execution,
- e) a certificate from the place of residence testifying that the child(ren) is(are) indeed in the care of the claimant.

The person entitled to receive alimony shall have the right to apply at any time to court with the claim that alimony be levied, irrespective of when the right of that claim has emerged.

As a rule, the claims concerning forced levy of alimony shall be taken to the court of the area where the respondent (i.e. the individual against whom the claim has been brought to court) resides. However, the legislation on civil procedure grants to the alimony case plaintiff the right to take the claim about forced levy of alimony to the court in the district where the plaintiff resides.

The plaintiffs in the cases concerning forced levy of alimony shall be exempt from State duties and court costs.

The alimony amount owed for the time passed shall be determined on the basis of the actual earnings of the respondent during the period when alimony has not been levied.

The respondent who owes the alimony debt shall have the right to demand in court that the amount owed be decreased or that he be exempt from paying it. Taking into consideration the causes of the accumulation of the debt as well as the respondent's family and financial situations, the court may exempt him entirely or partially from paying off the debt.

LABOR-RELATED LEGAL RELATIONS

Labor contract

Labor contract is an agreement, which has been concluded between the employees and the enterprise, institution or organization (employer) and which is about the mutual rights and responsibilities of the employees and the employer.

Labor contracts shall be concluded:

- for an unspecified period of time,
- for a specified period not to exceed three years,
- for the period necessary to complete certain work (seasonal work contract, etc.).

The form of a labor contract

Labor contract may be concluded orally or in a written form.

The authorization to set to work shall be regarded as a conclusion of a labor contract regardless of whether the documentation evidencing the hiring has been properly drawn up or not.

A written labor contract shall be signed by the employer and the employee. It lays out the rights and responsibilities of the parties, the scope of work, the timeframe of the contract, etc. The issues not regulated by labor contract shall be regulated by the labor legislation.

What documents are required for concluding a labor contract

At the time a labor contract is concluded the employee shall be required to submit his passport, a work-book (those individuals who have never been hired before, shall also be required to submit a certificate issued by condominium, house-maintenance office or local government unit stating his most recent occupation) and a military card (those young men who have not been in active military service shall be required to present the card evidencing their registration with the Military Registration & Enlistment Office or a certificate from that office evidencing their exemption from active military service or their right of deferment of military service).

In cases stipulated by legislation a citizen shall be required to present also the credentials attesting to his particular speciality (of a physician, lawyer, driver, etc.).

What are the grounds for terminating a labor contract

The grounds for terminating a labor contract are:

- the parties' consent,
- expiration of the term of the contract,
- the employee's being drafted into the army or his admittance to the professional military service,
- abrogation of the labor contract on the initiative of the employee, the administration or the committee of the local trade union,
- the employee's transfer (by his consent) to another enterprise, institution or organization or his being elected to an elective position,
- the employee's refusal to move to another locality together with the enterprise, institution or organization as well as his refusal to go on with his work because of essential changes in working conditions,
- the judgement handed down by court that sentences the employee to imprisonment or to corrective labor in a place other than his regular employment or to another punishment that rules out the opportunity for him to continue his work.

Abrogation of a labor contract on the employee's initiative

Employees shall have the right to abrogate the labor contract concluded for an unspecified period of time on the condition that they shall give a two-months' notice.

The labor contract concluded for a specified period of time may be abrogated, by the employee's demand, prior to expiration of its term owing to the employee's disease or disability, to violation of the labor legislation by the administration as well as on other grounds specified by the contract.

Abrogation of a labor contract on the administration's initiative

Labor contract may be abrogated on the administration's initiative in case of redundancies and/or reduction of the staff list as well as in case of the employee's failure, on a periodical basis, to do his job or to show up at his work place or in case he reports to the work in a state of inebriation or having taken drugs. The contract may also be abrogated on the basis of the employee's failure to report to work for over 4 months because of temporary disability, inadequate qualifications or health status inadequate to the work or because the former employee was reinstated in that position. In case labor contract is abrogated on the administration's initiative the consent of the committee of the local trade union is mandatorily required regardless of the grounds.

The procedure for a dismissal from job

The employees shall have to be personally notified about the expected dismissal at least two months in advance. When giving a notice, the administration shall, if there is a chance to do so, offer another job to the employee in the same enterprise, institution or organization.

Labor time

Labor time is the time during which the employee shall have, in compliance with international regulation of work discipline, to be in the enterprise (institution or organization) to perform his job functions.

The normal duration of workweek may not exceed 41 hours.

For minors of 16-18 years of age, the workweek shall be 36 hours or 6 hours a day in case of a week with 6 working days.

For minors of 15-16 years of age, the workweek shall be 24 hours or 4 hours a day in case of a week with 6 working days.

The working days preceding weekends and red-letter days shall be one hour shorter for employees. That rule shall apply both to 5- and 6-day working week.

Overtime work

Overtime work is the work performed beyond working hours and beyond the work shift established by the schedule. Overtime work shall be remunerated with extra payment.

Wages/Salaries

Wages/Salaries are the remuneration of the employee for his work, which is paid to him at the established rate or at the rate agreed upon by the employee and the employer.

The worker's monthly wages/salaries cannot be lower than the minimum wage established by the State. At present the minimum (monthly) wage in Armenia has been established at 5,000 AMD.

POVERTY FAMILY ALLOWANCE

Who is entitled to the allowance?

In order to qualify for the poverty family allowance (hereinafter, the allowance) a family must be registered with the Social Welfare Territorial Centre. Entitled to receive the allowance are those families whose points measuring the degree of neediness are higher than the threshold value established by the State for the neediness.

In order to receive the allowance a grown-up member of the family shall have to submit once a year an application-declaration to Social Welfare Territorial Center (hereinafter, the welfare center) in the area of his permanent, temporary or actual residence.

Information about the neediness threshold value and about the procedure for its calculation established by the State can be obtained from the territorial welfare centers.

The documents required for granting the allowance

The allowance shall be granted on the basis of the data of the family's "social passport" and of income statement. The data in the social passport shall have to be substantiated with the following documents:

- in case of persons with disability of the first, second or third category – a copy of the certificate issued by Expert Medical & Social Assessment Commission (EMSAC), or a statement issued by the body that grants allowances and pensions, or the pensioner's certificate,
- in case of a minor (up to 16 years of age) with disabilities – a statement issued by a territorial center for allowances and pensions, or the pensioner's certificate,
- in case of a minor – a copy of a birth certificate,
- in case of a pensioner - a statement issued by the body that grants pensions,
- in case of an unemployed – a statement issued by a territorial employment center evidencing that the person in question is unemployed,
- in case of a pregnant woman (20 or more weeks of pregnancy) – a written statement to that effect from the antenatal clinic,

- in case of undergraduates of under 23 years of age – a statement from a public educational institution evidencing that the student's costs of studies are covered by the State,
- in case of children of under 21 years of age without one or two parents - a statement issued by the body that grants pensions or the pensioner's certificate or his parent's/parents' death certificate(s),
- in case with a child of a single mother – a statement from the territorial department of the Civil state registry office concerning registration data about father in the child's birth certificate,
- in case of a child in a divorcee's family – a copy of a divorce certificate or of a court ruling or of a certificate about the recognition of paternity,
- in case of a lone pensioner – a statement from house-maintenance office or from local government unit,

- in case of an elderly pensioner (of 75 years of age and over) - a statement from the body that grants pensions.

