

To the Prime Minister of the
Republic of Armenia Nikol Pashinyan

Dear Mr. Prime Minister,

I present a problem that our compatriots often encounter when arriving in the Republic of Armenia for the purpose of permanent residence, in particular when importing their personal use items and vehicles from another State into the RA customs border without paying customs duties.

The point is that after the velvet, non-violent revolution that took place in Armenia in April 2018, many of our Diaspora compatriots, following your appeal and exhortation, have decided to return and settle down in Armenia to live and create in their historic homeland. To this end, many of them have already arrived in Armenia and obtained permanent registration in Armenia, and now wish to relocate or import their personal use items and vehicles as repatriates, without paying bureaucratic hassles and customs duties. However, the complicated formulations of the RA customs legislation, as well as the restrictive norms, have resulted in many of them not being able to have this privilege. Our compatriots in the Diaspora not only fail to understand the wording of the RA laws, but also raise logical questions that our legislation does not answer.

First of all, the RA State Revenue Committee, recognized as the RA State Authorized Body, has provided our compatriots with a few pages of answers to the above mentioned legislative acts, with complicated subordinate sentences, which are an information sheet exclusively for those with practical knowledge in the field. Naturally, our compatriots who were born and raised abroad and do not yet understand Eastern Armenian to the extent that they will be able to understand the Armenian legislation, especially the SRC Customs Code 11/04/2017 contract requirements. Our compatriots, who have emigrated from Armenia for the last ten years, are in the same situation. After our explanatory work, they completely disregard the restrictive provisions of these acts and see a bureaucratic context under it.

By the way, we also note that the requirements of the legal acts in this field are not clearly understood and accessible to the repatriated party concerned. In addition, they are not fully aware (unaware) of the requirements of the RA Law on Customs Settlement in order to act in accordance with its letter and spirit, before arriving in Armenia and submitting an application to the RA Authorized Body.

Second, many of our compatriots have visited Armenia in recent years, and it has been the case that during the last five years they were in Armenia for 181 or more days each year, and then returned to their country of residence. The requirements of the RA Law on Customs Regulation (amended by HO-241-N of 17.12.2014, Article 249, paragraphs 13-19)¹ are written only for the customs officer, and the interested party is the repatriate in this case, and is only notified when applying to the RA Authorized Body for customs privileges. At the same time, they suffer financial losses, because before submitting their application, their personal use items and vehicles must have already been imported into the RA customs territory, and after being refused they will have to pay the prescribed duty or together with the imported goods and the vehicle return to the country from which they arrived in Armenia.

According to the written explanation of the RA State Revenue Committee, the repatriate should be recognized as a “physical person arriving in the RA for permanent residence” and then only be entitled to benefit from the customs privilege, unless it is clear that the applicant has not resided in Armenia for 181 days or more, otherwise his application is subject to be rejected. However, it should be noted that the law does not specify how, in what manner, during what period and which body recognizes the repatriate to be the “physical person arriving in the RA for permanent residence” and how it determines its purpose.

That is, if our compatriots have expressed a desire to settle in Armenia and have customs privileges, they should have been informed beforehand that they should not be in the Republic of Armenia for the last five

¹ 13. Physical persons arriving in the Republic of Armenia for permanent residence should be RA citizens, foreign citizens and stateless persons that permanently resident outside the territory of the Republic of Armenia for at least five years prior to the day of their permanent residence, with the exception of internally displaced persons and refugees, as in those cases permanent residence is not taken into account.

14. According to this law, a person who has resided outside the territory of the Republic of Armenia for a total of 184 days or more during each calendar year will be considered as permanent resident outside the territory of the Republic of Armenia.

15. According to this law, a person who has been in the territory of the Republic of Armenia for a total of 181 days or more in each calendar year of the observed period will be considered as permanently resident in the territory of the Republic of Armenia.

16. The circumstance and the period of permanent residence outside the territory of the Republic of Armenia and in the territory of the Republic of Armenia shall be determined by the customs authority on the basis of the information officially submitted to the customs authority by the Authorized Body of the Government on crossing the State border of the Republic of Armenia by the individual.

