The Rights of Migrant Workers from Former Soviet Countries: Real-Life Challenges and Unfulfilled Obligations

Human Rights Report

"We worked but didn't receive anything." Inscription on the mosaic floor of the palace baths, III century. Armenia. Architectural landmark, Garni.

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The Rights of Migrant Workers from Former Soviet Countries: Real-Life Challenges and Unfulfilled Obligations. Human Rights Report of ADC Memorial. English translation: Lucy Gunderson. 2016.

This report analyzes the complicated and multifaceted phenomenon of labor migration in the former Soviet Union. It looks at the migration strategies of individual countries and their failure to implement their international obligations, the discrepancy between pronouncements about freedom of movement and employment made by intergovernmental unions and the restrictive approach to labor migration taken in reality, weak legal guarantees in the sphere of labor migration, and gross human rights violations in the daily life of migrants.

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*The cover of this report is a reproduction of a classical inscription translated as "We worked but didn't receive anything." Today's residents of Armenia cite this inscription when speaking about labor migration, and online forums ((*http://armen-hay.livejournal.com/69136.html*) have hosted discussions about who exactly these ancient builders were and who exactly failed to pay them. Whatever the meaning of this inscription, it remains relevant today.*

English translation: Lucy Gunderson

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Introduction

This year marks the 25th anniversary of the dissolution of the Soviet Union. Immediately following the breakup, various unions of independent former Soviet countries began emerging from the wreckage. First came the Commonwealth of Independent States (CIS), then the Union State of Russia and Belarus (USRB), the Eurasian Economic Community (EAEC), the Eurasian Customs Union (EACU), and, most recently, the Eurasian Economic Union (EAEU). These processes have caused a true "resettlement of peoples," including both the emigration and labor migration of millions of people from some former Soviet countries to others and beyond the borders of the former Soviet Union.

This report uses materials from field studies (interviews with migrant workers, experts, human rights defenders, and government representatives) conducted by ADC Memorial in 2016 to analyze the complicated and multifaceted phenomenon of labor migration in the former Soviet Union, which has become an important factor in economic and political life and a fixture of daily life. It looks at the countries whose citizens depart in the hundreds of thousands and even millions to work abroad. These include the Central Asian countries of Tajikistan (almost 850,000 Tajik citizens are in Russia and up to 50,000 are in Kazakhstan), Kyrgyzstan (almost 60,000 Kyrgyz citizens are in Russia and 120,000 are in Kazakhstan), and Uzbekistan (up to two million Uzbek citizens are in Russia and 800,000 are in Kazakhstan)[1] and the European countries of Belarus, Moldova, Ukraine, Armenia, and Georgia. (All told, millions of people migrate from these countries to earn money.)

However, it is difficult to compare and interpret information on the number of migrants because the migration services in various countries have different record-keeping practices, and even the data within a single country can differ from agency to agency (for example, the Main Department for Migration Affairs of the Ministry of Internal Affairs, the Russian Federal Sate Statistics Service, and the FSB). Sometimes the picture is even further clouded by the record-keeping policies of different countries (for example, since Armenian citizens frequently have both Armenian and Russian passports and use them interchangeably at the border, migrant workers from Armenia are not registered as such by Russia, while up to one million Armenian citizens who hold both Russian and Armenian passports are living permanently in Russia and are not recorded as migrants or emigrants by Armenia). Finally, reforms in migration services have also impacted the keeping and transparency of statistics (for example, the dissolution of Russia's Federal Migration Service (FMS) in 2016 has meant that statistical data for several years that was previously available on this agency's website can no longer be accessed).

The governments of several countries have recognized the difficulties of keeping records on migrants. For example, Kazakhstan's Ministry of National Economy reports that "…the

1 According to data from the RF Federal Migration Service, which cannot currently be accessed, in April 2016 1,755,781 citizens of **Uzbekistan**, 588,811 citizens of **Kazakhstan,** 574,194 citizens of **Kyrgyzstan**, 878,536 citizens of **Tajikistan,** and 24,363 citizens of **Turkmenistan** were in Russia. In November 2016, almost 10.2 million foreigners were legally located in the RF.

means the government currently has to assess the number of migrant workers do not give us a precise idea of how many migrant workers are in the country."[2] Astghik Mirzakhanya, head of the Social Affairs Department of the Administration of the Government of Armenia, spoke about the difficulties of registering migrants and the lack of any reliable statistical analysis: specialists base their estimates on counting border crossings, which gives only approximate information about migration.[3] Also, statistics are frequently manipulated for political reasons.

Mass migration in the post-Soviet region is a heterogeneous phenomenon, which includes seasonal labor migration (for example, from Kyrgyzstan and Tajikistan into Kazakhstan for agricultural work); short-term (frequently seasonal) migration for contracting work; long-term labor migration, where migrants remain in their work country for years even though they maintain close ties with their country of origin (even when migrants obtain citizenship in their work country, for example Kyrgyz citizens who have obtained their second – Russian – citizenship through a streamlined process in order to ease their lives in RF but not to move there permanently); and actual emigration involving moving to and living in the work country with the intention of obtaining citizenship there, moving their families there, and not leaving (this situation is common among Armenian citizens who have moved to the RF).

Gender and family aspects of labor migration are myriad as well. While only the male labor force is used for certain types of work (for example, construction), there is an independent female migration where children remain home (work in the housing and utilities sector and the service sector). Also, with the liberalization of the migration regime within the framework of the EAEU, family migration is growing. This increase has also been impacted by the economic crisis (it is only possible to earn an adequate income and pay for housing and food if both spouses are working in migration).

There is also a social dimension to labor migration, which appears to be connected with the initial opportunities of migrant workers: some are able to open their own businesses in a foreign country and avoid back-breaking labor (many of these businesses embody the infrastructure of migration itself and act as employment agencies for fellow country people or relatives when they are applying for work permits), while others must toil in virtually slave-like conditions.

Niches for migrant workers in Russia who do not have high qualifications or Russian language skills include the housing and utilities sector and cleaning and menial work for commercial organizations. The housing and utilities sector in Russia is extremely corrupt, so it is very easy to falsify records and illegally employ several migrants to perform the work of one officially employed yard keeper and to share that salary. Thus, there is a high demand for cheap migrant labor in this sector. Meanwhile, it is very hard for migrants to find skilled jobs in their specializations, so frequently migrants with secondary and higher educations find jobs as yard keepers, cleaners, and unskilled laborers. In Europe, qualified doctors and teachers, who are generally female citizens of Georgia, Ukraine, and Moldova, are highly sought after as babysitters, nannies, and governesses.

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2 *Attachment to letter of the RK Ministry of National Economy,* No. 14-3/2214//1593 (para. 4.33) of 8 April 2016.

3 http://www.yerkramas.org/article/112785/armeniya-nuzhdaetsya-v-formirovanii-migracionnoj-politiki---ekspert (in Russian)

A special group consists of hidden refugees who are not given legal status or temporary asylum: the only way for them to obtain legal status in a foreign country is as migrant workers – for example, Uzbeks from southern Kyrgyzstan who suffered from the results of the ethnic conflict in 2010. These "hidden refugees" gravitate towards family migration.

Recent events like the military conflicts between Russia and Georgia (2008) and Russia and Ukraine (2014–present) have changed both the picture of post-Soviet integration (Georgia left the CIS in 2008, and Ukraine is considering this possibility) and habitual paths of labor migration. Russia unilaterally introduced a visa regime with Georgia, and labor migration from Russia into Georgia has dropped drastically. Since 2014, millions of Ukrainian citizens who resided in conflict zones have been in Russia. Due to the difficulty of obtaining legal status, they have been forced to become migrant workers and obtain a work license to remain in Russia legally. Even residents of South Ossetia and Abkhazia, unrecognized formations loyal to Russia, must acquire work licenses and work under the same conditions as other "visa-less" foreigners from CIS countries. (It appears that opportunities arising from "preferential" treatment in the labor sphere are due in part to the aspiration of lobbyists to hold a referendum on South Ossetia joining Russia – people are attracted by the benefits of Russian citizenship and "inspired by" the example of Crimea, whose residents have been declared RF citizens and are already working without work permits.)

The fact that a number of former Soviet countries choose the European path of development has been due to the redirection of migration flows or, at the very least, the population's readiness to break into new labor markets. At the same time, even though EU visas for citizens of Georgia and Ukraine (and possibly also Armenia at some point) and the visa-free entry into the EU that Moldovan citizens have enjoyed for several years will most likely be cancelled, residents of these countries still tend to migrate to Russia due to their knowledge of the Russian language and their understanding of the general way of life in Russia.

The numerous bureaucratic institutions created from existing intergovermental unions in the former Soviet Union (CIS, EAEU, USRB), as well as the documents and decisions adopted by these institutions, have not had a direct or positive impact on the fates and rights of migrant workers. The movement of millions of people, the enormous flows of money (both transferred through bank institutions and brought into the country unreported in the form of cash), the transformation of labor migration into a key branch of the national economy of the countries whose people are leaving to seek work, significant revenue for the state budgets of host countries from withholdings from licenses and work permits, corruption and an enormous (and frequently fraudulent) commercial infrastructure arising in connection with labor migration – all this exists in parallel with official rhetoric from CIS, EAEU, USRB institutions concerning the protection of migrant rights.

Other factors are much more important for migrant workers: the policies of donor and recipient countries, which frequently pursue opportunistic goals; the business interests of certain groups (usually affiliated with the state); macro processes in global and regional economies (global crises, drops in production in various regions); and, finally, the population's migration "habit" that has formed over recent decades (supported by a long-term decline in national

economies, the absence of political will and civic freedoms to initiate an economic and cultural revival in migrants' countries of origin).

Factors impacting the politicization of migrant workers

Many countries that people leave in search of work are experiencing demographic difficulties. Against a backdrop of mass migration, Central Asian countries are recording a natural population increase (more births than deaths). Uzbekistan has been seeing the steadiest increase, and the government is even trying to rein in the birth rate.[4] European countries of the former Soviet Union have experienced a sharp drop in population since the dissolution of the Soviet Union: Georgia and Armenia have lost over one million citizens, and Moldova has apparently lost millions (the results of the latest census have not been made public and apparently are evidence of a sharp decline in the country's population – even the head of Moldova's Migration Bureau could not access this information (interview, 2016)).

In connection with this demographic decline, ideological and political notions about "unpatriotic" migration are forming in many countries. For example, the governments of Armenia and Moldova have a negative view of emigration to other countries (which is actually widespread among citizens of those countries), preferring instead to speak of seasonal, "circular" migration, as a result of which migrants who have earned enough money abroad should return to their countries and open businesses there. Armenia's attempt to count all Armenians who have left the country (even those who emigrated for good) as citizens and not to deprive them of their Armenian passports appears quite devious: upon request, Armenia will issue certificates on the absence of Armenian citizenship to those who give it up to obtain, for example, RF citizenship, but in Armenian databases, these people are still listed as Armenian citizens. Propaganda measures are even being taken to return people to Armenia: for example, the government went so far as to adopt a special decision to create the website "Back to Armenia," and Garik Egonyan, head of the country's Migration Service, selected dozens of beautiful photographs for this site "to make an emotional impression on people who visit the site; unfortunately, there have been very few visitors" (interview, 2016)).

According to OSCE representative in Armenia Ovsanny Babayan, "as soon as someone starts talking about migration, everyone starts shouting: 'Is it not enough for you that half the country has left!' But in reality, migration is advantageous for the government, since only people who do not like living in the country leave, meaning that there are fewer dissatisfied people. What's more, these dissatisfied people are abroad and cannot vote – they don't participate in elections" (interview, 2016).

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4 According to official statistics of Tajikistan (2016, collected volume "Food Security and Poverty," No. 1, pp. 87–89 http://www.stat.tj/ru/img/b532c7646fd1fcf4c5b8633ee0ddb1af_1466844556.pdf) , Tajikistan is experiencing a negligible natural increase; the same can be said of Kyrgyzstan (data of the RK National Statistics Committee, 2014 http://cisstat.com/CIS_Labourstat/CIS_Labourstat_2_23-2%202015%20Bishkek%20Demographic%20and%20migration%20situation%20in%20Kyrgyzstan%20and%20their%20prognosis.pdf); independent expert G. Turayeva reports on forced measures to control the birth rate http://adcmemorial.org/www/12021.html.

It has been noted that many ethnic Armenians who are citizens of Georgia also have an Armenian passport, even though dual citizenship is prohibited in Georgia (people usually keep their second passport outside of Georgia and use it only to cross the Georgian border), which makes it possible to enter Russia unhindered, since Armenia and Russia have a visa-free regime, while Georgian citizens must apply for a Russian visa to cross the border. This also applies to residents of some areas with dense Armenian populations.

The view that labor migration to Russia is "unpatriotic" is heard with increasing frequency in Ukraine (while jobs in EU countries are more likely to be approved of – migrants to the EU are called "internal investors") in light of the acute political and military conflict with Russia. Nevertheless, it is clear that it is easier for Russian-speaking residents of Eastern Ukraine to travel to Russia for work than to other countries.

Labor migration from Ukraine into Russia remains high, but this situation has been complicated by the military conflict in Donbass. Russia gave some preferences to migrants from war-torn regions of Ukraine in the fall of 2015, so Ukrainian citizens fleeing to Russia have been forced to adopt the status of migrant workers and are now in the same situation as citizens of other countries that are not part of the EAEU (Tajikistan, Uzbekistan). A contradiction has been noted between the rhetoric of the Russian government (preferences for migrants from Ukraine, especially those of draft age, stated by Putin in a meeting with students of Gorny University[5]) and the practice of expelling migrants arriving from Ukraine, including for "illegal labor activities," without consideration of the fact that expulsion into the conflict zone puts their lives at risk. Migrants from the conflict zone in Eastern Ukraine have also had to obtain legal status as migrant workers, since other paths to legalization (like resettlement programs) take a long time and are complicated from a bureaucratic standpoint.

In Russia, an adverse demographic situation is frequently politicized and cited as a reason why it is necessary to accept migrant workers from CIS countries. Moreover, unemployment exists among Russian citizens and is even growing, but it is more profitable for employers to fill vacancies with migrants (to avoid taxes, save on social payments, and sometimes even to benefit from the advantages and possibilities of exploiting people without any rights).

Some politicians and leaders openly admit that their agendas depend on labor migration. For example, during his campaign, the new president of Moldova, Igor Dodon, stated:

> *Yes, I am for a strategic partnership and good relationship with the Russian Federation. We need the Russian market, we need to resolve the problems of our migrants, hundreds of thousands of whom are in Russia. This does not mean that an iron curtain should appear along the Prut River. We cannot allow this because hundreds of thousands of our compatriots also work in the European Union and because some of our export products are headed towards Europe. This partnership must be continued.*[6]

In a number of countries, labor migration serves as a means for "getting rid of" "undesirable" ethnic and religious minorities, that, in the view of the government, pose a threat

5 http://kremlin.ru/events/president/news/47519, 26 January 2015.
6 http://www.svoboda.org/a/28110509.html

of destabilization. For example, the Tajik authorities would like to be able to preserve the possibility of having ethnic Pamirs leave for labor migration: in response to a question from ADC Memorial experts, an official from the RT Ministry of Labor saw the return of 10 percent of the Pamiri population to Tajikistan due to the crisis as a problem that could only be resolved by sending these people back to Russia for work (2015).

With respect to Kyrgyzstan, credible expert opinions hold that this country encourages labor migration, including as a way to make the country monoethnic. (Kyrgyzstan does not prevent the Russian population from leaving; it has been implementing repatriation programs for ethnic Kyrgyz living in other countries since at least 2001; and it prevents ethnic Tajiks and Uzbeks in the country's south from obtaining permanent residence in Kyrgyzstan).[7]

In other countries, labor migration has become the only path to legal status for ethnic Uzbeks who are in reality refugees and victims of the 2010 ethnic conflict in southern Kyrgyzstan. Here is a typical story about these migrants:

> *Karima K. from Osh told the story of how she and her husband have been traveling to Nizhnevartovsk for work for six years. Their first trip took place in June 2010. She lived in the Madi district, which became one of the centers of the ethnic clashes. Kyrgyz people threw her and her family out of their home. They only had time to gather up essential items, and then they ran to their relatives. Together with their family, they tried to get back their home and the things that they had left behind when they fled, but they were not allowed to do this, and other people had already moved into their house. According to Karima, they didn't seek help anywhere because there was no point. They simply rented an apartment and then left for Nizhnevartovsk with their three children, since the husband had acquaintances there. They have spent most of their time over the past five years doing seasonal work, and they return to Kyrgyzstan only once a year. In Russia, they tried to apply for citizenship but were rejected. Their children have not been attending school. Karima herself has recently been working as a store clerk and earns 500–600 rubles a shift, while her husband drives a taxi. She and her husband and children have been living in a two-room apartment, which they share with another 10 people.* (Interview, Osh, 2016).