2 social passports bearing the identical number shall be filled out for each family; one shall be handed over to the family, whereas the other shall remain the Center's keeping.

It shall be incumbent on the welfare centers to provide interpretations and consultations to citizens concerning the issues of granting and payment of allowances as well as to provide them with assistance in filling out the required documentation and in obtaining relevant information.

The welfare center shall be required to review the allowance-requesting application-declaration within 25 days after the receipt of the application and the required documents. In case the decision is made to reject the request to grant the allowance the Center shall inform the applicant within 5 days stating the reasons for rejection. The welfare center's decision not to grant the allowance can be appealed against in court or by presenting the matter to a higher authority.

The grounds for the Center to reject the allowance application are the following:

- the family's points in the system measuring the degree of neediness are lower than the threshold value established by the State for the neediness (the threshold value for family's neediness is 36 points),
- the submitted documents are not complete or reliable,
- the family has not been found needy as a result of the examination conducted by the welfare center or by the Social Support Council on the basis of information received from the RA Ministries and Departments.

The allowance shall be calculated by adding the accretionary part allocated for each family member to the base-line part of the poverty allowance.

The base-line part of the poverty allowance is equal to 3,000 AMD. The accretionary part allocated for each family member is equal to 1,300 AMD.

In case there is a change in the composition of the family and the right to the allowance is retained the recalculation of the amount of the allowance shall be made starting the month following the one when the above-mentioned changes have become known to the Center. If the family member in whose name the allowance has been granted is absent, the allowance shall be paid to another adult member of the family.

The disbursement of the allowance shall be effected through the *HyePost* closed joint-stock company.

In case family changes its residence the payment of the allowance shall be suspended. At the allowance recipient's request, the allowance-related documentation package shall be forwarded to Center in the area of his new residence. In case the right to the allowance is retained, the payment of the allowance shall be resumed from the month following the one when the last payment was made.

Termination of the allowance payment

The payment of the allowance may be terminated in the following cases:

- a) if the family's neediness points went below the neediness threshold value as a result of changes in the family composition or in the financial situation or in housing conditions,
- b) if a family does not collect the allowance payment for three months in a row without good reason,
- c) when the welfare center or the Social Support Council decide that the family does not qualify to be the allowance beneficiary,
- d) when it follows from the analysis of the information received from the RA Ministries and Departments via the allowances information base that the family is no longer entitled to the allowance,
- e) in case the allowance beneficiary submits documents containing downright falsehood and/or conceals the changes in incomes and in the family composition. In that case the family shall for one year forfeit the right to the allowance and the center shall go to court with the claim that the inflicted damaged be repaired.

THE LEGAL REGULATION OF EMPLOYMENT

The concept of employment

Employment is the activities which are not forbidden by the RA legislation and in which the RA citizens, foreign national and Stateless persons residing in the RA engage for satisfying individual and public needs and which generate income required for livelihood.

1. The employed

The employed are:

- those who do paid work for the employers,
- individuals elected or appointed to administrative positions or whose election or appointment to such positions has been approved,
- individuals in service in the armed forces,
- individuals of employable age involved in educational institutions, in professional training, re-training and professional development courses and in other forms of education.

2. Job seekers

The job seekers are individuals who are over 16 years of age, who are capable of working and who, regardless of whether they already hold a job, have applied to the State employment service.

3. The out-of-work individuals

The out-of-work individuals are individuals who are capable of working, are of employable age and are not engaged in any activity listed in paragraph 1, and besides

- a) who do not express a wish to work within a given period of time (voluntarily unemployed),
- b) who wish to work and are looking for suitable job (unemployed against their will).

4. The unemployed

The unemployed are those out-of-work capable of working individuals of employable age who do not receive pensions, have at least one-year working experience, have applied to the State employment service to get a job and have been granted the status of the unemployed.

The registration of individuals is conducted by the State employment service (hereinafter, the Service). The out-of-work job-seeker fills out the card for the Service provided the following documents are available:

- a passport,
- a work book,
- a statement from the local government unit evidencing that the person in question has not been a beneficiary of privatization and lease of land, agricultural machinery and structures.

Using the procedure established by law, the State employment service grants the status of the unemployed to the out-of-work individual. The status guarantees:

- payment of the unemployment benefit (the amount of the base-line unemployment benefit is 3,900 AMD); and the period through which the unemployment benefit is paid is included in the overall length of service,
- payment of scholarship, the amount of which has been set at 120% of the base-line allowance, to those who have been sent by the employers to take professional retraining and professional development courses; and the entire period of studies is included in the overall length of service,
- that the allowance equal to the base-line unemployment allowance will be paid to those dismissed from their jobs on the employer's initiative (with the exception of those dismissed because of violation of labor discipline) who have, within 30

days after being dismissed from their jobs, applied to the service with the request to find them a job,

- that the allowance equal to 80% of the base-line unemployment allowance will be paid to those dismissed from their jobs on their own initiative,
- that the allowance equal to 60% of the base-line unemployment allowance will be paid to those dismissed from their jobs because of violation of labor discipline.

Duration of the unemployment allowance

The duration of the unemployment allowance has been set as 5 months. For individuals who have at least 5 years of working experience the period during which the unemployment allowance is paid shall be extended by 1 month for every 5 years.

The maximum duration of the unemployment allowance may not exceed 12 months. Those unemployed entitled to receive the allowance for 12 months and who have less than one year to reach the age of old-age retirement pension may be given, by their consent, the right to retire on that pension.

If an individual finds by himself a temporary employment during the period of the unemployment allowance and informs the Service about that, the latter shall suspend the payment of the unemployment allowance for the period of the temporary employment. The State employment service shall suspend for two months the payment of the allowance if an unemployed individual has turned down even once the offer of a suitable job.

The job is regarded as suitable if it matches the job-seeker's level of education and professional qualification and taking into consideration the salary and availability of public transportation lines near the proposed work place. For those unemployed, who it proved impossible to provide with the above-mentioned suitable job, the job which requires professional development or retraining may be regarded as suitable. For first time job seeker any paid employment may be regarded as suitable job.

The suitable job should meet the following requirements: it should be the job offered in the territory of the relevant unit of the State employment service and its salary should exceed 1.5 times the base-line unemployment allowance.

Termination of payment of the unemployment allowance

The service shall terminate the payment of the unemployment allowance, if:

- unemployed individual have turned down two offers of suitable jobs,
- unemployed individual has failed, without good reason, twice in a row to report to the Service, even though he had been informed in advance, at the appointed time to receive the job offer,
- while receiving the allowance, the unemployed individual has found an employment, even a temporary one, but has failed to inform the Service,
- after the suspending the payment of the unemployment allowance it is discovered that its duration expires earlier than or simultaneously with that of temporary employment.

The out-of-work job seeker shall be taken off the registration:

- when he gets a job,
- if he has failed to report to the Service at least once within one year after the registration,
- on his own initiative,
- in case of his death.

Termination of the status of the unemployed

The status of the unemployed shall be terminated by the State employment service, if an unemployed individual:

- has got a job,
- has moved to another place,

- has been drafted into the army,
- has been registered as an old-age pensioner,
- has been given a sentence by the judgment that has entered into force and that rules out providing him with employment,
- has been sent to take retraining or professional development courses. In that case an unemployed individual and out-of-work job-seeker shall also be taken off registration,
- has failed to report to the Service at least once within one year after the registration,
- has died,
- has submitted incorrect information.