17. Personal use property of physical persons arriving in the Republic of Armenia, including displaced persons or refugees, may be imported for permanent residence no later than 18 months after the date of arrival in the Republic of Armenia.

18. For individuals who are not registered in the RA, the date of arrival in the RA for the period of 180 days after arrival in the RA for the purpose of permanent residence is considered to be the day of registration in the RA.

19. On the day of arrival in the RA permanent residence, for individuals holding RA registration, the day of arrival of the RA permanent residence shall be considered the date of application in writing to the customs authority within 180 days following the day of arrival in the RA for permanent residence.

years, a total of 181 days or more in each calendar year, otherwise they will not be recognized as individuals arriving in Armenia for permanent residence. Interestingly, how did our compatriot have been informed when his purpose (decision) for establishing a permanent residence in the RA arose in April 2018 or 2019, but in the last five years, 181 days and more were found in Armenia in each calendar year? As I have already mentioned, they are only informed of these terms and conditions in practice after submitting a written application.

In this regards, I consider it necessary to attach to this note one prominent example, which shows not only the confused wording of the requirements of the legal acts in this field, but also the contradiction with your statement and appeal as the RA Prime Minister, according to which: "Repatriation should be one of the top issues on the pan-Armenian agenda, if not the top priority one...", "... Every Armenian should have a home in Armenia and RA citizenship...". However, as our experience shows, even today our repatriate cannot even import his/her kitchen utensils to Armenia without payment of customs duties; he/she must pay a duty and is being "punished" for being in Armenia for 181 days or more. But could this approach disappoint our compatriots and influence their decision-making?

By the way, in connection with our beneficiary's application, our organization has applied to the RA State Revenue Committee with the expectation of receiving clarifications, the answer of which is attached. Unfortunately, I should note that these clarifications also did not help our beneficiary to benefit from the customs privilege. We then assisted the applicant in filing an appropriate application and re-submitting it to the RA State Revenue Committee, which resulted in a refusal. According to that refusal, the applicant failed to comply with the requirements of the mentioned law, having been in the RA for 181 days or more each year within the last five years. In fact, it should have been the other way around: the applicant had not been in Armenia for 181 days or more.

In addition to the above mentioned, it should be noted that it is not specified by the said law which body recognizes the applicant as a "displaced person" and how, in what manner and within what time frame does it provide proof of that fact? As only after the document confirming this fact is granted, only the citizen is allowed to apply to the customs authorities for the appropriate privilege. According to the clarification of the RA State Revenue Committee, it is assumed that the citizen should receive this document in advance, and then, no later than 18 months after the date of its receipt, apply to the Authorized Body for the benefit of customs privileges.

The next issue of concern is that one of the requirements of this law is that the applicant must have imported into the territory of the Republic of Armenia before submitting his / her respective application, in case he / she does not yet have the document certifying the fact of being "displaced person" and the authorization of the RA Authorized Body for exemption or privilege payment. In my opinion, burden is placed on the repatriate with this illegitimate claim, if it is not known whether his/her application will be satisfied in the future. By the way, our beneficiary had no financial loss as he had not imported his goods and vehicles to Armenia in advance.

Thus, having regards the fact that separate provisions of this field of law give rise to misunderstandings, ambiguities and interpretations, and as a result, problems arise for both the repatriate and the State, so I request and ask you:

- raise the issue of simplifying and improving the repatriation process and amending the legal acts in the Government of the Republic of Armenia;

- instruct the RA Authorized Bodies to elaborate draft legal acts in the interests of repatriates and submit them to the RA Government and the RA National Assembly;
- instruct the consular authorities of the Republic of Armenia to develop and disseminate information leaflets on the repatriation process in an accessible language among our compatriots in the Diaspora;
- remove the obstacles and the restrictions that our repatriates face today.

You will agree with me that the Government of the Republic of Armenia should facilitate the legal process that will enable our compatriots to import their personal use items and vehicles (if any) without hindrance and restrictions.

I look forward to receiving your feedback on this issue.

Regards,

Levon Nersisyan

Executive Director