Migration strategies of donor countries

The relationship of the governments of donor countries ranges from betting on migration as a major source of national income (Tajikistan, Kyrgyzstan) to rejecting the need for migration and persecuting migrants (Uzbekistan, even though a large part of its population is made up of migrant workers).

Although people in Georgia, Ukraine, and Moldova favor integration into Europe, many informants spoke of their desire to work in Russia. Experts explain that this is due to linguistic, cultural, and personal ties, as well as to inertia, dissatisfaction with the current government, and that fact that it is easier to integrate into Russia than into the European Union. Predictions are

7 Sergey Gradirovsky, Neli Esipova. Migration Policy of the Kyrgyz Government: Confrontation or Adaptation to Strong Human Currents?(in Russian) http://demoscope.ru/weekly/2010/0415/analit05.php

that migration from Georgia to the EU will increase with the easing of visa restrictions; if relations improve between Russia and Georgia, it is likely that thousands of migrant workers will again leave for Russia.

Ukraine's law on external migration,[8] which was adopted in November 2015, includes the so-called "visa-free package" which, among other things, is required for full integration into Europe. This law defines the concept of labor migration and stipulates state guarantees for the rights of migrant workers. Additionally, the system of detention centers for migrants who have violated the migration regime has been somewhat humanized as part of efforts to implement requirements to change the law (report by staff members at the NGO HIAS, Kiev, interview, 2016).

Armenia, on the other hand, occupies an intermediate position: this country entered into association with the EU and is also part of the EAEU. As one expert from Armenia explained, "The situation is quite complicated: Russia bristled at Armenia's association with the EU, so Armenia had to join the Eurasian Union. We didn't do this because we thought it would help, we did it to prevent things from getting worse" (interview, Yerevan, 2016). By the end of 2016, Armenia is expected to adopt laws required for integration into Europe (an electoral code, a law to combat domestic violence, and an antidiscrimination law), but the kind of laws these will actually turn out to be remains to be seen, since they are being prepared without any public discussion, and the opinions of civil society and experts are not being taken into account in the draft legislation. On the other hand, Armenia is clearly politically and economically dependent on Russia, which impacts all spheres of life in the country, including the heavy flow of migrants from Armenia into Russia.

One of the reasons Armenia joined the EAEU is military partnership with Russia, in which Armenia has an interest because of the Nagorno-Karabakh conflict. Since this is a key issue in Armenian political life, its course towards European integration is not entirely firm. Meanwhile, both members of civil society and the Armenian authorities have recognized that the country has little interest in using potential EAEU membership to ease labor migration. The main problem Armenian citizens face when entering Russia continues to be "blacklists" declaring migrants "undesirable" in the RF. The head of Armenia's Migration Service, Gagik Egonyan, explained, "We saw it this way: once we were part of the Eurasian Union, the blacklist would be rescinded. But this didn't turn out to be the case, so it is easier for people who fill out papers to work there, but it's just as bad as it always has been for people who don't register officially" (interview, January 2016).

A number of countries have strategic documents devoted to migration, and some countries even have several. For example, Tajikistan has the Framework for State Migration Policy of the Republic of Tajikistan (1998), the Framework of External Labor Migration of Citizens of the Republic of Tajikistan (2001), the Program of External Labor Migration of the Republic of Tajikistan for 2006–2010, and the National Strategy of Labor Migration of Citizens of the Republic of Tajikistan Abroad for the Period of 2011–2015 (2011). Meanwhile, Armenia has the Framework of State Regulation of Migration in the Republic of Armenia (2000, then

8 http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=55975

2004 and 2010) and the Action Plan to Implement the Framework Policy of State Regulation of Migration in the Republic of Armenia for 2012–2016 (2011).

In Kyrgyzstan, the following documents were sequentially in effect: the Framework of State Demographic and Migration Policy of the Kyrgyz Republic (2000), the Framework of State Migration Policy until 2010 (2004), the State Program of Measures to Regulate Migration Processes in the KR for 2007–2010 (2007), and the Program for Promoting Employment of the Population and Regulating Labor Migration until 2020 (2013). Additionally, the following documents were developed but never approved: the State Program of the Kyrgyz Republic to Regulate Labor Migration and Promote Employment during Periods of Crisis (2010–2012) and the Action Plan to Regulate Migration and Employment during Periods of Crisis (2010–2012) (roadmap). The idea of a new form of regulating migration – a migration code – also emerged, and intentions were announced to create an External Employment Agency and a Social Support Fund for Migrants.

In most cases, these policy documents diverge from reality. For example, Armenia's published framework migration policies proposed bringing Armenia closer to the EU and, accordingly, harmonizing its migration laws with the corresponding EU laws. Meanwhile, Armenia also joined the EAEU, and a large part of its population is in Russia as migrant workers (the requirements of the EU and of Russia, which in actual fact dominates the EAEU, are frequently conflicting in nature).

Additionally, these policy documents and signed and ratified international treaties on the rights of migrant workers do not correspond to current migration laws in post-Soviet countries.

For example, the standards of the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which was ratified by Tajikistan, are barely even reflected in this country's migration law. This law contains hardly any provisions on labor migration and largely regulates the situation of internal and environmental migrants and immigrants. But even those few articles that touch on labor migration do not directly stipulate any guarantees in matters of protecting the rights of migrant workers, even though the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families obliges countries that have ratified this Convention to protect migrant workers and members of their families from violence, physical injury, and threats and intimidation and ensures rights guaranteed during detention and imprisonment, as well as access to a fair trial (articles 16–20) and to protection by consular authorities (Article 23), and so forth. In place of these clauses, the migration law stipulates that the Tajik government will only assist with sending migrant workers out of Tajikistan to countries where their rights will be protected (Article 8 of the migration law) and also that migrant workers who travel abroad for work must have a labor contract signed with an employer before they leave Tajikistan (Article 8.2 of the migration law). However, the law does not envisage any specific mechanisms designed to guarantee these provisions.

In 2010, the International Organization for Migration came out with an initiative to create a new migration law that would regulate the situation specifically for migrant workers from Tajikistan. This idea was approved by the government, but only after five years - it was only in

his annual address to parliament in 2015 that the president first stated the need to adopt a migration code as soon as possible and to adapt migration laws and labor migration to the new realities of life. However, over the past several years, a working group of experts created under the RT Ministry of Labor to develop this law has only managed to generate constantly changing drafts that one agency or another refuses to approve.

At one meeting of the working group, its members tried to introduce a provision on a permit system for migrant workers to leave Tajikistan,[9] however, it was decided to reject this initiative under pressure from human rights defenders. Another initiative that many social activists came out against, but that was still approved and introduced to the draft existing at that time, related to the formation of a migration fund to provide social and legal support to migrant workers and members of their families in the event of force-majeure circumstances. However, financing of this fund was completely excluded from the state budget by a decision of the Ministry of Labor. Instead, it was proposed that this fund be created by attracting grants, donor funds, voluntary contributions from migrant workers, and contributions from banking institutions and the Tajik Diaspora. With this decision, the Ministry of Labor showed that the government has absolutely no interest in supporting its citizens in labor migration and that it has effectively assigned its obligations to implement international treaties to "third parties."

One of the innovations that was adopted during discussions on the new migration law was the creation of training centers to benefit migrants prior to their departure for abroad. Four such centers are currently in operation in Dushanbe and in the regions. The Tajik FMS lobbied for their creation in order to prepare migrants to leave the country and provide a "crash course" in the requirements of Russian law: migrants must know the language, laws, and history of their host country.

In November 2015, the supplemented and amended bill was sent for approval by the agencies.

> *"The first to come out against this project was the Ministry of Foreign Affairs. They stated that they did not agree with the wording of many issues in the bill, namely, with the acknowledgement that there is a problem with labor migration specifically. They called for focusing attention on migration in general, not just on labor migration. They crossed out many chapters and stated that they did not see a need to adopt a new law. In their opinion, it would be possible to simply make amendments to the current law. However, the problem is that the current law really only regulates problems of internal migration."* (Officer of an international organization, Tajikistan, interview, 2016).

The Community Council, which is comprised of members of political parties, social organizations, and non-governmental organizations, did not play a final role in the creation of the bill's provisions. However, after the migration service was transferred to the Ministry of Labor in 2013, the Community Council was discontinued to all intents and purposes. Prior to this, it met once every six months. Its meetings were a place for open discussion, criticism, and debate among members of different agencies. For example, at the last Community Council, held in 2013, strategies related to labor migration were discussed. Officials discussed who had done

9 I.e., basically on the introduction of exit visas.

what over the past six months, and a great deal of dissatisfaction was expressed with the fact that no budget had been allocated for holding events documented in the strategy. As a result, since the Community Council's meeting was open and journalists were invited to it, many newspapers wrote about this meeting, which incurred the dissatisfaction of government officials. Experts believe that this kind of open criticism was one of the reasons why the government no longer wishes to give the floor to the Community Council.

> *"At the last Community Council, when the strategy of implementing migration policy was being discussed, some officials openly complained that strategy measures were scheduled for several months in advance, but no budget was allocated for them. In 2014, we sent several queries about when the Community Council would restart its work, but we never received any specific answer. It was only during a private meeting with a senior official from the migration service that he told us that the Minister of Labor did not want the council to meet."* (Staff member of an NGO, Dushanbe, Tajikistan, interview, 2016).

In early February 2016, the website of a national commission to implement the recommendations of UN committee was launched in Tajikistan. However, experts are also quite skeptical of this initiative, because they believe that the information reflected in government documents usually does not correspond to reality:

> *"As regards the first report on the UN convention on migrants and members of their families from Tajikistan, the recommendations that were made were adopted, just like the state program itself, but the effectiveness of this program's implementation remained at zero."* (Former officer of the RT Migration Service, interview, 2016).

Kyrgyzstan's migration law also does not correspond to the international treaties that it has signed and ratified. Specifically, the law of the Republic of Kyrgyzstan "On External Labor Migration" defines a migrant worker as "an individual who has a regulated status and is engaged in labor activities in a country of which he is not a citizen" (Article 18). However, this definition contravenes the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families because it "encompasses only those migrant workers who have documents or permanent status,"[10] while experts estimate that over 60 percent of migrant workers from Kyrgyzstan do not have proper permits.

The Kyrgyz law "On External Labor Migration" abounds with referenced, generalized, and declarative norms, but contains no norms whatsoever to protect the rights of migrant workers to social insurance and pension benefits. There are only norms that refer to matters of social insurance and compensation for damages caused by injury during work activities or to norms of domestic employment laws or international treaties. Additionally, Article 25 of the Law, which states that "departure of a citizen shall be restricted if this citizen has information comprising a state or other legally protected secret," contravenes Article 8 of the Convention, which guarantees the right of migrant workers to freedom of movement."[11]

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10 https://documents-dds-ny.un.org/doc/UNDOC/GEN/G15/103/44/PDF/G1510344.pdf?OpenElement

11 International standards have established that in and of itself mention of a state secret is not sufficient for such restriction of freedom of movement and that such restrictions must be

In a number of former Soviet countries, if migration strategy is expressed at all, it has a restrictive and even repressive nature. For example, migration-related matters were included in the National Demographic Security Program of the Republic of Belarus for 2016–2020 (the aspect of combatting "illegal migration"), which cannot be accessed by the general public.

Uzbekistan has not published any migration strategy, and the government's rhetoric stigmatizes migrants by calling them "traitors" and enemies of the state, even though millions of Uzbek citizens are migrants.[12] The following statement is characteristic of Uzbekistan's recently deceased president Karimov, who called migrant workers "good-for-nothings" who debase the nation:

> *"There are fewer and fewer of these good-for-nothings in Uzbekistan. And who do I consider these good-for-nothings to be? They are the ones who travel to Moscow to sweep streets and squares. What's so special there? This disgusts me. The Uzbek nation is humiliating itself by traveling so far. It turns out you have to travel there for a piece of bread! Well, no one is starving to death in Uzbekistan, thank God! I call them good-for-nothings because they bring disgrace on us all just to earn a lot of money quickly."*[13]

This statement from this authoritarian leader had a tremendous impact on the characterization of the topic of migration in public space in Uzbekistan:

> *"No journalists and especially no public figures have even used the phrase 'migrant worker' since President Karimov stated in a speech that Uzbekistan does not have migrant workers; it has good-for-nothings who have never worked and do not want to work for their country."* (Migrant labor expert, Uzbekistan, interview, 2016).

One informant explained that the cause of this attitude towards migrant workers on the part of the government is corruption at the highest level:

> *"Money from migrant workers makes up one-third of Uzbekistan's GDP. This amounts to approximately UZS 3–4 billion annually. So it's just impossible not to see that migration is advantageous for the country. But because of the president's words and the involvement of those officials who have made businesses out of migration, it is also impossible to acknowledge. If migration is officially recognized, all the money will go into the state budget and not the pockets of officials. The system of bleeding money from migrants runs very smoothly and involves a huge number of very different people who will never turn down this type of income."* (Resident of Samarkand, interview, 2016).

As a main donor country of labor migration to Russia, Uzbekistan, unlike Kyrgyzstan and Tajikistan, has not signed or ratified the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In its domestic laws, migration

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backed by clear legal grounds and meet the criteria of absolute necessity and the requirements of proportionality. UN Human Rights Committee, General Comment No. 27 "Freedom of Movement" (Article 12), 02/11/99.

12 Up to 2 million in Russia and 800,000 in Kazakhstan.

13 Partial translation into Russian, https://www.youtube.com/watch?v=-EM1kc4-5Zs, 2013.

matters are regulated by the RU law "On Employment of the Population," which states that citizens of the Republic of Uzbekistan have the right to engage in professional activities during a temporary stay abroad,[14] as well as by numerous regulations and decisions issued by the RU Cabinet of Ministers. For example, in accordance with the Regulation "On the Procedures for Work Activities of Citizens of the Republic of Uzbekistan Abroad," RU citizens "have the right to travel abroad to perform work activities on the basis of intergovernmental and interagency contracts and agreements only under the auspices of the Internal Labor Migration Agency and regional economic accountability bureaus for the employment of citizens abroad[15] following the procedures established by the Ministry of Labor and Social Protection of the Republic of Uzbekistan."[16] This regulatory act affects only a small group of citizens who have signed a contract with a foreign employer in advance and apparently refers to the organized selection of migrant workers for countries like South Korea or Turkey.[17] The millions of migrants who travel to Russia and Kazakhstan for work are also supposed to obtain an exit permit (which actually amounts to an exit visa), but they definitely do not enter into labor contracts in advance. According to our sources, in order to obtain permits people give bribes to obtain either invitations from fictitious employers or invitations indicating the purpose of the visit as personal and not work-related (interview, 2016).

On 4 January 2013, amendments to Uzbekistan's Criminal Code toughening liability for illegal departure from or entry into the country and for crossing the border in violation of the established procedures took effect.[18] It's hard to say whether or not the number of Uzbek citizens migrating to Russia has dropped with the onset of the crisis there, because people who used to travel to Russia are now traveling to Kazakhstan. However, for Uzbeks the deterring factor is not so much the crisis and tougher migration policy of Russia as it is the political decisions made by the Uzbek government in regards to people desiring to leave the country to work abroad.

Since 2014, there has been tighter control over returning migrant workers and their families. It has become a widespread practice to detain migrants immediately following their

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14 Article 12 of RU law "On Employment of the Population."

15 The Agency coordinates the activities of regional economic accountability bureaus for the employment of foreign citizens abroad, which are located in Tashkent, Bukhara, Fergana, Qarshi, and Nukus, clause 2 of the Regulation of the RU Cabinet of Ministers "On Measures to Improve the Organization of the Work Activities of Citizens of the Republic of Uzbekistan Abroad."