PENSIONS

Types of pensions

Every citizen in the Republic of Armenia has the right to pension provision. The following types of State pensions have been established:

a) employment-related retirement pensions:

- a retirement-age pension, a retirement-age pension with privileges, a long-service pension, a disability pension and a survivor's pension;

b) social pensions:

- an old-age pension, a disability pension and a survivor's pension.

Entitled to a retirement pension are:

a) individuals who are employed under a labor contract in institutions, enterprises and organizations regardless of the form of ownership of those,

b) self-employed individuals, including individual entrepreneurs and those engage in farming,

c) individuals engaged in science and creative work,

d) individuals who became disabled while discharging their civic duty.

Women who reach 63 years of age and men who reach 65 are entitled to a retirement-age pension provided they have an employment record for at least 5 years. In 2001 the age threshold for the retirement-age pension is 63 for men and 58 for women. In 2001 it will be 63.5 and 58.5, respectively.

Entitled to a retirement-age pension with privileges are:

a) women and men who were employed for at least 15 years under particularly harmful and/or particularly difficult conditions and who reached, respectively, 53 and 58 years of age (in year 2001, women 48 and men 53 years of age and in 2002, women 48.5 and men 53.5 years of age),

b) women and men who were employed for at least 20 years under harmful and/or difficult conditions and who reached, respectively, 55 and 60 years of age (in year 2001, women 53 and men 58 years of age and in 2002, women 53.5 and men 58.5 years of age),

c) mothers who gave birth to 4 and more children and who provided care for them until they reached 8 years of age as well as mothers who provided care for 16 years for a child with a recognized disability since childhood when these women reach 58 years of age and provided they have an employment record for at least 5 years (in year 2001, when they reach 53 and in 2002, 54.5 years of age),

d) men and women with hypophysis dwarfism (lilliputians) when they reach 40 and 45 years of age respectively and provided they were employed for at least 20 years.

Entitled to a long-service retirement pension are those individuals whose involvement in their work prior to their reaching the mandated age for retirement has resulted in a partial loss of their professional capabilities.

An employment-related disability pension is granted to an individual who has been recognized as disabled as a result of complete or partial loss of ability to work:

a) in case an individual has been crippled at work or has contracted an occupational disease regardless of the length of his employment,

b) when disability has been caused by non-occupational disease (including cases when an individual has been crippled under circumstances entirely unrelated to employment) provided he was employed for at least 5 years.

The first, second or third categories of disability have been established. Expert Medical & Social Assessment Commissions (EMSAC) determine the causes and grant the category of disability.

In case of a loss of a breadwinner, the following family members are entitled to a survivor's pension:

a) children under 18 years of age, children recognized as the disabled as well as brothers, sisters and grandchildren (if they do not have parents and are not employed),

b) parents or spouse, if they are not employed and if at the time of the breadwinner's death they are of the pension age or if, regardless of their age, they have been recognized as the disabled,

c) one of the parents or spouses, grandfather, grandmother, brothers or sister, regardless of their age and ability to work, if they provide care for the deceased breadwinner's children, brothers, sisters or grandchildren under 8 years of age and if they are not gainfully employed.

d) grandfather and grandmother if they are not employed and do not have children capable to work.

Individuals who are not entitled to an employment-related retirement-age pension are awarded an old-age pension upon reaching the age of 63 by women and 65 by men. The amount of the old-age pension is equal to 2,860 AMD.

The procedure for granting pensions

Pensions are granted by the RA social security units on the basis of citizens' written applications submitted to the unit in the area of their permanent residence. The application requesting the award of the pension is reviewed and decided upon within 10 days after the required documents have been submitted. In case the decision is made to reject the request the social security unit shall within 5 days inform the applicant in writing stating the reasons for rejection and the procedure for appealing against that decision and at the same time shall return all the documents.

The pensions are granted from the day the application was submitted.

For the case of granting the employment-related retirement pension to be reviewed a citizen has to attach to the application the following:

- a document evidencing the citizen's age (e.g a passport),
- a document evidencing the length of employment (an excerpt from the work book certified by the employer) or other necessary documents,
- a statement about social security payments issued by the bodies of the RA Pension & Employment Fund.

For the case of granting the employment-related disability pension to be reviewed an excerpt from the EMSAC medical examination Act has also to be submitted. If disability has resulted from a crippling accident at work place or from an occupational disease, the Act about the accident (or another document) has also to be submitted.

For the case of granting a survivor's pension to be reviewed the following documents have to be submitted additionally:

- the breadwinner's death certificate,
- a statement from house-maintenance office or from the neighborhood committee (in rural localities – from local government units) about those breadwinner's family members who were his dependents, copies of their birth certificates as well as a statement evidencing that individuals who now take care of them are not employed,
- an excerpt from the EMSAC medical examination Act concerning the adult family member who is entitled, in case of losing the breadwinner, to a disability pension.

For the case of granting an old-age pension to be reviewed the document evidencing the citizens' age has to be submitted (his passport or a copy of the birth certificate).

The pension can be paid for three months by a letter of attorney. The letter of attorney has to be certified by a notary public.

Calculation of pensions

Pensions are calculated by adding to the base-line pension (of 2,860 AMD) the increment of 35 AMD, 45 AMD or 60 AMD per each full year of the employment in case the length of the employment was respectively up to 15 years, from 15 to 30 years or 30 years or more.

The pension of a pensioner who has reached 75 years of age shall be increased by 30% of the base-line pension. In case of a pensioner's death the partial compensation (equal to the one-year amount of the pension) for the funeral-related costs shall be paid to his family or to the person who took care of the interment.

TRANSACTIONS AND CONTRACTS

The concept of transaction

Transactions are all those actions undertaken of their own free will by individuals and legal entities (commercial companies, organizations, various institutions) and as a result of which certain civic rights and responsibilities emerge, get changed and terminate. For example, buying property, leasing out an apartment or giving a car as a gift are transactions.

Types of transactions

In order for the transaction to be considered legitimate and to become legally valid the legal requirements concerning transactions should be complied with. According to the law, transactions are of two types, *viz.* oral and written. There are transactions that have to be concluded in writing in order to be considered valid. The parties' oral agreement is sufficient to regard some transactions as legally valid.

In what cases can a transaction be concluded orally?

The transaction for the conclusion of which the law or the agreement between parties does not require a written (ordinary or notarized) form can be concluded orally. Essentially, all the transactions conducted at the time of the concluding can be concluded orally, with the exception of those transactions for which a notarized form has been designated and for which the non-compliance with the ordinary written form shall result in invalidation unless other provisions have been made by the parties' agreement. For example, buying bread from grocery store is regarded a transaction (a contract of sale and purchase), which is conducted at the time of conclusion and for which the law has not established a notarized or ordinary written form; therefore it can be concluded orally.

Written transactions

Written transactions are of two types, *viz.* ordinary transactions and transactions that require certification by a notary public. In case of concluding a transaction through a notarized form the parties draw up one written document, sign it and then take it to a notary public and the latter certifies it with his seal. For example, real property (apartment, one-family house, land parcel) alienation (sale, lease, donation) transactions (contracts) become legally valid only upon the notarization. Those transactions for which the law does not stipulate a mandatory certification by a notary public may be concluded in an ordinary written form. That means that after reaching an agreement the parties draw up one written document and sign it.