16 Clause 1 of the Regulation on the Procedures for Work Activities of Citizens of the Republic of Uzbekistan Abroad.

17 As the media reported, in order to travel abroad under a private labor contract, an Uzbek citizen must file an application with the Agency; submit a notarized contract with the foreign employer that has been translated into the state language and lists social guarantees and the obligation to provide a work visa, some brief information about the employer, a work history, and a medical certificate; and pay a state fee. The Agency passes these documents on to an interagency committee for review. If the application is approved, the citizen is issued a permit to perform work activities abroad. After receiving this permit, the citizen must file an application to leave the country with the RU Ministry of Internal Affairs office for his place of resident. This office will decide whether to permit the person to exit. The permit issued by the Ministry of Internal Affairs remains in effect for the entire term of the labor agreement and may be revised if the contract is extended. http://ru.sputniknews-uz.com/migration/20160210/1736517.html

18 https://www.youtube.com/watch?v=enywg_5RoyA

return home and have then interrogated by the National Security Service regarding religious commitment and sympathy with radical Islam.[19] Several migrants interviewed also stated that returning migrants are added to a list of people who will not have the right to hold any government positions in Uzbekistan in the future. The same applies to their relatives and to people whose relatives have decided to become citizens of another country (interview, 2016).

Uzbekistan also ignores instances where migrants die abroad at work or as the result of violence (several dozen deaths a year):

> *"There was recently a case where a migrant from Uzbekistan died in Russia. He fell off a building under construction. All his relatives knew that he had died on the job, but staff members were instructed to refer to him as 'simply a deceased person.' Documents specified that he died under unknown circumstances. One unofficial statement issued by the Uzbek Ministry of Foreign Affairs explained his death in this way: "A deadbeat went to Russia and got what he deserved."* (Labor migration expert, Uzbekistan, interview, 2016).

The government's attitude towards people departing for migration

Even if a donor country acknowledges labor migration, its attitude towards migrants is not motivated by a desire to protect their rights, but by opportunistic circumstances, the most important of which is, of course, gaining income from migrant labor. Moreover, current bilateral agreements between donor countries and recipient countries deem migrant workers to be only those who are in their country of employment legally. This leaves millions of people outside the scope of these agreements, which, in the cases of Tajikistan and Kyrgyzstan, contravenes the UN International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, which both of these countries have signed.

In terms of countries associated with the European Union, these countries are critical of "outdated agreements with the RF." For example, Olga Poalelungi, the director of Moldova's Migration Bureau (which is part of the Ministry of Internal Affairs) noted with dissatisfaction that "the licensing system in Russia does not entail a social package, and all the responsibility for the migrant is laid on Moldova. But with Italy, with the Czech Republic, with Austria, with Lichtenstein, we have entered into agreements to ensure the social protection of migrants from Moldova in those countries" (interview, 2016).

The Belarusian government has an especially severe attitude towards migrants: a decree was adopted in this country imposing high fines on people who do not work (the so-called "social parasite law").[20] Experts believe that this decree is aimed to a large extent at migrant workers concealing their income from the Belarusian government. Experts from Minsk have explained the situation of migrants in the following way: "There are two options. The first is to

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19 https://www.youtube.com/watch?v=QSkggXlxRW4, http://www.currenttime.tv/a/28133539.html6 http://www.ozodlik.org/a/26733331.html

20 The decree "On Preventing Social Parasitism" (signed 2 April 2015) establishes that Belarusian citizens, permanent residents who are foreign citizens, and stateless persons who have not contributed to financing state expenses or have contributed to this financing for less than 183 calendar days in the past year shall pay a fee in the amount of 20 basic units, 3.6 million Belarusian rubles, or almost 14,000 Russian rubles (prices after revaluation).

go in, declare yourself a parasite, and pay a fine of 11 million a year. The second is to prove that you permanently live and work abroad so that you don't have to pay taxes in Belarus, but then you need a special passport, a series PP" (experts from La Strada (Minsk), interview, 2016).

During field missions, ADC Memorial experts found that state agencies in Central Asian countries have little interest in providing citizens who want to go abroad for work with the necessary information on their rights and on foreign residency rules, both prior to their departure and when they are located in another country if there are drastic changes in migration law and other rules.

For example, in the summer of 2016, entry into Uzbekistan from Kazakhstan, Kyrgyzstan, Tajikistan, and Turkmenistan was suddenly closed due to the holding of the annual summit of the Shanghai Cooperation Organization in Tashkent and related security measures.[21] This unexpected change ruined the plans of many migrants, who were returning home at that time (interview, 2016).

Another glaring example of the contemptuous treatment of migrants was Uzbekistan's sudden announcement in late 2015 that non-biometric passports were "invalid." As a result, migrants with these passports were not able to return home and were subjected to persecution by the Russian migration and border services, not to mention financial losses. In order to return home, Uzbek citizens had to apply to a diplomatic mission (of which there are two in Russia – one in Moscow and the other in Novosibirsk), pay USD 60, and fill out a form to receive a certificate for return, which took a month to process. This led to panic, confusion, and huge lines at RU embassies and consulates in Russia and Kazakhstan. The Uzbek authorities did not provide any explanation until mid-February 2016, when after all this they allowed migrants to return home using their old documents, which, it turned out, were valid within Uzbekistan until 1 July 2018 (it is expected that the exchange of old passports for biometric passports will be completed by this time). Upon arrival home, people who had paid for the certificate were banned from leaving Uzbekistan for a period of six months from the date of their arrival. According to the national Visa and Registration Office, a total of 725,000 citizens in Uzbekistan currently hold these certificates, and at the time of this writing, none of them had received new passports. According to staff members at this office, the reason for this is that the National Security Service is checking to see if these citizens are involved in any groups or religious sects banned in Uzbekistan. (Report from a labor migration expert, Uzbekistan, interview, 2016).

The replacement of old passports with new biometric passports was announced quite some time ago (Presidential Order No. UP-4262 of 5 January 2001 "On Additional Measures to Improve the Passport System in the Republic of Uzbekistan"), but it only started in the spring of 2014, and, according to the website of the Uzbek consulate, departure from the country using an old passport was not possible after 1 July 2015.[22]

A number of experts believe that the Uzbek authorities are somehow attempting to reduce the scale of migrants departing the country, but no one knows for certain what the government's intentions are.

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21 http://www.interfax.ru/world/513489

22 http://uzbekconsulny.org/consulate/index.php/ru/ru-consular-services/ru-exchange-passports

Ignoring of migrants by diplomatic services

An indicator of the importance a government accords to protecting migrant rights is how accessible consular assistance and other means of national protection are for migrant workers in Russia and Kazakhstan. The data we collected shows that accessibility is extremely low both for countries that actually show interest in migration and for countries that reject the idea that labor migration is necessary for the national economy. There are not enough diplomatic missions or staff members, the level of service is lamentable, and corruption is widespread. Furthermore, diplomats are minimally involved in the fates of their compatriots who have fallen into difficult situations abroad. For example, out of all concerned diplomatic missions, only workers from the Kyrgyz consulate have visited foreign national detention centers in Russia.

Noting that Armenia has a weak civil society and especially lacks NGOs working on migration problems, Ovsanna Babayan, the OSCE representative in Armenia, drew a connection between the newly energized work with migrant workers conducted by consular departments of Kyrgyzstan and Tajikistan in the RF and the activities of these kinds of NGOs in Central Asia and observed, "We don't have those kinds of NGOs" (interview, January 2016). In this connection, it is worth pointing out that Armenian consuls in the RF are surprisingly indifferent to the fate of Armenian citizens: they do not visit foreign national detention centers, and they refuse to assist attorneys for Armenians who need to establish their identity.

The violation of migrants' rights never elicits a reaction in the form of notes or other types of diplomatic communications, since it is more important that there be no conflicts with countries that dominate in migration relationships. The indifference of diplomatic missions is especially cynical in situations where there have been blatant violations of migrants' rights resulting in their death or grave injury.

On 14 October 2015, a five-month old infant, Umarali Nazarov, who had been separated from his mother, a Tajik citizen who was found to have violated migration rules, died. On the morning of October 13, his mother was detained during an FMS raid of her rental apartment, together with her son Umarali and her husband's brother, and taken to the police station. At the station, officers took Umarali away from her and then took her to court. Umarali spent several hours at the station with strangers and without food or warm clothing. Even though Umarali's grandmother brought his documents to the station, officers did not give the baby to her or accept a bottle of baby food. Then Umarali was taken to the hospital, where he died that same night. No one has succeeded in determining his true cause of death. Under public pressure, the RF Investigative Committee opened a criminal case in accordance with which FMS officers, police officers, and doctors came under suspicion of negligent homicide due to improper performance of professional duties. However, this criminal case was closed in October 2016 "for absence of a criminal act."[23] Attempts were made to prosecute Umarali's mother and father – Rustam Nazarov and Zarina Yunusova – for "failing to fulfill their obligations to raise a child," but this accusation was successfully contested. Zarina Yunusova was fined RUR 5,000 for violating migration rules and expelled from Russia under a decision of the City Court. Her child's body was returned to Tajikistan, where it was buried.

23 http://adcmemorial.org/www/12201.html?lang=en

After her expulsion, Zarina explained that representatives of Tajikistan's embassy and consulate promised to conduct an expert review in Tajikistan and to meet her at the airport in Dushanbe, but none of this ever happened. Relatives and friends of the infant waited for representatives from the Ministry of Health, the Ministry of Internal Affairs, and the Prosecutor General's Office for six hours, but no one ever showed up to meet the Nazarovs, even though numerous attempts were made to connect with these authorities on the phone.

> *"When we tried to connect with the Tajik consulate in Saint Petersburg, they said that they couldn't do anything… We were advised not to speak with journalists and to bury the child as soon as possible. We landed at 8am and waited six hours for representatives of the Tajik government, but no one came. No one was aware of what we wanted or of the people we were expecting. They tried to keep this matter off the radar. They simply deceived us. Out of sight, out of mind. They sent us from Saint Petersburg so that we would not be there, so that there wouldn't be problems or things to worry about. That's how our country protects its citizens. No one needs us."*[24]

The government of Tajikistan even announced that "third forces" were trying to politicize the infant's death "to sabotage friendly relations between the Russians and the Tajiks." However, the civil activist and human rights defender Alim Sherzamonov believes that these arguments are specious and that they were needed to draw society's attention away from this case because it resonated with the public and elicited criticism of the Tajik government. According to observers, it was only through media and Internet campaigns that they were able to draw the government's attention to what happened.[25]

A statement made by Shukurjon Zuhurov, chairman of the House of Representatives of the Supreme Assembly of the Republic of Tajikistan appears extremely cynical in this context. In this statement, he expressed his "boundless gratitude" to Valentin Matvienko, speaker of the RF Federation Council, for his "respectful and gracious treatment of the Tajik people" and for his example – presumably for his participation in Umarali's case: "This incident was resolved thanks to your intervention, and the guilty parties were rightly punished,"[26] even though in reality no one involved in Umarali's death was held accountable for it at all.

It was also possible to sweep Umarali Nazarov's case under the rug because leaders of the so-called "diaspora" (i.e. well-integrated people connected with government structures in Tajikistan and Russia) put pressure on Tajiks in Russia who were prepared to protest:

> *"The problem was that this situation grew from a family tragedy into a political scandal that we never wanted. When local Tajiks learned what had happened, they wanted to go out on the streets and demand that the guilty parties be prosecuted. There was a lot of unrest during those days. We met with all the elders, with Aprashka, with Sennoy*[27]*and the outer districts and decided that no one would take any measures because there was a high risk of provocation, which would have led to a new wave of migrant*

24 http://www.bbc.com/russian/russia/2015/11/151117_umarali_in_tajikistan
25 Ibid.
26 http://news.tj/ru/news/tajikistan/politics/20161013/zuhurov-tadzhikistan-nuzhdaetsya-v-pomotshi-rossii-dlya-borbi-s-ugrozami

phobia." (B., member of the Coordination Council of the Tajik diaspora in Saint Petersburg, interview, 2016).

During a meeting with an ADC Memorial expert, a former employee of the RT Migration Service noted discrepancies between the RT law "On the Diplomatic Service" and practice: neither this law nor any subordinate legislation give any indication of what diplomatic services should do to protect the rights of their citizens. For example, there is no clearly stated obligation to solve the problems of people who have violated migration rules, namely those held in a foreign national detention center who do not have enough money to return home on their own, even though foreign citizens in closed institutions face rights violations like detention in inhuman conditions and physical violence and are in greater need of consular protection than others. The consular statute and regulations on honorary consuls do not contain any information whatsoever on this. Specifically, they do not contain norms on how often consular workers and honorary consuls should visit the closed institutions of foreign countries where Tajik citizens are being held. The government's slow and subpar reactions to the problems of migrants in Russia are to a great extent connected with the fact that a total of only 16 people representing the RT Ministry of Labor and Employment work in Russia.

"The number of staff in the delegation from the RT Ministry of Labor and Employment in Russia was increased from 13 to 16 people in 2016, while the budget was raised from USD 515,360 to USD 798,984. However, it is obvious that 16 people cannot possibly cover all the regions of an enormous country like Russia, especially with such a heavy flow of migrants." (Former officer of the RT Migration Service, interview, 2016).

When monitoring services provided by Tajikistan's consular establishment in Russia (2014), human rights defenders found that the diplomatic services were reluctant to speak with members of civil society:

"In 2014, our colleagues from Kyrgyzstan helped us monitor the provision of consular assistance to our migrant workers in Russia. Our Kyrgyz colleagues had no problems setting up interviews or learning about how the consulates work, what's in Ekaterinburg, what's in Moscow. We, on the other hand, ran up against a brick wall. We spent an entire year trying to get permission to at least interview the consul, but we were never granted permission. It was only after several months that our consultants were given a meeting, but they were warned in advance that the meeting would only be with the embassy's press secretary and not with anyone else." (Expert on migration, Dushanbe (Tajikistan), interview, 2016).

The way diplomatic missions in Tajikistan treat their citizens is graphically illustrated by an instance described by a migrant worker from Moscow:

"The consulates of other countries in Moscow at least provide a place for citizens to sit and watch TV as they wait for their turn. But our consulate cares so little for us that the door doesn't even have a knob on it, so that we can't go back inside. So anyone who

27 Aprashka (Apraksin Courtyard) and Sennoy are the names of markets in Saint Petersburg where the unofficial centers of the diaspora are located.

wants to be received has to wait his or her turn outdoors, in any weather. One time I was waiting for my turn like everyone else. When an employee came outside with documents, I asked why there was no doorknob on the door. He responded in a hostile tone: so that people like me did not open the door as much."[28]

In 2013, the National Plan to Implement Recommendations of Member States of the UN Human Rights Council as Part of the Universal Periodic Review Process for 2013–2015 was approved by order of the President of the Republic of Tajikistan. Among other things, this roadmap envisaged expanding the authorities of employees at RT migration bodies to protect the rights of migrant workers. According to data from the Bureau of Human Rights presented in the report "Legal Protection of Migrant Workers from Tajikistan in the Russian Federation," at the time of this report's publication in June 2014, only one of 10 measures planned to implement the UN HRC's recommendations had been implemented.[29]

Even though as far back as 2012 the UN Committee on Migrant Workers' Rights expressed in its concluding observations to Tajikistan its concern with the low number of investigations into the deaths of Tajik migrant workers and the lack of information about the prosecution and punishment of guilty parties and recommended the RT to take measures to investigate the causes of the deaths of its citizens and to prosecute and punish the guilty parties, the diplomatic services continue to be indifferent to even the most egregious cases. The RT draft law on labor migration establishes the responsibility of authorized labor migration agencies to work in conjunction with consular establishments to provide assistance in conducting criminal and judicial inquiries into instances of death or in seeking compensation for damages caused to the health of migrant workers from Tajikistan (Article 20).

According to human rights defenders interviewed for this report, the diplomatic missions of the Kyrgyz Republic were the most open to dialogue and sharing information, even though there are traces of passivity and ineffectiveness in their work.

The right to have recourse to the protection and assistance of the diplomatic institutions of Kyrgyzstan is guaranteed to migrant workers by Article 23 of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and by Article 50(5) of the Constitution of the Kyrgyz Republic. At the same time, the KR law "On External Labor Migration" deems migrant workers to be only those people who have a regulated status and specifies only certain cases where migrant workers have recourse to the protection of diplomatic or consular establishments (Article 17 of this law reads: "If a foreign employer violates the terms of a labor agreement with a migrant worker who is a KR citizen who went abroad to perform work activities, the migrant worker may appeal to a diplomatic mission or consular establishment of the KR, which will take measures to protect his rights, including to receive benefits and compensation due, to dissolve the labor agreement (contract), and to return the migrant worker (and his family members) to the KR," and Article 22 reads "Diplomatic missions, consular establishment, or offices of the migration authority of the country of origin shall assist in handling criminal and judicial inquiries into the death of a migrant worker or into compensation for damages caused to the health of migrant workers"). Thus, KR law "On

28 Report by a migrant worker from Tajikistan posted on Facebook.
29 http://www.bhr.tj/ru/index/index/pageId/17/

External Labor Migration" narrows the range of obligations of diplomatic and consular officials, which contravenes not only the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, but also the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations, which have both been ratified by the Kyrgyz Republic.

It is our opinion that migrant workers from Uzbekistan have the tensest relationship with their consular establishments. In accordance with clause 6 of the Regulation "On Procedures for Work Activities of Citizens of the Republic of Uzbekistan Abroad," upon arrival in the destination country "citizens of the Republic of Uzbekistan who have departed for another country with the permission of the Agency on matters related to labor migration on the basis of a labor contract must register with the consular establishment of the Republic of Uzbekistan in their country of employment. If there are no diplomatic bodies of the Republic of Uzbekistan, citizens must register with consular bodies of the CIS authorized by the Government of the Republic of Uzbekistan." However, to receive a temporary registration with the consulate, Uzbek citizens must make an annual payment in the amount of USD 30. If a citizen fails to pay this amount, he will not be registered with the consular establishment, which means that he will not be able to exercise his right to receive consular assistance and cannot replace documents, receive a certificate for return, etc.

> *"When I went to our consulate to get a new passport, I learned that first I had to register and pay USD 30, buy a temporary ID, also for USD 30, and pay USD 60 for a new passport. Since I had never previously registered with the consulate or made any payments, I had to make payments for the last two years, since the most recent entry stamp in my passport was for two years ago. They told me that I had to pay for the entire period of my stay in Russia."* (L.K., migrant worker from Uzbekistan, interview, 2016).

Migration services: restructuring and lack of professionalism

The arbitrary treatment of migrant workers by migration services in both donor and recipient countries is due in large part to the frequent restructuring of these agencies, which is followed by firings and the hiring of new personnel who do not have experience in the area of migration. Further complicating matters, low pay and frequent changes in senior managers hamper career growth and do not attract motivated professionals or lower corruption. A former officeer of Tajikistan's Migration Service spoke about this:

> *"Over the past ten years, the structure of our migration service and the composition of our staff has changed four times! For some reason, in Tajikistan they don't try to hold on to workers, they don't understand that the more people work, the greater experience and skills they have. In addition to high turnover, we have problems with reorganization. As soon as the leadership changes, new inexperienced workers come in and the old ones leave. As with other government services, employees of the Migration Service are not paid very much. For example, the current salary of a senior staff member in migration is UZS 500. Meanwhile, prices for non-agricultural food products are no different from the prices in Moscow. So there's not a lot of enthusiasm. Most workers at regional branches have an extremely superficial knowledge of labor and migration law*

in Tajikistan and especially in Russia. They don't know the Russian language or culture." (Former officer of the RT Migration Service, interview, 2016).

In 2013, the Migration Service was transferred to the Ministry of Labor. According to experts, there was a general expectation that the situation with the protection of migrants' rights would improve, since the Ministry of Labor had offices in all the country's regions. However, the activities that had just started to develop faded away.

"Starting last year, Migration Service branches have been opening in every district of Tajikistan. This means that migrants do not have to turn to middlemen to get their documents in order before their departure. Birth certificate, marriage certificate, passport, metrics, etc. – now all this can be done in every district. But, these offices were created over one year ago, and they still cannot solve problems with personnel, with office space. Some offices exist only on paper. Sometimes there's an office, and there's even a sign on the door, but inside, there's nothing more than scaffolding and a bucket of paint. But this office is officially listed as open and staffed." (Independent migration expert, Dushanbe (Tajikistan), interview, 2016).

Besides this, the Community Council, which worked actively to reorganize Tajikistan's Migration Service and which was supported by the service's previous leadership, was discontinued. Until 2013, the International Organization for Migration led a project to create migrant assistance centers. Thanks to this project, 14 such centers operated in all of Tajikistan's regions under the Migration Service. Their task included checking migrants' status against databases of the Russian FSB and FMS, determining the reasons for an entry ban, and appealing bans if possible. It was thought that these centers and financing from the International Organization for Migration would help increase the potential of the Migration Service, and that even after ended employees would continue to work under the same program and put their experience to good use even after IOM financing ended. But only two of these 14 centers have remained in operation since the financing was cut and the Migration Service was restructured. However, these two centers do not offer any services and instead send citizens to human rights organizations or commercial firms that sometimes have a dubious reputation.

"In Sughd Region, the FMS even has offices for awareness raising and counselling. They receive anyone who comes to see them, but they generally only handle simple matters. If there's a complicated legal issue, they send people to NGOs or to a commercial firm. Here the problem of the capabilities and competency of workers at our state agencies is displayed quite clearly." (Expert of an international organization, Tajikistan, interview, 2016).

Restructuring has also had a negative impact on the situation in Kyrgyzstan, where the agencies responsible for migration have included the Directorate of Population and Migration (1993-1999), the State Agency for Migration and Demography (1999–2001), the Migration Service Department (2001–2005), the State Committee on Migration and Employment (2005–2009), and the Ministry of Labor, Employment, and Migration of the Kyrgyz Republic (October 2009–February 2012), which was reorganized from scratch into the Ministry of Youth, Labor, and Employment (February 2012–March 2013). During this period, external migration matters

were transferred to the Ministry of Foreign Affairs. Later, migration was again returned to the restructured Ministry of Labor, Migration, and Youth (March 2013–present).

The reorganization of the RF Migration Service in 2016 (which was far from the first reorganization in the history of this agency) and its move from an independent structure to a structure under the Ministry of Internal Affairs has naturally been accompanied by typical "transitional difficulties", but it has also dramatically changed its already inhuman approach to migrant workers for the worse.

> *"I am very skeptical of the closing of the Migration Service. Of course, there's the question of how it operated, but the principal itself is important: migration matters should not be handled by a law enforcement agency, but by a separate service that could primarily perform development functions and create favorable conditions and clear rules for migrants, along with handling oversight. So some experts in this area have voice justified fears about how all this will work and about whether or not this simply constitutes an admission that they were not able to create any rules of the game or any favorable conditions, so the state took the path of strict control over migrants"* (Konstantin Troitsky, expert with Civic Assistance, interview with Radio Svoboda, 23 November 2016).[30]

This pendulum-like movement of migration bodies between law enforcement agencies and civilian agencies has also been observed in Kazakhstan. In this case, however, the country's unsuccessful experience transferring the Migration Service to the Ministry of Internal Affairs in 2010 was properly assessed: "The creation of an agency under the aegis of the RK Ministry of Internal Affairs along the lines of the Russian Migration Service, which is officially independent but actually under the RF Ministry of Internal Affairs, did not bring about the successful regulation of migration, but, on the contrary, resulted in a rise in corruption."[31] In 2013, the FMS was separated out from the Ministry of Internal Affairs, and the Migration Committee of the RK Ministry of Labor and Social Protection of the Population was formed anew, while the functions and authorities to create government migration policy were transferred to the RK Ministry of Economics and Budget Planning.[32]

Migration as a customary way of life

The economic crisis and sharp inflation experienced by recipient countries – Russia and Kazakhstan – have impacted migration flows in the region, but the number of migrant workers has not dropped dramatically. As a migrant from Armenia explained in a typical statement, "I used to earn twice as much in dollars in Russia as I do now, but I would still go to Russia even if I earned two times less – there's no alternative" (interview, Yerevan, 2016). "No alternative," "we're used to it" – these are words that sound frequently in stories about labor migration:

30 http://www.svoboda.org/a/28133442.html

31 Human Rights Committee under the President of the Republic of Kazakhstan. Special report "On the Situation with Migrant Rights in the Republic of Kazakhstan." Astana, 2013. http://sanasezim.org/sites/all/img/%D0%A1%D0%BF%D0%B5%D1%86%D0%B4%D0%BE%D0%BA%D0%BC%D0%B8%D0%B3%D1%80%20%D0%9A%D0%9F%D0%A7-2013%20%D1%80%D1%83%D1%81.pdf (in Russian).

32 Order of the RK President "On Further Improvement to the State Administration System of the Republic of Kazakhstan" of 16 January 2013 No. 466.

"My brother works as a foreman in Saint Petersburg. He has 22 Tajik workers. He has always been satisfied with the work and the salary, but it has been very hard since last year. There is less work and salaries have fallen. Now in addition to his main job, he collects and sells scrap metal on the weekends. He lives on the money from this and sends his salary home. But even given these circumstances, he does not want to return home because in any case he earns more in Russia and is used to living there."[33] (B., journalist (Khujand, Tajikistan), interview, 2016).

Inertia, economic stagnation, and – in some cases – a harsh political regime are not the only reasons why so many migrants cannot even conceive of a different way of earning money. There is also a tremendous economic interest in migration at various levels (from the government and businesses affiliated with it in donor countries to migration services and their infrastructures in recipient countries, and criminal structures that are in bed with law enforcement agencies in all countries). These factors form a system of traps that force the working-age members of the population to seek work only outside their country of origin, to spend years living abroad, and to return there over and over again after short visits home.

Experts have made interesting observations about arrangements for "deferred" payment for labor in construction that is dependent on income from the oil industry: these arrangements are structured so that migrant construction workers can only receive money for work they have performed if they work at the next construction site during the next period of time.

"Armenia is an oil country: even though we don't have oil, the money comes from oil. When oil is expensive and revenue goes to the state, what's the best way to use it? On large government construction projects, of course. Then migrants can earn money, which means they send money to Armenia. Before 2008, the most expensive construction site in the world was in Russia. But the difficulty is that you need to win a tender for construction, and to do that, you need money. To get this money, workers are not paid for several months; instead they receive an offer to come back again the next year for a new project, which is when they will get their money. But when there's a crisis, there's no more construction and workers will never get their money" (expert from the International Center for Human Development, Yerevan, Armenia, interview, January 2016).

The words of these experts are confirmed by the story of a migrant who suffered from such a situation:

"An employer knows that if a person has nowhere to live, nothing to eat, then he must return home. That's what happened with me. I helped build sites for the Olympics. We were building the ice arena – 20,000 Armenians were working there. We were all deceived. They owed me 3,000 dollars and asked me to come back again; they promised that they would gradually repay their debt. But I didn't leave because I thought they would deceive me again. My employers were Armenians, but RF citizens. Sometimes when they saw that a person could no longer work without money and was getting ready to leave, they paid him a little and promised that they 'would give him a little more

33 From an interview with a journalist Kh.K. from a newspaper in Khujand.

tomorrow.' But this is a 'Russian tomorrow,' they won't give the money… It was like that every day – 'hang on, hang on, we'll have the money tomorrow.' Once we didn't even go home for New Year's – we sat right there at the site and waited for money. But a person can't go 20 days without food, so people gave up and left. And when the owners showed up 20 days later, there were no longer any problems because almost everyone had left without any money, while those who remained would be re-hired and their salaries would be withheld again." (Migrant worker S., Yerevan, Armenia, interview, 2016).

Migration from Central Asian countries frequently becomes a family business. The migrant worker is part of an entire caste, a stratum and class of the population of cities like Bukhara, Samarkand, Osh, Khujand, etc. Children frequently know in advance that as their fathers were migrants, so will they too be migrants. Thus, they choose to attend Russian schools and master the professions that are most in demand for migrants.

Economic problems in migrants' countries of origin and the inability to reintegrate people who have returned home

Economic factors that encourage migration include lack of government support for entrepreneurs in migrants' countries of origin and, frequently, a predatory policy in relation to small businesses.

In March 2016, agricultural holding companies started to operate in Uzbekistan. Peasants must hand over part of the agricultural products they have grown to these holding companies at fixed and extremely low prices. The holding companies then resell these products at much higher prices. Peasants cannot refuse to hand over their products or enter into an agreement directly with the state. The heads of these agricultural holding companies are usually members of the local government or their relatives. In Bukhara, farmers must give up 10 percent of their production, which can bring a farm to ruin, given the small size of plots and the poor soil quality. Farmers are threatened if they refuse or fail to fulfill these "plans" (report from a labor migration expert, Uzbekistan, 2016).

In addition to its well-known practice of "cotton slavery," when the population is forced en masse to work without pay in cotton fields, Uzbekistan also employs the widespread practice of forcing farmers to raise silkworms and sell the cocoons at what amounts to a loss in volumes imposed under regulations made by local governments and agricultural holding companies. If farmers refuse to do this or cannot produce enough cocoons, they are tormented by audits carried out by the prosecutor's office and the police and are fined for having vegetable gardens (these gardens are banned on land that is leased for farming).[34]

The population of Uzbekistan is also being driven into debt with the help of enslaving schemes in the area of real estate, in this case the sale of so-called presidential cottages and the forced execution of collective agreements with citizens for their construction.

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34 Uzbek-German Forum for Human Rights, "Silk Loop for Uzbek Farmers," http://uzbekgermanforum.org/wp-content/uploads/2015/09/Silk-Loop-for-Uzbek-Farmers.pdf (in English).

"Construction firms that generally have a direct connection with regional administrations select the desirable areas for housing and start building their cottages. Since the first installment payment is very high (starting at 25 percent), the average Uzbek citizen will have to take out a 10–15 year loan to pay off the remaining 75 percent. Since this kind of loan may not be extended, few people buy these cottages. What's more, it's possible to find modest but spacious and well-equipped housing in Uzbekistan for an amount equal to the first installment payment.

If the cottages are not sold, the regional administration starts to divide up them up among state agencies (Ministry of Health, city administration, banks, Ministry of Education, etc.) to sell to their employees. Since salaries are very low in these agencies, it is quite difficult to find buyers, but under pressure from the administration, the heads of agencies start pressuring workers, admonishing them, bribing them, etc. There was one case where an institution's administration was forced to reduce the salaries of all personnel in order to give a worker who had agreed to such a purchase enough money to complete the purchase. Heads of agencies who cannot sell the cottages are usually threatened with dismissal and all manner of audits.

The remaining cottages are divided up among residents of nearby districts. All the residents are generally gathered together at the district administration and forced to buy cottages. Among these residents, those who have higher incomes than the others are singled out. These are usually the families of migrant workers. They are forced to enter into agreements, while the bank uses funds that are already in the family's account or a loan to cover part of the first installment and the migrant must pay for the remainder in cash." (Labor migration expert, Uzbekistan, interview, 2016).

The government of Uzbekistan was not prepared for the mass return of former migrant workers. Even though in November 2015 the Legislative Chamber of Uzbekistan's parliament approved a government program to create almost one million jobs in 2016, 20 percent of which were intended for migrant workers "returning home from Russia due to the crisis," our respondents were skeptical of this figure: in their opinion, most "banned people" did not even consider finding work in Uzbekistan, since they already knew that there were no jobs. Thus, some former migrant workers switched their focus to Kazakhstan (which has a need for workers and no language barrier or visa requirement). Moreover, sixty percent of people who travel there to work are women. People who were able to earn even a little money as migrants try to open their own businesses (carwash, repair stations, small wood processing workshops, etc.) According to one respondent, returning migrants have the option of going to the Employment Agency, where a bribe can buy them the chance to travel to the UAE or Turkey for work. The problem is that this requires a great deal of money. People who were not able to earn much money as migrants and were not able to find work upon their return to Uzbekistan, go to the "Mardikor Bazar" market for day laborers:

"A long chain of people stands along the road at the kolkhoz market in Bukhara. They are waiting to be 'bought.' Usually buyers drive up in cars and offer work on a land plot, or construction work on their house or somewhere else. It can be any type of work. They can be hired for a day or for a longer period of time. They are generally paid less

than if they were officially employed, but because former migrants on the blacklist are not able to get jobs, they have to look for any possible opportunity to earn money, all the way down to the lowest paying and most marginalized jobs." (Resident of Bukhara, interview, 2016).

Experts describe the situation with unemployment in Tajikistan as nothing less than catastrophic. Every year, approximately 120,000–170,000 people graduate from educational institutions. Even though state media outlets report that 200,000[35] jobs have been created this year, in reality only 100,000–120,000 jobs have been created.