According to Article 297 of the RA Civil Code, the following should be concluded in ordinary written form:

- transactions between legal entities and between legal entities and citizens,
- transactions between citizens when their amount exceeds 20 times the mandated minimum wage (i.e. 20 thousand AMD) or in cases stipulated by law, regardless of the amount (e.g. the donation contract).

Hence, transactions between organizations or between organizations and citizens in any case should be concluded in writing. As regards contracts that are concluded between citizens, they have to be concluded in a written form, if

- the amount of the transaction exceeds 20, 000 AMD. For example, citizens reach an agreement to conclude a sale and purchase contract, according to which one of the parties shall sell a TV set for 15,000 AMD. In that case the transaction may be concluded orally, whereas in case the TV set would be sold for, say, 25,000 AMD the transaction would have to be concluded in writing;
- for a certain type of a transaction the written form is stipulated by law regardless of the amount of the transaction. E.g., it is mandatory that the donation contract be concluded in writing, even in those cases when the value of the donated property is less than 20,000 AMD.

According to the RA Civil Code, the following contracts have to be concluded in writing: real property sale and purchase contracts, long-term installment contract, real property exchange contract, donation contract, lease contract, rent contract, the contract for using the property for free, construction contract, contract for providing paid services, fiscal agency agreement (contract), loan contract, joint activities contract, etc.

Besides the fact that the law sets out the requirements for written and oral forms of transactions, there is another important provision titled “the State registration of rights emerging from transactions”. What does that mean? There are special types of contracts that require more than concluding in writing and certification by a notary public in order to become legally valid and to be considered as legitimate. To that end the rights that emerge from those transactions have to be registered by the State authorized body. For example, the contract of sale and purchase of an apartment. For the buyer of the apartment the (right of) ownership of that apartment emerges from the transaction. However, the ownership shall be recognized only upon its registration in the Real Property State Cadastre and issuance of the Ownership Certificate. Accordingly, in order to become legally valid the apartment sale and purchase transaction (contract) has to be concluded in writing, certified by a notary public, whereas the ownership that emerges from the transaction (contract) has to be registered in the Real Property State Cadastre. This requirement of the law applies not only to the real property sale and purchase contract but also to any real property-related transaction (donation, lease, etc.).

Thus, individuals may conclude any contract and to make any provision in it, provided the provisions do not contradict the law. Also, the mandatory requirements concerning ordinary and notarized written forms of transactions as well as concerning the State registration of rights have to be kept in mind and complied with. Otherwise, those transactions shall not be legally valid and shall not lead to those consequences sought by the parties to the transaction.

OWNERSHIP RIGHT

The concept of ownership

Ownership right is an individual’s right, recognized and protected by law and other legal acts, to hold, use and dispose, at his own discretion, of the property that belongs to him.

In the Republic of Armenia the right of ownership is recognized and protected by law. Physical persons (individuals), legal entities (organizations, commercial companies and other institutions), State and local government units may hold property with the ownership right. The rights of all owners are equally protected. Physical persons and legal entities may hold any property with the ownership right, with the exception of certain categories of property specified by law (for example, rivers, waters, mineral wealth and lakes are considered to be in the exclusive ownership of

the State). The law does not place any restrictions on quantity and value of property held in ownership.

Property may be held in the ownership by one or more individuals or entities.

Ownership in common

When property is held in the ownership by one or more individuals or entities, it is in their ownership in common. If the owners' shares are not determined in the ownership in common, then it is considered to be joint ownership in common. If each owner's share is determined in the ownership in common, then it is considered to be common ownership in shares.

In case of citizens, ownership in common is usually the spouses' ownership in common. According to the civil legislation, the property acquired by spouses in the course of their marriage is held in their joint ownership unless other provisions have been made by the contract concluded between them. The property owned by each spouse prior to their marriage as well as the property received by one of the spouses during their marriage as a gift or inheritance shall be the property of that spouse. Articles of personal use (clothing, shoes, etc.), with the exception of expensive articles and luxuries, even if they have been acquired in the course of the marriage and with both spouses' money, shall be considered the property of the spouse who used them.

Alongside the ownership right to property there are other property rights such as pledge right, property use right and servitudes.

The pledge right is the property right of the pledgee (to whom a pledge is given) to the pledgor's (who gave a pledge) property, which at the same time is an instrument to secure that the pledgor shall discharge his pecuniary or other obligations vis-à-vis the pledgee. Only the property's owner may become its pledgor.

Any property may become the object of pledge, with the exception of property removed from circulation (i.e. the property, which free circulation is prohibited, e.g. radioactive materials). By the owner's consent his property may be used by other individuals or entities with the property use right for free or with the lease right. The users shall not acquire the ownership right to the property in question.

Servitude is a land parcel owner's limited use right to the neighboring land parcel. The servitude right includes the right to the neighboring land parcel in terms of entry and passage, of installing and using electric power supply lines and pipelines for water supply and land improvement as well as for the real property owner's other needs which cannot be met without establishing the servitude.

Protection of ownership right

The ownership right is protected by law. The owner has the right to demand that his ownership right be recognized. If the property has been obtained for free from the person who did not have the right to alienate it, in any case the owner shall have the right to demand that the property be returned to him. When demanding his property back from the person who possesses it unlawfully, the owner shall have the right to demand from the person who knew or should have known that his possession is unlawful that the latter return or compensate also all the income that that person received or could receive during the entire period of unlawful possession of the property, whereas from the conscientious holder – to demand that the latter return or compensate also all the income that that person received or could receive starting from the moment when he learned or should have learned that his possession is unlawful or received notification that the property had to be returned since the owner referred a claim to the court. That individual or entity that even though is not the owner nevertheless possesses the property on the grounds stipulated by law or the agreement shall have the right to protect the property in his possession even against the owner.

Termination of the ownership right

The ownership right shall terminate in case the owner alienates (sells, gives as a gift, etc.) his property or refuses from the ownership right.

It is not allowed to take the owner's property away from him by force or to confiscate it except when there are legally stipulated grounds to do so:

- a) forced levy shall be imposed on the owner's property to settle his debts,
- b) the property that may not lawfully belong to that person shall be alienated,
- c) real property shall be alienated as a result of the taking of the land parcel,
- d) cultural values that are not properly kept shall be taken away,
- e) requisitioning (in case of emergencies such as natural disasters, accidents, epidemics, etc. the property may be taken from the owner by the decision of the State bodies),
- f) confiscation,
- g) legal entity is reorganized or dissolved by court order.

A citizen or a legal entity may refuse from the ownership right to the property that belongs to him by submitting a written declaration or by undertaking such actions that unequivocally testify to his refusal from using, possessing and disposing of the property. The refusal from the ownership right is not the ground to consider the owner's rights and obligations to the property as terminated so far as the ownership right has not been acquired to that property by another person. If on the grounds allowed by law the property has been transferred to the individual but it may not belong to him lawfully, the owner shall have to alienate that property within one year from the emergence of his ownership right to it.

When the ownership right is terminated the property is appraised at its market value.

In cases stipulated by law the property may, by the court verdict, be alienated from the owner without compensation, as punishment (confiscation) for his offense.

LEGAL REGULATION OF INHERITANCE

The concept and types of inheritance

Inheritance is a transfer of the deceased person's property (inheritance) in the same state to other persons (the heirs).

Inheritance can be according to will and according to law.

Will is the document drawn up by a citizen wherein he gives instructions as to whom his property shall be transferred after his death.

In case there is no will the deceased person's property shall be inherited according to law.

Inheritance according to law

Inheritance according to law shall take place if there is no will. In that case the property of the deceased shall be handed down to his heirs in a certain succession based on how close or distant blood relative each heir is to the deceased (the testator). An heir at each step of succession shall acquire the right of inheritance only in case there are no heirs at a previous step of succession. According to the law, the inheritance proceeds through the following succession:

1. The first to inherit the property are the testators' children, spouse and parents,
2. the second order heirs are the testator's brothers and sisters,
3. the third order heirs are the testators both paternal and maternal grandparents,
4. the fourth order heirs are the testator's parents' brothers and sisters (the testator's maternal and paternal uncles and aunts).

If the heir at law dies before getting his share of the inheritance, that share shall pass on to his offspring (by the right of representation of the inheritance).

Inheritance by will

A citizen shall determine the destiny of the property he owns by way of making out a will where he states to whom that property should be transferred with the ownership right after his death.

The citizen has the right to will, at his sole discretion, any property that he owns to any person, to set any shares for heirs, to disinherit his heirs at law (children, spouse, parents), to annul or change the will and to make additions to it. The citizen has the right to will his property not only to his heirs at law but also to third parties. However, the legator (who wills the property) may not impose by will on the heirs designated by him such responsibilities as it is impossible to execute. For example, when a legator states that the legatee of the will (who inherits the property) does not have the right to alienate the apartment that has been willed to him or that he will get the inherited property only in case he is admitted to an educational institution. Practically, the will with preconditions is not allowed if the preconditions set by legator for his heirs are unlawful or may not be fulfilled by the latter for objective reasons. The legator may also designate a sub-heir by his will. The legator does not have the right to disinherit individuals who are entitled to a mandatory share. According to the law, the testator's children who are minors, his offspring who have been recognized, through the legally stipulated procedure as disabled or incapable to work, or who are over 60 years of age as well as the testator's spouse and parents are entitled to the mandatory share. The citizen has the right to will not only the property that he currently holds with the ownership right but also the property rights that he will acquire in the future. The legator can will both the entire property that belongs to him and a part of that property.

How to make out a will

The will is made out in a written form. It is imperative that the will bear the date and the location of its drawing up, be signed by the legator and certified by a notary public. Should the will fail to comply with this format it shall become invalidated. Prior to the certifying of the will by the notary public the legator must familiarize himself with its content.

Besides, the legator shall not be constrained by the will, i.e. at any moment he is in a position to change, to make additions to the will or to annul it entirely.

Sealed will

The legator also has the right to draw up the sealed will, i.e. the will shall be placed in the sealed envelope and notary public shall certify it without reading it.

The sealed will also has to be written and signed personally by the legator. After that the will in a sealed envelope shall be handed over to a notary public in the presence of two witnesses who will sign the envelope. Then in the presence of the same individuals the envelope shall be placed in another envelope, which shall be sealed and stamped.

The will may not be contested until the time comes to execute the will. After the will is opened it may be recognized as invalid by the court following the plaint submitted by the individual whose rights and legitimate interests have been violated by the will. For example, if the legator willed the property owned not by him but someone else.

The legator has the right to entrust the administration of the will to a third party the will executor, or to entrust one or several heirs to discharge the obligations to other individuals from the willed property.

Denying a part in the inheritance

Those heirs both at law and through will who have intentionally obstructed the execution of the testator's last will, have in a premeditated fashion deprived the testator or one of the possible heirs of their lives or have made an attempt on their lives shall be denied a part in the inheritance. Those parents who have been deprived of parental rights shall also be denied a part in the inheritance.

The procedure for accepting the inheritance

The heir acquires the inheritance by way of accepting it. Besides, the acceptance of the inheritance by one of the heirs does not necessarily signify its acceptance by other heirs. In order to accept the inheritance the heir has to submit an application to the notary public office in the area of the inheritance administration within six months after the administration of the will starts.

However, numerous are cases in real life when owing to objective and subjective reasons the heir misses the deadline set by the law for the acceptance of the inheritance.

As a matter of fact, the inheritance is considered as accepted by the heir when the latter has actually possessed or administered the inherited property and when, at the same time, he took measures to preserve the property, covered, at his own expense, the costs of preservation of that property and also paid or accepted the testator's debts.

Besides, the heir may, in case he misses the above-mentioned deadline, accept the inheritance without applying to the court if other heirs give him in an appropriate fashion their agreement, i.e. when there are no disputes among heirs concerning the inheritance.

As regards missing the deadline, the heir may, in case of the disputes, go to court with the request that the reason why missed the deadline be recognized as justified.

Registration of the inheritance

The inheritance shall be registered, on the basis of the heir's application, in the public notary's office in the area where the inheritance is to be handed down, by way of issuing the certificate of the inheritance right.

If there are several heirs the certificate of the inheritance right shall be issued to each one of them separately.

The certificate of the inheritance right shall be issued six months after the inheritance is open. That is, within those six months the heir must apply to the public notary's office in the area where the inheritance is open stating his willingness to accept the inheritance, whereas upon the expiration of the six months he shall submit the application requesting that the certificate of the inheritance right be issued to him.

In exceptional cases the certificate of the inheritance right can be issued prior to the expiration of the six month's term if it is obvious that there are no other heirs except that one.

REGISTRATION AND TERMINATION OF MARRIAGE

What is marriage?

Marriage is a union based on a mutual love, respect and understanding between a man and a woman for the purpose of establishing a family. According to Article 8 of the RA Marriage & Family Code (hereinafter, the MFC), only marriages registered in the State offices for registration of civil states Acts (hereinafter, the *zags*) shall be recognized.

Unregistered marriages or cohabitations shall not entail legal consequences.

What are the prerequisites for a valid marriage?

The mandatory prerequisites for a valid marriage are divided into two groups, *viz.* positive and negative. The positive prerequisites are:

- a) mutual consent of the individuals who are entering into a marriage,
- b) they have reached the marriageable age.

The circumstances that rule out a marriage are the following:

- a) one of the parties to the upcoming marriage is already married,
- b) the parties are close blood relatives,
- c) one of the parties is legally incapable (inability, as a result of a mental disorder, to understand the meaning of one's actions and to control them).

The non-compliance with those prerequisites may invalidate the marriage.

It has to be noted that in some cases not only the marriage concluded in violations of those provisions shall be invalidated but also criminal proceedings are instituted against the culprits.

What is the marriageable age?

In the Republic of Armenia the age of consent has been established at 18 years for men and 17 for women. The maximum marriageable age has not been set by the marriage and family legislation.

What is the procedure for registering marriage?

The registration of marriage takes place in the *zags* in the area where one of the parties resides. Those wishing to enter into a marriage are required to submit their personal written application to the relevant *zags* office (the application form is available in every *zags*) and the marriage shall be registered one month after the application has been submitted.

The legislation provides for both extending and reducing that one-month period.

The marriage shall be registered on the appointed day in the presence of the parties to that marriage.

A marriage certificate of a standard form shall be issued on the basis of the registration of marriage.