"The government cannot even support small businesses, and in February 2016 it increased the already high cost of licenses for individual entrepreneurs. They do not understand that decisions must be made for future economic growth and that a crisis cannot be reacted to by immediately increasing taxes and fees for those same individual entrepreneurs. Even though they are now increasing taxes, this is no guarantee that the situation will stabilize. It was only last year that thousands of individual entrepreneurs handed in their licenses and stopped working entirely because of high taxes and corruption." (Former employee of the RT FMS, Dushanbe, Tajikistan, interview, 2016).

Donor countries have been forced to respond to the mass return of migrant workers to their native countries (due to blacklists or overall lack of advantage from working abroad). If these workers do find jobs at home, they frequently quit because they have become accustomed to earning more as migrant workers.

"Men who worked in Russia for an extended time and have been included on blacklists refuse to work on the domestic market because of the low salaries. The father-in-law of one of our clients worked in Russia as a cook and earned a decent salary, but he was expelled. He tried to find the same type of job here, but he was only paid 30 som a day, which isn't even five dollars, so he quit. You can't live on that kind of salary." (Employee of an NGO, Dushanbe, Tajikistan, interview, 2016).

In connection with this problem, the question of reintegrating Tajik citizens was raised as part of the migration policy of the Republic of Tajikistan. Specifically, this framework states, *"Our highest priority problems are creating a mechanism for reintegrating migrants into the country's economy; increasing the economic activity of the family members of migrant workers by providing them with professional and business training, extending microloans, and involving them in legal self-employment; and developing and implementing social projects in order to improve their standard of living and reduce the level of poverty among migrant workers."* Unfortunately, these mechanisms for reintegration have not been created.

"Right now a Chinese company is building a huge cement factory in Istiklol, which will be the largest factory in Sughd Region. During its construction, almost 1,000 Tajik workers were employed there. Some of these workers were 'banned' or just former migrants. When construction is completed, Tajiks will most likely get most of the jobs there,

35 http://www.news.tj/ru/node/208890

but the salaries still won't be able to compete with the salaries they received or could receive in Russia, so they will probably prefer to leave than to stay and work at this factory" (Employee of and NGO, Khujand, Tajikistan, interview, 2016).

An alternative to employment in cities could be private farms, which, under the land reform plan launched in 2014, were intended to be used to employ the local population and thus encourage former migrant workers to remain in Tajikistan.

In 2015, Tajikistan held a number of events to support land reform and, by default, to encourage former migrants to remain home in Tajikistan. Specifically, Governor of Sughd Region Abdurakhmon Kodiri has repeatedly stated that there is a need to provide greater opportunities for agriculturalists to develop their farms and bring their products to the city's markets. Last year, Tajikistan announced that it was creating new and open reorganized farms that could be presented to returning migrant workers to earn money in Tajikistan and not abroad. However, many migrant workers do not have the skills needed to work the land and have no knowledge of tax and business law or of the difficulties that farmers have registering forms of business activities, which makes it impossible for them to even start earning money.

At the most recent trilateral meeting among representatives of the private sector, the international agricultural community, and state agencies, Deputy Chair of Sughd Region for Economic Matters Anvar Ekubov raised the question of simplifying the procedures for registering and taxing farmers, speeding up processes for selling Tajik products (mainly dried and fresh apricots) abroad, and creating many jobs for potential migrant workers. These words, however, did not appear to be heard by the other officials present.

"The difficulties that new farmers have start with their very first step, when they receive a land use certificate. This certificate is issued 25 days after checks performed by cadastral and other services. As a rule, farmers must give something to an employee at each service. Then, they must register as independent entrepreneurs, and only then can they start working. Income tax is 10 percent of earnings. In addition, various "voluntary-compulsory" contributions are collected each month from farmers. This year, farmers have complained that they have had to contribute five dollars for developing soccer fields or building sports complexes.

"Additionally, on 15 January 2015, the state unfroze farmers' debts that had been frozen in 2009. Due to their lack of education, many people thought that their debts had been forgiven, and when they were told that they had debts of 50,000 or 100,000 som, many of them found themselves in a no-win situation. Even people who had just started to work in agriculture inherited debts from their parents" (Employee of an NGO, Tajikistan, interview, 2016).

But experts believe that even if the registration procedures were simplified and jobs were created, salaries would not be higher, and the salaries that people currently receive in Tajikistan are barely enough to cover the necessary expenses (rent, utilities, food, clothes, etc.).

Kyrgyzstan's migration policy over the past decades has focused so closely on matters of external labor migration (in other words, it was focused on "pushing out" the population with the goal of employment abroad) that domestic laws contain almost no provisions on reintegrating returning migrants. The country addresses the challenges of the economic crisis with "migration" methods, i.e., by joining the EAEU and by using its instruments to ease the plight of migrant workers.

Questions of reintegration did not make it onto the list of priorities of the National Sustainable Development Strategy of the Kyrgyz Republic for 2013–2017. The section "Labor Market and Employment" of the government's plan to implement this program lists only one task to support KR citizens employed on labor markets abroad: "expanding opportunities and ensuring the standardization of procedures for employment abroad through the introduction of organized hiring."

The lack of state measures to increase the attractiveness of employment at home and to overcome a "welfare culture,"[36] and the perception that local life is miserable in comparison with what migrants saw abroad force Kyrgyz people to leave for migration again, even under the threat of expulsion and placement in deportation centers.

> *For example, a migrant worker from Osh complained that there were no employment opportunities in her hometown. In 2015, she was banned from entering Russia for one year for violating migration laws. Now she wants to return to Moscow, even though her ban has not expired, because her son is also on a blacklist and neither one of them has been able to find work at home for over a year. To return to Russia, she changed her passport, went back to her maiden name, and took another first name. With this passport, she hopes to cross the border and find work in Russia.* (Osh, Kyrgyzstan, interview, 2016)/

Businesses to legalize migrants

> *Personal income tax receipts paid by migrant workers into Moscow's budget (witholdings from licenses) in the first half of 2016 amounted to 6.8 billion rubles, which is 2.3 times higher than income tax receipts from oil companies registered in Moscow. – 6 August 2016, Maxim Reshetnikov, head of Moscow's Economic Policy Department.*[37]

An enormous business infrastructure with an astronomical income feeds off of labor migration. In Russia this infrastructure includes the migration service itself, its expensive "free" departments and pricy commercial departments, medical centers that provide the required doctor's certificates, exam centers for Russian language and history tests, and agencies that arrange for permits, which are undoubtedly affiliated with the migration service. In both donor and receiving countries, numerous law firms focused on migrant needs have flourished. Moreover, aside from attracting migrants who need "the full set of documents," these law offices

36 Accession of the Kyrgyz Republic to the Eurasian Economic Union: the impact of migration processes. Paper No. 26/2015. Moscow: Spetskniga, 2015. Prepared by the Russian International Affairs Council and the National Institute for Strategic Studies of the Kyrgyz Republic, https://www.hse.ru/pubs/share/direct/demo_document/163477462 or russiancouncil.ru/paper26

37 http://www.interfax.ru/moscow/522333

have also attracted middlemen as clients. An example of a typical question that might be posed to a specialist or online is: "I provided intermediary services as a private individual, but I was never paid. How can I get my money?" Some widely advertised services involve organizing a trip to Ukraine for a "fresh" migration card (in actuality, this frequently means that a passport is handed over to a person who travels to a border post, where corrupt border guards place an entry-exit stamp in the passport) or issuing an ID for "any labor specialization – sling operator, installer, low current systems, etc." (these kinds of advertisements are displayed, in particular, in shuttle vans running from the metro station to the Migration Center in Saint Petersburg, where migrants can apply for permits).

In addition to law offices, an entire system of microfinance organizations offering loans with typical names like "Money for Your Wedding," "Money for Licenses," "Money for Your Homeland" in advertisements translated into national languages have sprouted up around migration.

In terms of employment, the traditional paths to finding jobs through "compatriots" or outsourcing companies are facing competition from direct offers from employers focused on migrants from CIS countries (their advertisements are adorned with photos of happy waitresses, porters, and cleaners of a not entirely "Slavic" appearance and list terms that could interest workers, like employers who pay for licenses).

Law enforcement agencies, local governments, criminal structures, special services, and social organizations of the diaspora are all involved in the trafficking of migrant workers. According to informants from Uzbekistan, these include mahallah elders, who participate in recruiting potential migrants and organizing their trafficking into Russia by issuing the certificates and credentials to young people that they need to travel abroad; local police officers; employees of passport and visa services who handle exit permits; "foremen" connected with diaspora organizations who escort groups of migrants and help them cross the border unhindered for a certain percentage of the earnings of the migrants in the group; border guards of various countries; employees of the RF Migration Service who handle licenses and other documents; companies where migrants work – there are reports that these business (like shuttle buses) are owned by leaders of the "diaspora"; these same companies also have ties with Russian construction organizations and send workers there (interview, 2016).

In 2013, one organization of the Uzbek diaspora, Umid, was shut down for technical reasons under a court ruling at the recommendation of the RF Ministry of Justice;[38] in 2011, this group had received a warning from the prosecutor's office for its intention to issue a "universal migrant card" with an individual number showing that the migrant is officially registered and has excellent personal qualities such as decency, responsibility, and honesty.[39] The leaders of this organization stated in the media that they control migrants from Uzbekistan and "bear responsibility for them." There are reports that new migrants to Saint Petersburg have found work through Umid:

38 http://www.ozodlik.org/a/25162685.html
39 http://www.fontanka.ru/2011/05/12/133/?utm_source=rnew;
http://www.fontanka.ru/2011/03/28/038/

"People who came to Petersburg on their own were met by a person holding a sign reading "Umid" after they exited the security screening area. Some people go on their own when they see a fellow Uzbek and don't have any connections; other people go with others who assure them that fellow Uzbeks won't deceive them." (Resident of Bukhara, Uzbekistan, interview, 2016).

Another flourishing business in countries involved in labor migration has grown up around the problem of blacklists. Many companies offer to "lift the ban on entry into the RF" (which is virtually impossible, so in actuality this promise amounts to an extended and fruitless effort to appeal the ban) or at least check to see if a migrant is on a blacklist.

According to experts, the staff members at these kinds of companies in Tajikistan consist of former employees of organizations that have access to databases of "banned people."

"When the old databases became outdated, they started to secure access to new ones, but no one knows how. We do know that these databases cannot be obtained directly from Russian government bodies. This means that they have their own people somewhere, that they pay someone for this". (Employee of an NGO, Dushanbe, Tajikistan, interview, 2016).

According to one expert, the best way to check whether a person is banned from entering Russia is to ask an airline (she recommended Siberia Airlines, and she also assumed that Aeroflot would have access to blacklist information):

"Armenia's migration service is only aware of bans issued by the RF FMS, but even that online database is not accurate. There are many other lists, but Siberia Airlines knows for certain: they send inquiries every day, and if a person is banned (they get their data from the border guards, which means it includes all the lists, not just the migration service list), then the airline does not sell the tickets or even return the money if the ticket was already purchased. We send our clients straight to this airline to find out for sure if they can travel to Russia." (A lawyer helping migrants in Yerevan, Armenia, interview, 2016).

In Dushanbe, it can cost up to USD 20 to check a person's status in the RF FMS database and the RF FSB database and at least USD 500 to appeal an entry ban. Meanwhile, human rights organizations offer these very same services for free.

During field missions, we were able to confirm that migrant workers in Central Asian cities are able to check their passports through the official website of the RF Directorate of the Federal Migration Service at agencies hurriedly equipped with one computer that can be found at every turn. Unfortunately, many migrants do not know that in Russia there are many other organizations that may restrict a foreign citizen's entry into the country besides the FMS Directorate, (the Ministry of Internal Affairs, the FSB, the Ministry of Defense, the Federal Financial Monitoring Service, the Foreign Intelligence Service, the Ministry of Justice, the Ministry of Foreign Affairs, the Federal Drug Control Service, and others), trust the information that is provided to them by these companies, and pay whatever is asked of them for

consultations. Meanwhile, they are usually given incomplete information and risk losing a great deal of money on travel tickets, only to be barred from entering Russia. Additionally, there have been many instances of fraud, where similar fly-by-night companies sign fictitious agreements with clients, take payment for services that have yet to be rendered, and then disappear.

Chapter 2. Post-imperial integration processes and labor migration

Labor migration is on the agenda of all the post-Soviet intergovernmental structures, but it is not at the top of the list. The Commonwealth of Independent States, the Union State of Russia and Belarus (USRB), the Eurasian Economic Union (the continuation of the Eurasian Customs Union and the Eurasian Economic Community), and the Single Economic Space of Russia, Belarus, and Kazakhstan have all declared their intent to ease customs and investment rules, lift trade restrictions, and permit the free movement of goods, capital, and workers.

The Commonwealth of Independent States: human rights and labor migration

The question of CIS membership and the current political agenda

The CIS was chronologically the first integration association to arise immediately following the breakup of the Soviet Union (1991 – the Alma-Ata Protocols; 1993 – adoption of the Charter) and is the largest in terms of membership. Initially, the CIS included all the former Soviet republics except the Baltic countries – Latvia, Lithuania, and Estonia. Turkmenistan became an "associated member" in 2005, while Georgia left the CIS as a result of the military conflict (2008, with official termination of membership in 2009). As far as Ukraine is concerned, even though its leaders called for the country's exit from the CIS after the start of the military conflict with Russia in 2014 and a bill on this subject was submitted to the Verhovna Rada in November 2016, a final decision has yet to be made: according to officials, CIS agreements (like ones on mutual recognition of higher education diplomas and pension protection) are so important that Ukraine cannot just abruptly cut ties with the Commonwealth.[40]

Ukraine's technical status within the CIS is curious in and of itself: even though it played a defining role in the Belavezha accords and the founding of the CIS, it has not ratified the protocol to the treaty creating the CIS, nor has it signed the CIS Charter. Thus, Ukraine is technically considered a "founding state" and a "participating state," but not a "member state." This has not prevented it from taking part in all manner of agreements, working groups, and other institutions within the framework of the CIS. Recently, Ukraine's unique position within the CIS has unexpectedly become an argument in political disputes related to the military standoff between Ukraine and Russia. Ukraine has used the CIS platform to criticize Russia's policies: for example, Ukraine's ambassador to Kyrgyzstan, who represented Kiev's official position at a CIS summit in Bishkek in September 2016, lodged a protest against the transfer of the CIS presidency to the Russian Federation, accusing Russia of illegally annexing Crimea and escalating the conflict in eastern Ukraine. In response to the protest, the RF president reminded Ukraine of the problem with the CIS Charter: "Regarding Russia's presidency of the CIS: As we know, Ukraine has unfortunately not signed or ratified the CIS Charter. Therefore, it can hardly presume to introduce proposals on the organization of the work of this body, this structure."[41]

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40 Speech by Pavel Klimkin, head of Ukraine's Ministry of Foreign Affairs on 9 October 2016, http://tv.112.ua/hard-talk-live/ministr-inostrannyh-del-ukrainy-pavel-klimkin-gost-tok-shou-lyudi-hard-talk-live-vypusk-ot-09102016-344654.html

41 http://www.vesti.ru/doc.html?id=2799859

It is noteworthy that despite its likely exit from the CIS, Ukraine does strive to observe the conventions and agreements adopted within the CIS framework: Aksana Filipishyna, head of the Department on Children's Rights, Non-Discrimination and Gender Equality of the office of the Human Rights Ombudsman in Ukraine, explained in a 2016 interview that in order to protect the rights of children in migration and people expelled from CIS countries, Ukraine would adhere to the corresponding CIS agreements (she was apparently referring to the Cooperation Agreement between CIS member states on the return of minors to their states of residence (Kishinev, 2002)).[42]

The effectiveness of the CIS and its bodies is criticized even from within (CIS Executive Committee), mainly due to low levels of participation.[43] However, the CIS continues to function with a significant budget,[44] which is spent on numerous meetings held in various CIS countries, the work of the Executive Committee, permanent delegations, and 85 agencies, including 70 "branch cooperation bodies."

The CIS remains a territory of political manipulation on the part of Russia. For example, the highly politicized topics of "protecting the rights of the Russian-speaking population in the Baltic countries" and "protecting the rights of Russians in Ukraine" find expression in diplomats' statements relating to other former Soviet countries, i.e. those where there are tools for applying pressure. Eleonora Mitrofanova, Ambassador-at-Large for the RF Ministry of Foreign Affairs, appeared at a TASS roundtable dedicated to Russia's language policy and the state of the Russian language in the world, where she stated: "It is necessary to raise this issue at a high level when it comes to conferring legislative status on the Russian language in former Soviet countries. This question must also be on the foreign policy agenda."[45]

Questionable advantages to integration into the CIS

According to official rhetoric, some of the benefits citizens of countries integrated into the CIS – the largest post-Soviet integration association – enjoy include guarantees of legal protection and the ability to appeal to law enforcement bodies of other participating countries; the ability to study in Russia; a common language of communication (Russian); the ability to receive a pension upon moving to another CIS country; the retention of benefits for disabled people and veterans of WWII and other military actions, as well as for the families of deceased soldiers; the possibility of visa-free travel; the possibility of working in CIS countries; and equal rights to health care.[46]

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42 http://www.e-cis.info/page.php?id=21195

43 For example, in 2015 representatives of the following CIS countries did not participate in meetings of branch cooperation bodies: Azerbaijan – **9** out of **40** (**22**%); Armenia – **7** out of **83** (**8%**); Belarus - **1** out of **83** (**1**%); Kazakhstan - **4** out of **78** (**5**%); Kyrgyz Republic - **8** out of **82** (**10**%); Moldova - **21** out of **61** (**34**%); Tajikistan - **16** out of **83** (**19**%); Turkmenistan - **6** out of **9** (**67**%); Uzbekistan - **17** out of **33** (**51**%); Ukraine - **47** out of **57** (**82**%). http://www.cis.minsk.by/page.php?id=19214

44 According to the most recent data (2013), the CIS budget was RUR 673,387,700, http://e-cis.info/page.php?id=22930

45 http://tass.ru/politika/3791361

46 http://www.cis.minsk.by/page.php?id=19147&fw=1

Under closer examination, with the exception of visa-free travel, these advantages appear questionable: for example, "equal rights to health care" means free and unhindered access only to emergency or urgent care; the ability to appeal to law enforcement agencies and the right to file a complaint with a court and the prosecutor's office on equal terms as citizens is theoretically available to any foreigner regardless of his connection with the CIS; and the ability to study in state-financed departments at Russian universities is not a given for citizens of CIS countries (while there is an annual 15,000 person quota for state-financed spots for foreigners,[47] CIS citizens experience substantial difficulties when they try to participate in these kinds of programs – restrictions on university selection, which can only be overcome be receiving a secondary diploma from a Russian school, the requirement to take the Russian USE, the possibility of studying at a desired university on a contract basis only, etc.).

In terms of the professed advantages belonging to migrant workers from CIS countries, they either have nothing in common with reality or are dubious in nature ("safe working conditions, equal pay for equal work, use of housing, social benefits (aside from pensions), and mandatory social insurance for accidents" have all been asserted).[48]

CIS documents on labor migration that deserve mention are the fairly constructive Concept of the Gradual Formation of a Common Labor Market and Regulation of Migrant Workers from CIS Participating States (2000),[49] which proposed, among other things, providing labor and employment guarantees to migrant workers and members of their families under terms that are no less favorable than for citizens of the host country; implementing a harmonized system of measures for work conditions and safety; adopting national programs to teach migrant workers the language of their host country; creating general mechanisms for monitoring the use of migrant workers' labor and protecting their rights in the sphere of social and labor relations on the basis of intergovernmental agreements; and ensuring the accession of CIS states to international conventions on labor migration matters.

However, the majority of CIS documents related to labor migration are non-binding in nature. They are called "legal acts," but they do not have any direct effect and only "promote the gradual alignment of the regulatory and legal framework of CIS participating countries in the social labor sphere.[50] Additionally, CIS agencies are continually working on model legislation:

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47 http://fulledu.ru/news/vuzi/news/2792_obyavlen-otkrytyy-nabor-inostrannyh-grazhdan-dlya-.html

48 http://www.cis.minsk.by/page.php?id=19147&fw=1

49 Approved by decision of the CIS Economic Council of 15 December 2000, http://www.e-cis.info/page.php?id=14686

50 These include, for example, the non-binding legislative act "Migration of Labor Resources in CIS countries," (1995), http://iacis.ru/upload/iblock/ef8/013.pdf; Ruling of the IPA CIS "On the Legal Regulation of Migration Processes within the CIS" (9.12.2000); Declaration on Harmonized Migration Policies of CIS Participating States (05.10.2007), Recommendations to Ensure the Legislative Regulation of Migration Processes in CIS Participating States (31.10.2007), Recommended Glossary of Terms and Concepts Related to Regulating Migration Processes in CIS Participating States (31.10.2007), Ruling of the IPA CIS "On Ensuring the Legal Coordination of the Migration Policy of CIS Participating States" (31.10.2007) http://www.e-cis.info/page.php?id=14700; Comprehensive Plan on Urgent Measures to Implement the Principles Set Forth in the Declaration on the Coordinated Migration Policy of CIS Participating States (2009) http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=2734; Concept of Common Migration Space of CIS

the CIS Interparliamentary Assembly has developed draft recommendations on Developing Migration in order to Educate and Train Citizens of CIS Participating States; the model law "On Migration"; the model law "On the Migration of Labor Resources" (new version); the model agreement "On Organizing the Recruitment of Citizens to Perform Temporary Labor Activities within the CIS"; the model agreement "On Information Exchange in the Sphere of Migration"; and others.[51]

Restrictive approach to labor migration in the CIS

- ***Repressive CIS policies regarding migrants with unregulated status***

Contrary to its declarations, the general understanding of labor migration within the CIS framework is restrictive and does not come from a human rights standpoint. These restrictions relate primarily to regulating the status of migrants – the approach to migrants who have committed even minor infractions of the migration regime is extremely strict. Most bilateral agreements within the CIS framework and national laws of participating countries recognize migrants only as people who are legally located within the country of their employment.[52] This even relates to countries that have ratified the UN Convention on the Protection of the Rights of All Migrant Workers and the Members of Their Families: laws regulating labor migration (for example, the KR law "On External Labor Migration") consider only migrants "legally located" in the country of their employment to be migrant workers, while the UN Convention refers to all migrant workers.

In the CIS, the topic of labor migration is classified under "the sphere of security" and is usually looked at within the context of "combatting illegal migration." The most sensitive issues for migrants – the unexpected tightening of migration rules, detention, expulsion, blacklists and

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Participating States (2012) http://iacis.ru/upload/iblock/a94/8_a_2012.pdf.

51 http://cis.minsk.by/news.php?id=5478

52 Agreement between the RF government and the government of the Republic of Armenia on the labor activities and social protection of RF citizens working in the RA and RA citizens working in the RF (1994); agreement between the RF government and the government of the Kyrgyz Republic on the labor activities and social protection of migrant workers (1996); agreement between the RF government and the government of the Republic of Tajikistan on labor activities and protection of the rights of RF citizens in the RT and RT citizens in the RF (2004); agreement between the RF government and the government of the Republic of Uzbekistan on the labor activities and protection of the rights of migrant workers who are RF citizens in the RU and migrant workers who are citizens of the RU in the RF (2007); agreement between the RF government and the government of the Republic of Moldova on protecting the rights of RF and RM citizens outside of their countries (1993); Agreement between the government of the Republic of Tajikistan and the government of the Kyrgyz Republic on the labor activities and social protection of migrant workers (1998); agreement between the government of the Republic of Tajikistan and the government of the Republic of Kazakhstan on the labor activities and protection of the rights of RT citizens temporarily working in the RK and RK citizens temporarily working in the RT (2006); agreement between the government of the Republic of Kazakhstan and the government of the Kyrgyz Republic on the labor activities and social protection of migrant workers employed in agricultural jobs in border areas (2003); agreement between the government of the Republic of Kazakhstan and the government of the Kyrgyz Republic on the labor activities and protection of the rights of migrant workers who are RK citizens temporarily working in the KR, and on the labor activities and protection of the rights of migrant workers who are KR citizens temporarily working in the RK (2007).

entry bans, specialized facilities for people awaiting detention – are part of the agenda of the Joint Commission of CIS Participating States of the Cooperation Agreement to Combat Illegal Migration (1998); the Council of Migration Agencies of CIS Participating States (started work in 2007); and the Advisory Board for Migration, Labor, and Social Protection. At the CIS summit in September 2016, there was discussion of creating a separate CIS migration service focused on protecting "national interests" and combatting "the influx of objectionable elements" from third-party countries and "illegal migration" overall.[53]

A glaring example of Russia's restrictive migration policy are the so-called blacklists, i.e. multiyear bans on entering the RF for administrative violations (the issuing agency is frequently unknown) that CIS citizens generally learn of at the border, when they are attempting to enter to RF for labor migration. Since 2013, when RF migration laws started to become stricter, these blacklists have become an enormous problem for migrant workers from all the donor countries looked at in this report (with the exception of Belarus). For example, according to official data, in 2015 almost 333,000 Tajik citizens were banned from entering Russia, while approximately the same number were banned in the first half of 2016 alone.[54] Almost 110,000 Kyrgyz citizens were banned from entering Russia in 2015,[55] while this number rose to 116,000 in 2016.[56] Published statistics show that 25,000 Ukrainian citizens (early 2014),[57] almost 7,000 Moldovan citizens (October 2013, even though by that time over 190,000 Moldovan citizens had violated RF migration rules),[58] and about 60,000 Armenia citizens (June 2015)[59] have been banned. The situation is less clear with citizens of Uzbekistan, however, unconfirmed data show that up to 500,000 Uzbek citizens have been banned.

Migrants are expelled from Russia and subsequently banned from entry not just for administrative violations of the migration regime, but also for traffic violations, not having documents on their person during police and migration service raids (even when all their documents are in order), and not living or working at their place of registration. These violations are sometimes interpreted completely arbitrarily:

> *"The system of how people end up on these lists is simply absurd. We have seen cases where migrants flying into Domodedovo Airport were documented there by the Border Service, but they were registered and worked in Moscow. When they went to return home through Domodedovo, they were fined and blacklisted for the fact that they were not registered in the Moscow Region."* [Domodedovo International Airport is in the

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53 Interview with Almaz Asanbayev, deputy director of the State Migration Service of Kyrgyzstan, 30 September 2016, http://www.vb.kg/doc/347935_v_sng_hotiat_sozdat_otdelnyu_slyjby_po_migracii.html.
54 http://news.tj/ru/news/tajikistan/society/20160721/s-nachala-goda-bolee-3015-tysyach-grazhdan-tadzhikistana-vyekhali-v-rossiyu-infografika
55 Data from the State Migration Service of Kyrgyzstan, http://ssm.gov.kg/reports/view/2
56 State Migration Service of Kyrgyzstan, https://rg.ru/2016/12/02/chislo-grazhdan-kirgizii-kotorym-zapreshchen-vezd-v-rossiiu-sokrashchaetsia.html
57 http://www.unian.net/politics/868715-ukraintsyi-smogut-nahoditsya-v-rossii-tolko-90-sutok-v-techenie-polugoda-zakon.html
58 http://www.noi.md/ru/news_id/29438
59 State Migration Service of Armenia, http://armenia-news.ru/06/fms-snyala-zapret-na-vezd-v-rossiyu-2-215-grazhdanam-armenii/

Moscow Region and is not technically part of Moscow City] (Consulting lawyer, Khujand, Tajikistan, interview, 2016).

Experts have noted that Russia's repressive policy in relation to migrant workers contravenes the "freedom of movement for the workforce" proclaimed by the EAEU Agreement, as well as earlier CIS agreements:

> *"No single agency bears responsibility for the expulsions, many of which, it must be said, have been carried out groundlessly. But if we look deeper, it becomes clear that this stiffening of the law, which has resulted in migrants being fined and expelled for any violation, has led to a conflict in legal norms: they contradict the policy of integration and visa-free travel between our countries and contravene the spirit of these bilateral agreements. If the government of Kyrgyzstan has to ask Russia to reduce the number of "banned people" on top of these agreements, then what was the point of these agreements in the first place? I think they are all just a fiction. And even Kyrgyzstan's accession to the EAEU have not changed the situation with the rights of migrant workers in Russia.*
>
> *"Blacklists and the expulsion of migrants are naturally a way to pressure Tajikistan. When ruling on expulsions, RF judges are guided by the 1996 law "On the Procedures for Entering and Leaving the RF," which was amended in 2000. It is specifically this law that stipulates a ban on entry. If we look at judicial practice, this law did not start working until 2013. In other words, it has become a sword of Damocles hanging over every republic that supplies Russia with migrant workers. When it is needed, this sword will drop. I think that Russia needs this practice now to promote its interests, so it has not rejected it. All of these republics are highly dependent on migrants and money transfers. While Kyrgyzstan was somehow able to adjust its policy depending on the attitude of migrant workers, Tajikistan has not done this, because our government could not care less about its migrants."* (I.A., attorney at a law firm, Tajikistan, interview, 2016).

Fleeing unemployment at home, "banned people" seek alternative options for work in other countries, but many of them try all sorts of ruses to get back into Russia by any means possible: changing their first name, last name, or address and applying for new passports, forgetting that they can be identified by their fingerprints (beginning in 2017, Russia plans to introduce mandatory fingerprinting for all foreigners entering Russia,[60] and a fingerprinting station for migrants from "visa-free" countries has been operating at Pulkovo Airport in St. Petersburg on an experimental basis since 2014),[61] and attempting to cross the border on foot to circumvent border checkpoints,[62] an act that could result in criminal prosecution under Russian law.

> *"People don't want to work here. The practice of modifying passports has now become widespread among 'banned people.' They change their first and last names, their addresses of registration. But not many take this path because this is punishable under*

60 http://www.interfax.ru/russia/538389
61 http://izvestia.ru/news/594993
62 http://www.centralasian.org/a/27992482.html?ltflags=mailer

Russian criminal law. Still, there have been a number of cases where people have been caught with modified passports at the border. Because they don't understand that their photographs and fingerprints are on record in the databases border guards use and that it is very easy to use these databases to identify a person even without a passport, migrants enter Russia and are detained right away." (Consulting lawyer, Khujand, Tajikistan, interview, 2016).

Blacklists are another factor that have pushed women into labor migration:[63]

"With the stiffening of Russian migration law, some families are in a situation where there is no one to migrate, since the father was detained in migration and his sons after him. There's no work at home, so the women end up having to feed the family." (Independent expert, Tajikistan, interview, 2016).

Along with the economic crisis, expulsion and blacklists have caused migrants to return to their countries of origin en masse, which has aggravated unemployment in these countries and impacted "the population's demographic structure, the labor market, social and political stability, … and the crime situation…, which is decidedly unwelcome for society."[64]

"Twenty-five to 30 percent of Bukhara's 300,000 residents are migrants abroad... Most of them leave between the ages of 18 and 25. In nearby villages and towns, this figure jumps to 50 to 65 percent of the population. So you can imagine what happens when these people end up on blacklists and can't travel anywhere anytime soon. There are no jobs here." (Bukhara resident, interview, 2016).

- ***Restricted access to labor markets in CIS countries***

The second aspect of the restrictive approach to labor migration in the CIS is that both domestic laws and multilateral agreements between CIS countries declare that they will protect the national labor market from "outsiders," which contravenes international documents proclaiming that migrant workers are equal to citizens and permanent residents of these countries.

Thus, on the one hand we have the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2003), ILO Convention No. 97 Migration for Employment (1949), ILO Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Equal Treatment of Migrant Workers (1975), the

63 According to the Ministry of Labor, Migration, and Employment in Tajikistan, in the first half of 2016 about 268,000 men (11 percent less than for the same period in 2015) and 40,500 women (13 percent more than for the same period in 2015) left for labor migration in Russia. The number of women who became migrant workers in the first half of 2016 amounts to 13 percent of their total number (approximately 308,500 people). Most of these migrants (almost 301,500) left for Russia.
http://news.tj/ru/news/tajikistan/society/20160721/s-nachala-goda-bolee-3015-tysyach-grazhdan-tadzhikistana-vyekhali-v-rossiyu-infografika

64 Anvar Babayev, The Migration Situation in Tajikistan: Problems and Paths to a Solution, 23 November 2016, http://cabar.asia/ru/anvar-babaev-migratsionnaya-situatsiya-v-tadzhikistane-problemy-i-puti-resheniya/

European Social Charter, and the European Convention on the Legal Status of Migrant Workers (in Council of Europe countries), which offer serious guarantees for the rights of migrant workers and members of their families. The most advanced of these is the UN Convention, which refers to **all** migrant workers, unlike even the European Convention, which recognizes migrant workers as people who are **permitted** to enter a country for the purposes of work.