What are the grounds for recognizing the marriage as invalid?

The marriage shall be recognized as invalid only by court on the following grounds:

- a) lack of free will and of uncoerced wish on the part of those entering into a marriage,
- b) violation of the legal requirement of the age of consent,
- c) violation of the monogamy requirement,
- d) the parties to the marriage are close blood relatives,
- e) the court has pronounced one party as legally incapable owing to mental illness or feebleness,
- f) fake marriage, i.e. entering into a marriage without the intention of establishing a family.

The marriage may not be recognized as invalid if at the time the court is hearing the case the circumstances that according to the law ruled out the marriage have disappeared.

Since the conjugal duties and responsibilities emerge upon registration of the marriage in *zags*, the marriage that has been registered with violations of the established prerequisites shall be regarded as invalid from the moment it has been registered. Therefore the rights and responsibilities that emerged, as a result of marriage shall be regarded as annulled from that very moment.

How is marriage terminated?

The grounds for terminating the marriage are:

- death of one of the spouses or the court's pronouncement of him as dead,
- divorce.

Termination of marriage through divorce

Termination of marriage through divorce may be granted through the court and out-of-court procedure.

In case the divorcing spouses do not have children who are minors and do not have property-related disputes the divorce can be granted in *zags* in three-months' time since the date of the submission of the appropriate application.

The divorce is granted also in *zags* in case of those individuals who:

- a) have been pronounced by court as legally incapable owing to mental illness or feebleness,
- b) have been pronounced by court as missing,
- c) have been sentenced to at least three-year imprisonment.

The divorce on those grounds shall be granted on the basis of the application submitted by one spouse.

Divorce by court

In those cases when spouses have children who are minors and/or there is a dispute concerning the division of property the divorce may be granted only by court.

The divorce case shall go to trial when one or both spouses submit the applications to the court. It is required that the motives for divorce be stated in the application to the court.

After the court ruling about the divorce goes into effect the divorce shall be registered in *zags*.

The spouses' ownership in common

According to Article 201 of the RA Civil Code, the property acquired by spouses in the course of their marriage is their ownership in common unless other provisions have been made by the contract concluded between them. The only exceptions here are each spouse's articles of personal use (clothing, shoes, etc.).

The property owned by each spouse prior to their marriage as well as the property received by one of the spouses during their marriage as a gift or inheritance shall be regarded the property of that spouse.

HOW TO REGISTER THE BIRTH OF A CHILD

The procedure for registering the birth of a child

The registration of a birth is conducted in a *zags* in a children's birthplace or in the locality their parents (one of the parents) reside(s).

The statement about the birth of a child has to be made not later than three months after the date of birth. The statement (oral or in writing) shall be made by parents or by one of them. In case it is impossible for parents to make the statement owing to disease, death or other reasons it can be made by relatives, neighbours, administration of the maternity hospital or by other individuals.

The birth of a child conceived in wedlock but born after the divorce (or after the marriage has been recognized as invalid) shall be registered in compliance with the above procedure unless not more than 10 months passed from the divorce (or after the marriage has been recognized as invalid) and from the birth of the child.

Registration of the child's mother and father

The RA marriage and family legislation has established a certain procedure for registering maternity and paternity.

The fact that a woman in question gave birth to this particular child shall be confirmed by the statement issued by the maternity hospital or by another medical establishment where the child was born.

The fact that the child was born of the particular man (paternity) shall be ascertained in various ways. That is accounted for by the fact that the child can be born to parents whose marriage was registered in *zags* or to parents whose marriage was not registered.

That the child was born of the parents shall be validated by the fact that they are married to one another, i.e. by the certificate evidencing the marriage of the father and mother. If the child was born to parents whose marriage is not registered, then the fact of the child's birth of those parents shall be confirmed by the joint application to be submitted by the child's mother and father to *zags*. The registration of paternity shall be done on the basis of that application.

If the joint application has not been submitted by parents, the entry of who the child's father is, shall be made on the basis of declaration made by the child's mother. The mother's last name shall be given to the child, whereas patronymic shall be registered on the mother's instructions.

After the birth of the child has been registered the birth certificate shall be issued. The certificate is considered a proof that the child was born of given parents or a given parent.

If the child's mother has died, has been pronounced legally incapable, has been deprived of parental rights or her whereabouts are unknown, the paternity shall be registered on the basis of the application submitted by father. In that case the mother's death certificate or the court ruling recognizing the mother as legally incapable, missing or deprived of parental rights shall have to be attached to the application.

The person registered as the child's mother or father shall have the right to contest the registration within one-year period from the moment he or she has learned or should have learned about the conducted registration. If a person registered as father or mother was minor at the time the one-year period shall be calculated from the day he or she turns 18 years old. Of course, paternity, too, may be contested, especially when the child could not have been conceived from the person registered as his father. For example, when parents have in fact stopped to live together and for some time have been living in separation and then a woman gives birth to a child sometimes mother registers her husband as the child's father. If the husband objects to that, he can contest the registration in court.

The paternity may not be contested if it has been established by court.

The establishment of paternity by court

The birth of child born out of wedlock shall be registered on the basis of the joint application to be submitted to *zags* by father and mother. However, if the child was born to parents who are not married to one another, if the parents have not submitted the joint application to *zags* and if putative father refuses to recognize voluntarily his paternity, the paternity may be established by court. Paternity may be established by court also in case when there are such facts as cohabitation of and a common household by the child's mother and alleged father prior to its birth, joint engagement in upbringing of and providing care to the child as well as other factual data that indicates the paternity of the presumed father.

This issue can be brought to court by the child's mother, legal custodian (trustee) or by the child himself if the latter has reached full age, etc. The possibility for other individuals to bring such case to court is not ruled out.

On the basis of the court ruling establishing the paternity the entry concerning the child's father shall be made in the official records and in the child's birth certificate.

The law has established no limitation period for action to request the establishment of paternity.

Should it prove impossible to establish the paternity even by court, then when registering the child's birth the mother's last name is given to the child, whereas the first name and the patronymic are registered on the mother's instructions.

THE PROCEDURE FOR PRIORITY ALLOCATION OF APARTMENTS TO CITIZENS IN DISASTER AREA LOCALITIES

The *Procedure for priority allocation of apartments to citizens in disaster area localities* (hereinafter throughout the text, the Procedure) was approved by the 10 June 1999 RA Government's Decree # 432. According to the procedure established by the Decree, those citizens and their families, whose dwelling (apartment, one-family house, part of the house) had been destroyed by or had become unfit for residence because of the Earthquake, shall have the priority right to be given an apartment. The recording of citizens entitled to the priority right to an apartment in the Disaster area localities is done by the head of the community where they permanently reside. In order to get an apartment a citizen has to submit to the community head the application stating the number of family members (including those who are temporary absent) and the address of temporary residence. The application is registered in the applications Registry. The apartments

issues commission appointed by the community head inspects the record- keeping by the Registry as well as checks the information stated in the application and the applicant's housing conditions. Based on the results of the check the commission draws up an appropriate Act. The citizen's application together with other required documents is reviewed within one-month period by the community head who makes a decision taking into consideration also the opinion of the commission. An individual file is made up and kept for each citizen who has been put on record in the Registry.