On the other hand, we have the laws of Russia, the main recipient country of labor migration in the CIS. These include the Labor Code, which regulates the rights of **citizens** (i.e. RF citizens, unlike the Labor Code of Kazakhstan, which refers to the labor rights of **each person**),[65] laws on the status of foreigners in recipient countries (for example, the law "On the Legal Status of Foreign Citizens in the RF," Article 18), and multilateral and bilateral agreements between CIS countries that give priority to domestic labor resources, thus creating the possibility of placing quotas on foreign workers and restrictions on the types of activities in which they may be involved.[66] The advancement of the idea of organized recruitment of migrant workers, which is so popular in CIS countries, is also a result of assigning preference to "one's own" workers, since in this case only workers "needed" for the kinds of jobs that "native residents" refuse to perform are allowed to enter the country.

The Russian Federation has not ratified the most basic human rights document on labor migration – the UN Convention, or even the CIS Convention on the Legal Status of Migrant Workers and Members of Their Families, which retains preference for the labor rights of RF citizens. Meanwhile, in the early 2000s, the Interparliamentary Assembly of CIS Participating States, concerned about the "overflow" of workers from former Soviet countries and expressing their intention to provide for a "collective migration policy" under the law, proposed that parliaments ratify the UN Convention, ILO Convention No. 97, and ILO Recommendation No. 86 Migration for Employment.[67] A later document – the General Agreement between All-Russian Union Associations, All-Russian Employer Associations, and the RF Government for 2014–2016 – examines the possibility of ratifying a number of ILO conventions, including the labor migration related conventions No. 97 and No. 143, but this has not happened yet.[68]

In practice, "preference for domestic workers" means that the local government can make sudden and arbitrary decisions about restricting migrant labor that have a destructive impact on the lives of concrete people. For example, it turns out that it is "legitimate" to bar migrants from CIS countries from working in spheres for which they already have licenses: this is made possible under both the law "On the Legal Status of Foreign Citizens in the RF" and rulings of the RF government and individual regions based on this and Article 4 of the CIS Convention on the Legal Status of Migrant Workers, which reads:

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65 Article 3 of the RF Labor Code does not consider a restriction of the rights of working foreigners established in the law "On the Legal Status of Foreign Citizens in the RF."
66 A comparison between these two groups of documents is reviewed in the monograph: Lushnikov, A.M., Lushnikov, V.M. *Labor Rights in the XXI Century: Current and Future Trends.* Moscow, 2015.
67 On the Legal Regulation of Migration Processes in the CIS. Ruling of the Interparliamentary Assembly of CIS Participating State No. 16-6, 9 December 2000. http://cis.minsk.by/reestr/ru/index.html#reestr/view/text?doc=1125
68 http://www.consultant.ru/document/cons_doc_LAW_156312/

1. Each Party may, in accordance with its own laws, set restrictions for migrant workers in respect of:

categories of work for hire and type of business or activity in the interests of this Party;

access to paid work activities with the goal of protecting the domestic labor market and ensuring preference for its citizens in filling vacancies.

In contrast, even though Article 52 of the UN Convention allows for restrictions on migrants' access to work in order to protect the domestic labor market, it does ban such restrictions on migrants legally located in the country of employment whose permission to work is limited in time (in our case – a license).

3. For migrant workers whose permission to work is limited in time, a State of employment may also:

(b) Restrict a migrant worker's access to remunerated activities in pursuance of a policy of granting preference to its nationals or naturalized residents for these purposes by virtue of legislation or bilateral or multilateral agreements. **Any such restriction shall cease to apply to a migrant worker who has resided lawfully in its territory for the purpose of remunerated activity for a period of time prescribed in its national legislation** that should not exceed five years.[69]

An example of an arbitrary restriction on the work of migrants that is permissible under the law is a resolution issued by the governor of Novosibirsk Region that bans migrants working under a license (i.e. citizens of countries that are not part of the EAEU, who are not required to have a license, which in practice means citizens of Tajikistan and Uzbekistan) from holding jobs in areas where migrants customarily work, like public transportation (shuttle buses, taxis). The resolution is dated August 2016, but sets the ban "for 2016," i.e. upsets the plans of migrants who already paid for their licenses, counted on working in this area, and even possibly brought their families with them. Additionally, these kinds of bans create opportunities for repressions against migrants (raids to check whether or not a migrant works in a certain area) and risks that law enforcement structures and inspection authorities will commit extortion or other corrupt activities.

Governor of Novosibirsk Oblast
Resolution
of 15 August 2016 No. 176

On the establishment of a ban for 2016 on the hiring by business entities operating within Novosibirsk Region of foreign citizens performing work activities under licenses for certain types of economic activities.[70]

In accordance with Article 18.1(6) of the Federal Law of 25 July 2002 No. 115-FZ "On the Legal Situation of Foreign Citizens in the Russian Federation" and Resolution No. 1327 of the Government of the Russian Federation of 7 December 2015 "On the approval of Rules for the timeframe business entities operating within a constituent entity of the Russian Federation have for bringing the number of foreign workers they use in line with the ban on the hiring by

69 http://www.ohchr.org/EN/ProfessionalInterest/Pages/CMW.aspx
70 https://www.nso.ru/page/2367

business entities of foreign citizens performing work activities under licenses for certain types of economic activities established by the senior official of a constituent entity of the Russian Federation (the head of the highest executive body of a constituent entity of the Russian Federation)" **I hereby resolve to:**

1. Establish a ban on the hiring by business entities operating within Novosibirsk Region of foreign citizens performing work activities under a license for the following types of economic activities listed in the All-Russian Classifier for Types of Economic Activity (OK 029-2001 (KDES Ver. 1):

1) Hunting and breeding wild animals, including offering services in these areas (code 01.5);

2) Fishing (code 05.01);

3) Mining (section S, code 10-14);

4) Acting as an agent for the wholesale trade of timber (code 51.13.1);

5) Wholesale trading in timber (code 51.13.1);

6) Producing baby food and dietary food (code 15.88);

7) Operating children's vacation camps (code 55.23.1);

8) Preschool and early general education (code 80.1);

9) Basic general and secondary (complete) general education (code 80.21);

10) Scheduled automobile (bus) passenger transportation (code 60.21.1);

11) Taxi driving (code 60.22);

12) Other land-based passenger transportation (code 60.23);

13) Financial activities (section J, codes 65–67);

14) Activities in the areas of law, bookkeeping and auditing; business consulting (code 74.1);

15) Recruiting (code 74.5);

16) Secretarial, editorial, or translation services (code 74.83).

2. Guided by the requirements of the labor laws of the Russian Federation, the business entities listed in clause 1 of this resolution shall bring the number of foreign citizens they use into line with this resolution within three months from the day on which this resolution enters into force.

<…>

V.F. Gorodetsky

Inadequacy of human rights guarantees in the CIS

The protection of human rights is proclaimed in the CIS Convention "On Human Rights and Fundamental Freedoms" (1995, not signed by Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, or Ukraine).[71] The authors of this document were guided by the Universal Declaration of Human Rights, the International Covenant on Economic, Social, and Cultural Rights, the International Covenant on Civil and Political Rights and its Optional Protocol, OSCE human rights documents, and the Declaration of the Heads of State of CIS Participating States on International Obligations in the Sphere of Human Rights and Fundamental Freedoms.

71 http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=6966&fld=134&dst=100005,0&rnd=0.5717113206768675#0

However, there is no existing mechanism for the periodic review of the Convention's implementation by CIS countries, and there is also no human rights court within the CIS framework. The CIS Human Rights Committee is authorized to monitor compliance with the Convention by reviewing individual and collective appeals from any individual or NGO as long as these appeals are not anonymous, all national means of legal protection have been exhausted, no more than six months have passed since the time the means were exhausted, and the appeal has not been reviewed under a different international procedure. The IPA CIS structure currently includes the Committee on Social Policy and Human Rights, but there is no information about whether or not this Committee, which consists of CIS citizens "of high moral quality and recognized as having expertise in the human rights sphere," would review appeals of any nature whatsoever.

From the standpoint of CIS human rights norms, it is interesting to look at the CIS Convention on the Legal Status of Migrant Workers and Members of Their Families (2008): the paradox is that on the one hand it goes far beyond the scope of labor rights usually contained in conventions "on the legal status" of migrant workers by declaring the right to life, freedom, security of person, freedom of conscience, right to privacy, and other rights that are not usually expected in such a document. On the other hand, with this global approach to human rights in general, readers might expect a declaration of non-discrimination against foreign workers, but this is precisely what is lacking: the Convention was developed by the RF Federal Migration Service (1999),[72] an agency (at that time it was a separate federal body with the status of a ministry) not known for its humaneness that could serve as an example of a specific – definitely not human-rights-based – approach to the problem of labor migration. The CIS Convention only regulates the **status** of migrant workers who are **"legally located"** in the country, unlike the UN Convention on the **Protection of the Rights of All** Migrant Workers and Members of Their Families, which clearly professes the principle of non-discrimination in both its name and in Article 7. Thus it follows that the CIS Convention, like many other CIS documents (bilateral agreements between CIS countries on labor migration), takes so-called "illegal migrants" and members of their families outside the scope of special legal protection and, strictly speaking, does not deem them to be migrant workers.

The CIS Convention on the Legal Status of Migrant Workers also fails to propose any kind of reporting mechanism (like the UN Convention with its periodic review process and the opportunity it offers for civil society to submit alternative materials and issue recommendations that states must implement). This Convention was signed by Azerbaijan, Armenia, Belarus, Kazakhstan (with the stipulation that it would not undertake obligations to provide social benefits to migrants or ensure their right to education), Kyrgyzstan, Russia, Tajikistan, Uzbekistan, and Ukraine and ratified by Belarus, Kazakhstan, and Ukraine. Given the lack of any international human rights institutions available to citizens of countries that are not members of the Council of Europe, as well as the virtual inability to protect one's rights while in migration, the guarantees listed in the CIS Convention would be of particular importance to migrants from CIS countries that are not part of the EAEU (Tajikistan, Uzbekistan). In reality, however, migrants cannot be systematically protected from the mass violation of their rights due to the

72 Finalized by an expert group of the CIS Executive Committee (September 2000), approved at the 12th Session of the Advisory Board on Labor, Migration, and Social Protection of CIS Participating States (1 December 2000, Astana).

abovementioned factors (status, mechanism for implementing the Convention and monitoring its implementation).

IN THE BOX:

CIS Convention on the Legal Status of Migrant Workers and Members of Their Families (selected articles)

Fundamental Rights of Migrant Workers and Members of Their Families

Article 6

1. Within the territory of the recipient Party, migrant workers shall enjoy the rights available under law to the citizens of that Party to:

safe work conditions;

equal pay for equal work, including supplemental payments and compensation for individuals entitled thereto;

use of housing for a fee;

social benefits (social insurance), with the exception of pension benefits, in accordance with the laws of the recipient Party;

mandatory social insurance for work-related injuries and occupational diseases;

access to other paid jobs if a job is lost due to circumstances beyond the control of the migrant worker, with consideration for the restrictions stipulated in Article 4 of this Convention.

2. The rights of migrant workers relating to their performance of work activities in the recipient Party shall be regulated by the laws and international treaties to which the participant is a Party.

Article 7

1. In accordance with international treaties and the laws of the recipient Party, migrant workers and members of their families shall enjoy the following fundamental rights:

to life, freedom, and security of person;

to marry;

to equality with citizens of the recipient Party before the law and the courts;

to protection from illegal interference in personal or family life;

to protection from illegal interference with the home;

to protection of the privacy of personal correspondence and other forms of communication;

to protection of honor, dignity, and business reputation;

to protection afforded to personal property on legal grounds;

to receive an education;

to access and participate in cultural life;

to social benefits (social insurance), with the exception of pension benefits;

to free emergency (urgent) medical care and other paid medical care;

to registering the birth of a child in the recipient Party.

2. The Parties shall guarantee migrant workers and members of their families the exercise of their rights to freedom of speech, religion, expression, creation of associations and public organizations, and membership in professional unions in accordance with the laws of the recipient Party.

3. Each migrant worker and family member has the right to recognition of his legal personality within any of the Parties in accordance with the laws and international treaties of that Party.

Article 8

The Parties shall not allow cases of slavery, any other servitude, forced labor, torture, and cruel and degrading treatment or punishment of migrant workers and members of their families.

Article 10

Migrant workers shall have the right to transfer and carry money received as payment for work activities out of the recipient Party in accordance with this Convention in the currency of the recipient Party and in foreign currency in accordance with this Party's laws and international treaties.

Article 12

1. Migrant workers and members of their families may not be expelled or subjected to deportation or readmission from the recipient Party except under the grounds stipulated in the laws and international treaties of this Party.

2. The Parties guarantee that no one other than an authorized body acting on the grounds and following the procedures stipulated in the laws of the recipient Party may confiscate identity documents or documents affording the right to enter, stay in, and/or perform paid work activities to migrant workers and members of their families.

Confiscation of these documents sanctioned by authorized bodies shall be carried out only if an official document confirming such confiscation is issued. The destruction or spoliation of a passport or other identity documents of migrant workers and/or members of their family, or documents affording the right to enter, stay in, and/or perform paid work activities to migrant workers and members of their families shall not be allowed.

Article 13

1. Family members of migrant workers (with the exception of seasonal migrants and migrants working in border areas) shall enjoy the same rights as citizens of the recipient Party to general education and continuing professional education.

The meaning of the terms "general education" and "continuing professional education" shall be determined by the laws of the recipient Party.

2. The Parties shall assist in organizing programs for the families of migrant workers to study the language of the recipient country and shall not hinder study of the native language.

Article 20

Pension benefits for migrant workers and their families shall be regulated by the laws of the Party of permanent residence and the international treaties of the Parties.

Article 21

The Parties shall share, in a timely manner, information about changes in the labor, employment, and labor migration laws; rules on entry, stay, travel, and departure; living standards; procedures for performing paid work activities by migrant workers; and the state of national labor markets.

The Eurasian Economic Union: the economy and labor migration

Membership in the EAEU: the problem of inequality among participating states

In its current form, the EAEU is considered an economic association (some leaders, for example Nursultan Nazarbayev, are categorically opposed to the politicization of the Union), but it was initially conceived as a much broader integrated entity with supranational political bodies comparable in political weight to the European Union or the Council of Europe.

The sole focus on economic issues can be seen in the fact that the EAEU Treaty does not contain separate human rights provisions and only refers to laws of the country of employment when dealing with issues related to protecting the rights of migrant workers. It should be noted, however, that ambitious statements about the creation of intergovernmental human rights institutions were made within the framework of previous EAEU structures.

For example, in June 2013 Alexander Torshin, vice-speaker of the Federation Council and deputy chair of the Parliamentary Assembly of the USRB, stated that it would be necessary to create a human rights court within the EAEU as an alternative to the European Court and that a working group on this matter would be created in the near future. Torshin did not rule out the possibility that such a court might first be created within the USRB.[73] These plans were never realized.

In comparison with the CIS, the EAEU includes many fewer countries that were pursuing rather different goals when they joined the Union. For example, Belarus was primarily interested in getting low energy prices, Armenia was most concerned with border and military security and easing the migration regime, while Kyrgyzstan was looking for free export of goods and labor.

One of the obvious risks of the EAEU is that its member countries have unequal political and economic status: Russia and, to a certain extent, Kazakhstan, enjoy undisputed dominance, while Belarus, Kyrgyzstan, and Armenia play "secondary roles." While Armenia has not seen any real protests against EAEU membership, Belarusian president Lukashenka regularly announces his displeasure with integration within the USRB and the EAEU and threatens to withdraw from the corresponding agreements. Any time relations with Russia worsen even slightly, border and customs posts spring up along the border, complicating the passage of people and goods.[74]

In Kyrgyzstan – the Union's most recent member – discussions continue about the need for its accession to the EAEU. The government's official position is that "joining the EAEU helped us survive the crisis," "otherwise it would have been worse." Many interested actors (not just migrant workers) have spoken about their dissatisfaction and unmet expectations. For example, manufacturers are in a difficult situation because they must comply with more complicated technical regulations and phytosanitary and veterinary requirements (some analysts have labeled the return of Kyrgyz agricultural products from the borders with Russia and Kazakhstan "trade wars").[75] Problems with moving goods within the EAEU are regularly not resolved.