According to paragraph 16 of the above Decree, the housing shall be allocated to citizens through the following procedure:

- a one-room apartment – to a family composed of two same-sex individuals or of two individuals of opposite sex if one of them is a child under 9 years of age or if they are spouses,
- a two-room apartment – to a family of two opposite-sex members over 9 years of age and to a family of three,
- a three-room apartment – to a family with four or five members,
- a four-room apartment – to a family with six or seven members,
- to certain categories of citizens additional living area in excess of the housing area norms shall be allocated in the form of one additional room or an additional ten square meters of living area,
- in case of citizens who suffer from aggravated forms of certain chronic diseases as well as of citizens who need extra space due to the conditions and nature of their work the size of the additional living area can be increased.

According to paragraph 18 of the above Decree, in the Disaster area localities the priority allocation of housing shall be conducted in compliance with the following sequence:

1. to individuals with the first category disability caused by the Earthquake,
2. to the veterans of the World War II with the first category disability and to individuals who have been equated with them in conformity with the established procedure,
3. to families with a member who is disabled from childhood,
4. to individuals with the first category disability caused by military service,
5. to individuals with the first category disability caused at the work place,
6. to minors orphaned by the Earthquake,
7. to families that lost one of the breadwinners and that have a minor as well as to families with three or more minors,
8. lone elderly,
9. single mothers,
10. individuals who adopted an orphan,
11. to individuals with the second category disability caused by the Earthquake,
12. to the veterans of the World War II with the second category of disability and to individuals who have been equated with them in conformity with the established procedure,
13. to individuals with the second category disability caused at the work place,
14. to individuals with the second category disability caused by military service,
15. to families, who lost family members because of the Earthquake,
16. to citizens who suffer from those serious chronic diseases that have been included in the diseases list approved in conformity with the procedure established by the RA legislation,
17. to women awarded the "*Mother Heroine*" title,
18. to families of military servicemen killed while defending the Republic of Armenia,
19. to families of the military servicemen (guerrillas) killed or missed in action during the World War II and to families of individuals who have been equated with them in conformity with the established procedure,
20. to the veterans of the World War II with the third category of disability and to individuals who have been equated with them in conformity with the established procedure,
21. to families of individuals killed while discharging public or civic duties or by an industrial accident,

22. to manual and office workers who worked diligently for ten or more years in a work place with unhealthy conditions as defined by the list approved through the established procedure,
23. to national heroes of the USSR and Armenia,
24. to individuals awarded all three classes of Orders of Glory, of Labor Glory or of Order “*For service to the Motherland in the USSR armed forces*”,
25. to military servicemen recognized as the disabled as a result of a disease or crippling accident during the defence of the Republic of Armenia,
26. to individuals who were in the army during the Civil War and World War II and during another warfare, who were guerrillas during the Civil War and World War II as well as to other individuals who took part in warfare,
27. to those citizens who were granted in the past the merit pensions of the so-called “*All-Union*” or “*Republican*” categories,
28. to families in case twins are born,
29. to manual and office workers who have worked for fifteen or more years in the field of production,
30. in other cases stipulated by the RA legislation.

Individuals who are in the care of the killed or missing person and are therefore paid the pensions, those persons’ parents and spouse who has not got married again and regardless of whether he or she receives a pension, children who do not have their own families or even if they have their own families but had become disabled while minors as well as their offspring who have families and whose both parents were killed or are missing or who had one parent who was killed or is missing, shall be included in the number of family members in case of those families to whom apply the provisions of paragraphs 18, 19 and 21 of the Procedure.

According to paragraph 19 of the procedure, the priority right to receive housing shall be given to those families whose family member at the time of registration was entitled to that privilege regardless of what member of the family has applied for being recorded in the Registry. The provision of this paragraph shall not apply to those families with minors where the children who were minors at the time of the registration have attained full age and have started their own families by the time the apartment is allocated.

According to paragraph 22 of the Procedure, apartments shall be allocated to:

- a) to those citizens of Gyumri who, according to this Procedure, before June 1, 1994 were entitled to priority allocation of the apartment,
- b) to those citizens in other localities in the Disaster area who, according to this Procedure, before June 1, 1999 had the right to be allocated an apartment.

CIVIL PROCEDURE

The individual’s right to judicial protection

Article 38 of the RA Constitution states that “Everyone has the right to protect his rights and freedoms using all means that are not prohibited by law. Everyone has the right stipulated by the Constitution and laws to judicial protection of his rights and freedoms”.

Every party concerned has the right to go to court in order to protect his rights, freedoms and legitimate interests.

An individual has two options of starting the litigation. He needs to submit to the court a civil claim or an application for a civil case to be initiated.

What are a plaintiff and a defendant?

Plaintiff is a person who submitted a civil claim to the court for the protection of his rights. In other words, he is a person who believes that his rights and legitimate interests have been violated.

Defendant is a person identified by the plaintiff as the one who has violated or contested the plaintiff's right and who has been involved by the court in the case to address the claim.

Claim is a demand based on the dispute and certain evidence and presented by the plaintiff to the defendant, which is at the same time a request that the demand be tried in court and be resolved.

The claim presupposes a defendant. But in those cases when an individual goes to court seeking to have a certain fact recognized (confirmed)(e.g., to have a citizen pronounced dead or missing, legally incapable or partially legally capable, etc.) there is no defendant in a case. In such cases an application is submitted to the court instead of a claim.

The RA court system

According to Article 92 of the RA Constitution, in the Republic of Armenia there are the following courts of general jurisdiction: courts of first instance, courts of appeals and the court of Cassation.

Any case that is tried for the first time shall be subject only to the jurisdiction of the courts of first instance, which are located in the regions. In case a party (a plaintiff or a defendant) does not agree with the ruling of the court of first instance he has the right to appeal to relevant court of appeal against that ruling within fifteen days after the ruling has been handed down. The courts of appeal that hear civil cases are:

- the court of appeal for civil cases,
- the court of appeal for commercial cases.

The ruling handed down by the court of appeal can be appealed against to the Court of Cassation also within 15 days. Before the court verdict or ruling enters into force (i.e. before the 15-day time limit expires) the parties concerned are entitled to lodge an appeal. In case the rulings handed down by the court of first instance and by the court of appeal have already taken legal effect only the RA Prosecutor General, his deputies or attorneys who hold a special license and are registered with the court of Cassation are entitled to lodge an appeal with the court of Cassation to review those rulings. The ruling handed down by the court of Cassation shall come into force upon publication.

The courts of first instance and the courts of appeal shall hear civil and commercial cases within a two months' period and the court of Cassation, within a one-month period.

The cases shall be tried through oral debates by the same composition of the court and continuously on working days only. The court shall not have the right to try another case until the present case has been brought to conclusion, has been deferred or suspended.

The court shall hand down verdicts and rulings on civil cases. The judgement that has been handed down by court (verdict, ruling) and that has entered into force shall be mandatory for all State bodies, local government units, their officials, legal entities and citizens and shall be subject to execution in the entire territory of the Republic of Armenia.

What is representation?

It is an institution according to which one person comes out on behalf of another person and defends the latter's interests. That is to say, if a plaintiff for one reason or another does not have an opportunity to be in person in the courtroom he can authorize another person (e.g. an attorney) to represent him in the court and to defend his rights. Any citizen that has the plaintiff's written authorization for making out the case in court shall have the right to be a representative during the trial. The authorization has to be certified by a notary public. The authorization given by a legal entity (commercial company, organization, etc.) has to be certified by the seal of that legal entity. The rights and legitimate interests of minors and citizens recognized as legally incapable or partially capable shall be defended in court by their parents (adopters), legal guardians or trustees who shall submit to court documents evidencing their status and shall act without the authorization.

Court costs

Court costs are the case hearing- and settling-related costs the responsibility for covering which rests with the parties. Court costs include the State duty, which is a legally stipulated mandatory payment into the RA budget for civil cases hearing, re-examination of the ruling and its review through the cassation procedure by court as well as for copies of documents issued by court.

The State duty shall be paid prior to the submission of a claim, application or appeal to the court as well as to the issuance of the copies.

However, in certain cases specified by law (e.g. claims related to payment of wages or to collection of alimony) the person may be exempted from payment of the State duty and in some cases its payment may be deferred by the court.

The court notices

Court notice is a document, which is used to notify the parties to the case about the time and venue of the court sessions or of specific individual activities that may be undertaken by the court.

The notice shall be sent in a registered letter to an address stated by the party to the case with the instructions concerning the delivery.

The court verdict and ruling

In case the dispute is essentially settled the court shall hand down a verdict, which has to be lawful and well founded. The verdict shall be reached only after the case has been examined and only in a separate room with no one there except the judge who tried the case. The verdict shall be handed down also even if the parties reach a reconciliation agreement. In that case the verdict shall include the said agreement verbatim.

THE ADOPTION PROCEDURE

The concept of adoption

The legal act according to which the adopters and adoptees acquire the rights and responsibilities stipulated by law for parents and their offspring is considered adoption.

The conditions for adoption and for being adopted

Only individuals registered for adoption can adopt. As a potential adopter, a person shall be registered on the basis of the adoption commission's positive conclusion concerning the authorization for adoption.

Adopted shall be those minors who have been registered as children put up for adoption or the child whose parents and the person who wishes to adopt him have concluded a preliminary written agreement regarding the adoption. The conclusion concerning the authorization for adoption shall be made and the registration of potential adopters and of children put up for adoption shall be conducted by the national and regional (in case of Yerevan – by the city) adoption commissions. The national commission shall review the issues related to the child adoption requests made by foreign nationals and stateless persons. The regional commissions shall deal with the issues concerning the adoption of children that reside in their territory.

The procedure for registration of children put up for adoption

Those children left without parental care, foundlings as well as minors put entirely in the State care concerning whom the legal grounds for adoption have emerged shall be registered for adoption. Such legal grounds are death of the parents, stripping of parental rights, recognition them as legally incapable, missing or dead, shirking duties related to raising the child and provide care to him, the Act presented by the departments of the Ministry of Interior concerning the foundlings, etc.

Having submitted an application to the relevant regional commission requesting the child's registration, the body of guardianship and trusteeship (at present this function is performed by the

community head) shall within 5 days forward to the commission the information about the child (age, sex, health status, etc.). The regional commission shall, on the basis of the received information, fill out the child's personal card and shall register him as a child put up for adoption.

The registration of the potential adopters who are the RA citizens

Those RA citizens who wish to adopt a child shall submit an application and the following documents to a regional commission:

- a passport or another document establishing his identity,
- a statement from his place of residence describing his housing situation and composition of his family,
- a statement from his employer describing his position and salary,
- a reference given by at least 3 individuals with well-established credibility,
- an income declaration or tax statement issued in compliance with the tax legislation,
- a medical document about his health state issued by the medical institution in the area of his residence or by relevant professional centers,
- a marriage certificate (if married), a death certificate (if spouse is dead),
- information on what kind of a child he would like to adopt (unless he has already chosen a child).

Having received the documents, the commission shall, within one-month period, examine the applicant's living and other conditions and shall draw up an Act and a conclusion about them. In case of a positive conclusion the applicant shall be registered as a potential adopter. In case of a negative conclusion the applicant shall be notified in writing within 5 days and he can appeal against the conclusion in court.

The registration of foreign nationals and Stateless persons who wish to adopt children

Foreign nationals (or Stateless persons) in the Republic of Armenia who wish to adopt a child who is a RA citizen shall apply to the national adoption commission in person, through an authorized individual or through the RA diplomatic mission in their country and shall submit the same above-mentioned documents (required for the RA citizens). The documents in a foreign language shall have to be translated and certified by the RA diplomatic mission or by a RA notary public's office. The national commission may, within a 10-day's period, demand that a potential adopter submit the references from his close relatives as well as from the RA diplomatic mission in that country, from the Armenian community, Armenian church and from creditable individuals.

The national commission shall, within one-month period, examine the living and other conditions of the potential adopter on the basis of the submitted documents and shall draw up an appropriate Act and a written conclusion. In case of a positive conclusion the applicant shall be registered as a potential adopter. In case of a negative conclusion the applicant shall be notified in writing within a week and he can appeal against the conclusion in court.

The centralized registration of potential adopters and of the children put up for adoption shall be conducted by the RA Social Security Ministry.

Potential adopters shall have the right to receive from regional commissions (foreign nationals – from the national commission) information about the child put up for adoption and about his close relatives as well as to apply to a medical institution for a check up of the health status of the child he has selected for adoption, provided a legal representative of the child is also present. Before the decision on the adoption is made it shall be incumbent on potential adopters to get acquainted and to communicate with the child they are going to adopt and to look through his documents.

The adoption procedure

Concerning the child that he has selected, the potential adopter shall apply to the community head in the area of his or the child's residence so that a decision on the adoption be made.

The following documents have to be submitted to the community head:

a) by the potential adopter:

- an application requesting the adoption of the child (in case a married couple is going to adopt the child the application needs to be joint),
- conclusion concerning the authorization for adoption,
- a passport or another document establishing his identity,
- a medical document about his health state,
- a suggestion to change the child's first and last names, his patronymic and place of birth,
- a written consent of the spouse (if the child is being adopted by one spouse).

Foreign nationals have to submit those documents certified by the RA diplomatic mission;

b) in case of a child put up for adoption who has parents or is under guardianship and trusteeship – a written consent, respectively, of the parents or of the guardianship and trusteeship bodies;

c) by the head of the institution or the person in whose care the child has been placed:

- the child's birth certificate,
- the documents evidencing the legal grounds for adoption (e.g. a death certificate of the parent(s), the court verdict about stripping them of parental rights or recognizing them as legally incapable, etc.),
- a written conclusion about the child's health status;

d) by (foster?) parents (or legal representatives) of a 10-year-old adoptee:

a written consent by the child, with the exception of those cases when prior to the adoption the child has lived in the adopter's family and considers him to be his parent.

The community head shall make a decision on the adoption by the RA citizens within two weeks after all the documents have been submitted.

When a child is to be adopted by foreign nationals, the community head shall, within 10 days after receiving all the documents, submit a petition to the RA Government attaching all the documents. Having received the authorization from the Government, the community head shall, within a three-day's period, make a decision on the adoption.

The adopters must appear in person to receive the community head's decision and to pick up the child from the place of his residence or stay presenting the decision evidencing the adoption and the document establishing the person's identity and to take the child to them.

The community head may deny the adoption request only if the above-mentioned documents have not presented as required or if the Government has not given its authorization (in case of foreign nationals).

The community head must pass on to the applicant, within a 5-days' period, the decision to deny the adoption request. The applicant has the right to appeal against that decision in court.