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73 http://www.postkomsg.com/news/monitoring_smi/193115/?sphrase_id=11492

74 However, USRB officials always speak proudly about how these differences are always resolved, which, in their opinion, is evidence of the "vitality of our organization" (speech made by G. Papoty at the Eurasian Form in Verona, October 2016).

75 The frequent issue of Kazakhstan turning back potatoes grown in Kyrgyzstan is a sensitive topic for Kyrgyz farmers and had to be raised with President Atambaev at a meeting the Supreme Eurasian Economic Council (31 May 2016, Astana). http://kremlin.ru/events/president/transcripts/52049

One year after Kyrgyzstan joined the EAEU, KR Minister of Economics Arzybek Kozhoshev noted with regret that domestic manufacturers did not meet EAEU requirements, so the customs posts that had been officially dismantled when the country joined the EAEU, effectively renewed their work. Some of these requirements were directly dictated by Russia (for example, to cross the border from Kyrgyzstan into Kazakhstan, tractor-trailers must meet GLONASS requirements, which call for special equipment, so there were massive backups of freight vehicles at the border). Additionally, veterinary control posts, veterinary laboratories, and the overall epizootic situation in Kyrgyzstan were found not to meet EAEU standards.[76]

Discussions about joining the EAEU are also still ongoing in Tajikistan. According to a research project of the Eurasian Development Bank, in 2016 68 percent of the country's citizens supported joining the EAEU.[77] In August 2016, a working group under the Ministry of Economics forwarded this question for review by the RT government, which, in the opinion of many experts, will not be in any hurry to issue a final decision. One of the arguments in favor of joining the EAEU is that the regime for migrant workers will be simplified:

> *"Everyone here is praying that Tajikistan will join this union. My clients are always asking when this will happen. They constantly complain about the expensive and the tight timeframe for obtaining a license. Right now a complete set of documents costs RUR 14,500 in Moscow and RUR 23,000 in Saint Petersburg. Also, since amendments to the law "On the Legal Status of Foreign Citizens in the Russian Federation" entered into force, foreign citizens must personally submit documents for a license, and the timeframe for their submission has been reduced from three months to 30 days. Most people won't be able to collect and fill out all these documents within this time, and they will have to ask intermediaries for help at enormous expense. Or they will have to take all the steps themselves, at the risk of ending up empty-handed"* (Consulting attorney, Tajikistan, interview, 2016).

Along with the plusses for labor migration, experts have noted that there are a number of important points that are altogether disadvantageous for Tajikistan, which turns the question of joining the EAEU into an agonizing dilemma.

> *I think that Tajikistan's accession to the EAEU is just a matter of time. On the one hand, by not joining the EAEU, Tajikistan will not be able to develop, move forward, or breathe, because it is hugely dependent on Russia, Moscow, and the Kremlin. Two million of our migrant workers live and work in Russia and transfer money from there (about five billion dollars a year before the crisis and 2-3 billion after the crisis). There are powerful tools of pressure – expulsion of migrant workers and the 201st Russian Division in Dushanbe, which will ensure the safety of the political system and, specifically, of the president (the Tajik army is very weak and may rely on the Russian army in the event of any internal problems). On the other hand, there are Chinese investments in Tajikistan, which amount to six billion dollars, and business projects with Iran and Turkey. You have to understand that the country is not prepared to turn all this down and does not even*

76 http://respub.kg/2016/08/12/prelesti-evrazijskoj-integracii/
77 http://www.eabr.org/r/research/centre/projectsCII/integration_barometer/index.php?id_16=49597

want to. Also, 60 percent of the budget's revenue comes from customs fees and taxes. But if we join the EAEU, we will naturally lose this revenue. No one can compensate the country for these losses – not the Eurasian Development Bank or Russia. In the example of Kyrgyzstan, we see that many people there are dissatisfied, and many people oppose this Union, because thousands of people lost their jobs with Chinese companies and were forced to migrate to Russia. So we are between a rock and a hard place: there is pressure from the Kremlin and pressure from Beijing. But we now have fewer trade relationships with Russia and other EAEU members than with the countries that I listed, including with Uzbekistan, which is not part of any union and does not want Tajikistan to join. (I.A., lawyer at a law office, Tajikistan, interview, 2016).

Uzbekistan, however, has taken a taken a hard line on the question of joining the EAEU. Shavkat Tulyaganov, deputy minister of foreign economic relations, stated: "Uzbekistan is a member of several integration organizations and structures primarily because of our own interests. Our top priority is that we are not part of a structure that could influence our decision making here. We are a member of the free trade zone, a member of the CIS. All these agreements enable us to conduct normal trade and other relations. An in-depth study by our experts has shown that membership in the EAEU or the Customs Union has nothing to offer Uzbekistan right now, but instead could impinge on our positions."[78]

Previously, in January 2015, then-president Islam Karimov stated that Uzbekistan would not participate in intergovernmental associations "like the USSR":

> *"Right now several countries are making attempts to resurrect the old Soviet system of a union state. Some foreign television stations are reporting cases where people have praised the times of Lenin and Stalin, the epoch of the USSR. This approach is not an option for us. We have our own path for development that meets the expectations of our people. I want to state once again that there will be no return to this time. Uzbekistan will never join an association along the lines of the USSR."*[79]

When Uzbekistan withdrew from the EAEC in 2008, Karimov noted that the functions of various integration associations were duplicated, making membership in them pointless:

> *"The main objectives and issues on the EAEC agenda in many ways duplicate those of the CIS and the CSTO, not to mention the fact that one and the same member states participate in structures and trade and interagency councils, as well as in the EAEC Interparliamentary Assembly and the CSTO. All this results in duplication, in parallel work, and naturally takes a toll on the efficiency and effectiveness of their activities."*[80]

Pronouncements of the "free movement of workers" and restrictions on labor migration in EAEU practice

78 https://ria.ru/economy/20161129/1482390848.html, 29 November 2016.
79 https://regnum.ru/news/polit/1883669.html#ixzz3VxBJNf7P
80 http://www.newsru.com/world/29nov2016/uzb.html

Of all the post-Soviet intergovernmental unions, the EAEU is the one most focused on the "free movement of workers," i.e. on the economic aspects of labor migration. However, as in the cases of the CIS and the USRB, this stated "freedom" is severely restricted and is not backed up by human rights guarantees.

The EAEU Treaty devotes three brief articles (96–98) to labor migration. These articles co-opt and formally replace agreements entered into between member countries at earlier stages of integration.[81] In terms of providing for equality between migrant workers and citizens and foreigners in the law, the EAEU Treaty is unquestionably a step forward. Paradoxically, however, EAEU principles on equal access to labor markets contravene the principles and practices of parallel existing structures, where domestic labor markets are protected for "a country's own people" (preference for "native residents" is proclaimed in numerous CIS documents and national laws).

The ratification of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families by Kyrgyzstan and Tajikistan led to similar legal collisions in national laws, but only in relation to non-discrimination of migrant workers: laws regulating labor migration (for example, the KR Law "On External Labor Migration"), consider only migrants who are "legally located" in the country of employment to be migrant workers, while the UN Convention refers to all migrant workers.

Thus, regardless of the laws of a member country in an integration association that is a labor migration donor, and regardless of which international conventions on the protection of migrant worker rights it has signed, all of this means nothing in migration recipient countries (primarily, of course, Russia), which proclaim preference for the domestic labor market (while also being EAEU members). The legal correlation of EAEU principles on equal rights for migrant workers and "native residents" with national labor codes and existing agreements within the framework of the CIS remains unresolved.

Implementation of the three articles of the EAEU Treaty devoted to labor migration is being worked on by a fairly large bureaucratic apparatus that is sluggish and extremely slow at resolving migration issues within the EAEU in general and in relation to labor migration in particular. From 2012–2016, the very same questions were discussed in countless meetings of the Migration Policy Advisory Committee under the Eurasian Economic Commission Board, and these questions were not always important. For instance, one discussion involved the possibility of setting up separate passport control booths "for citizens of EAEU countries." Meanwhile, important questions are never resolved. For example, a proposal to set a 90-day timeframe for migrants to register in place of the 30-day timeframe was blocked, as was simplification of border control for citizens of EAEU members traveling within the EAEU (a proposal to allow citizens of EAEU countries to cross the borders of these countries on internal passports has not

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81 Decision of the USRB Supreme State Council of 22 June 1996 No. 4 "On the Equal Rights of Citizens to Employment, Payment for Labor, and Provision of Other Social and Labor Guarantees," which lapsed when the EAEU was created (1 January 2015); the Agreement on the Legal Status of Migrant Workers and Members of Their Families (2010), which was signed by Russia, Belarus, and Kazakhstan on the basis of the EAEC treaty (2000), and the Treaty on the Customs Union and the Single Economic Space (1999) (http://adilet.zan.kz/rus/docs/P100001044).

been well received).[82] Finally, the question of pension benefits for migrant workers is only just starting to be worked out through mutual agreements between member countries.

A comparison of the overall attitude towards labor migration in the two main EAEU recipient countries (Russia and Kazakhstan) shows that while both countries have a generally restrictive approach to labor migration, problems like the mass banning of migrants from the country (blacklists) do not exist in Kazakhstan, which also does not have specialized closed institutions for migrants awaiting deportation over a long period of time. On the other hand, Kazakhstan's migration laws regarding migrants from non-EAEU countries are on some points less liberal than Russia's: these migrants can only enter into civil contracts as "domestic workers" with individuals, while quotas are assigned to the number of migrant workers who can work for legal entities. In practice, this means that citizens of Uzbekistan, Tajikistan, and other countries (China, for example) are registered as "domestic workers" in the permitted amounts (five people for one citizen of Kazakhstan), but actually work at companies (construction, agricultural, and others). In Russia, an agreement and, accordingly, a license may be drawn up with either an individual employer or a legal entity. Until recently (October 2016), even citizens of EAEU countries, namely Kyrgyzstan, had to register in Uzbekistan within five days (now this timeframe has been increased to 30 days), while in Russia, Kyrgyz citizens have been able to register within 30 days since Kyrgyzstan joined the EAEU (while Belarusian citizens in Russia have 90 days to register (this timeframe was extended in March 2016)).

Even though the EAEU regime was supposed to improve the situation of migrant workers in their countries of destination (Russia and Kazakhstan), the expectations of those workers have not been justified. On the one hand, migrants from EAEU countries have been given preference in the sphere of employment: they no longer need to execute and pay for a license every month, and they only need to enter into a labor contract with an employer to stay and work in the country legally. It is also important that members of their families have gained the right to legally stay in Russia for the terms of the migrant's labor contract, and their children now have the right – this time explicitly stipulated – to attend Russian schools. Furthermore, mutual recognition of the diplomas and other educational documents of citizens of EAEU participating countries is now being portrayed in the media as something new, although this rule is already contained in bilateral agreements within the framework of the CIS.

Overall, though, the situation of migrant workers within the EAEU has not improved dramatically, and many risks have not been overcome. For example, in Kyrgyzstan, where entry into the EAEU has been promoted at the federal level (including promises to resolve the question of blacklists), the effect of betrayed expectations has been particularly strong:

> *"Prior to joining the EAEU, we were promised that we would be able to enter Kazakhstan and Russia unhindered and that all restrictions would be lifted. The result is that everything has remained the same as it was. In order to enter, you need to fill out migration cards that are valid for a certain period of time. In Kazakhstan, you could stay for five days without registering. This is still true, but there has been no promise to increase this. You might not even manage to register within five days. What's more, in*

82 For the minutes, see
http://www.eurasiancommission.org/ru/act/finpol/migration/tm/Pages/kk_migr.aspx

Russia Kyrgyz citizens are now blacklisted for any violation. Once they are on these blacklists, they can't enter Russia for anywhere from three to five years. And if you don't receive your salary or the police start hassling you, no one will stand up for you, since for everyone we've always been illegal and will continue to be." (Migrant worker from Kyrgyzstan, 2016 (this interview was conducted before Kazakhstan increased the timeframe for Kyrgyz citizens to register from five to 30 days)).

Paradoxically, Kyrgyzstan's accession to the EAEU actually increased the number of migrants who are banned from entering Russia: the numerous reports about Kyrgyzstan's accession to this union that appeared in early- and mid-2015 and an absence of accompanying information from the government led to mass violations of migration rules by Kyrgyz citizens. Migrants arriving in Russia in early 2015 believed that registration rules were no longer in effect for them, did not execute permits, and did not register, thus becoming violators of the migration regime.[83]

Despite the fact that presidents Atambaev and Putin agreed on a "migration amnesty" in June 2015, more than 77,000 Kyrgyz citizens were still on blacklists at the time Kyrgyzstan joined the EAEU,[84] and only people who had less than half of the time remaining on their ban (about 41,000 people) fell under the "amnesty."[85] The fact that Kyrgyz authorities have repeatedly appealed to RF authorities about this issue, even outside the EAEU framework, shows that this problem cannot be resolved: in May 2016 Speaker Chynybay Tursunbekov of the Kyrgyz Parliament appealed to Valentin Matvienko, Chair of the RF Federation Council, to reduce the number of blacklisted migrants.[86]

Dissatisfaction with Kyrgyzstan's accession to the EAEU has been expressed not only by "simple people," but also by government officials in both donor and recipient countries. One member of the country's diplomatic corps characterized the situation as "a side effect of the beginning of the process of Kyrgyzstan's accession to the EAEU," meaning both differences in the laws of participating countries and the generally unfriendly position of recipient countries in relation to donor countries. When asked whether or not the current state of the EAEU corresponds to the plans of its founders, one senior official of Kazakhstan, one of the developers of the EAEU framework, answered in the negative and explained, "We have five agencies working on migration, and they are all being pulled in different directions," meaning that even agencies within the country are unable to coordinate their activities (Interview, Astana, May 2016).

While there has been an improvement in the technical terms of stay and work for migrants from EAEU countries to Russia and Kazakhstan, it has been extremely slow and has

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83 http://csip.kg/attachments/article/113/report_analysis_%202014-2015.pdf An analysis of the terms of stay and level of activity of migrant workers from the KR to the RF with account for changes in RF migration policy in 2014–2015, 2015.

84 Data from the FMS, currently unavailable.

85 It must be taken into consideration that an entry ban can be imposed not just by the RF FMS (currently eliminated), but also by other agencies, and the mechanisms for lifting these bans are not available to migrants. The KR Ministry of Labor, Migration, and Youth only cooperated with the RF FMS on these blacklists.

86 http://ria.ru/world/20160527/1439965913.html#ixzz4HzLBAQ2c

required supplemental agreements between members of this union. For example, if reports from Kyrgyzstan's State Migration Service are to be believed, it was only in late 2016 that an agreement was reached as a result of negotiations between the Kyrgyz State Migration Service and the Main Directorate for Migration Affairs of the RF Ministry of Internal Affairs to the effect that the discriminatory clauses in articles 18.8.3 and 18.8.10 of the RF Code of Administrative Violations could possibly be revoked (violators of migration rules in Moscow, Moscow Region, Saint Petersburg, and Leningrad Region are fined and sentenced to mandatory deportation, while migrants in other regions may be fined "with deportation or without" for similar violations).[87] It is totally obvious, though, that given the judicial system's current inclination towards the presumption of guilt, the practice of mass deportations for the most insignificant violations of migration rule will not change fundamentally.

Residency requirements for workers migrating from Kyrgyzstan into Kazakhstan are also slowly improving. In October 2016, the number of days for Kyrgyz migrants to register was increased from five to 30 (most migrants were not able to register within just five days). This became possible only after the signing of a Protocol on Amendments and Additions to the Agreement between the KR Government and the RK Government on the Procedures of Stay for KR Citizens in the RK and RK Citizens in the KR of 11 May 2012.[88]

With respect to unrealized expectations resulting from the creation of the EAEU, it should be noted that, on the whole, more migrants are not becoming legalized due to the simplification of employment procedures. According to our sources, the most common practice of finding employment is by entering into fictitious minimum wage agreements and registering at the location of a fictitious employer while working for a completely different employer with no social guarantees and without income actually leaving the shadow economy (a number of interviews, 2016).

The Union State of Russia and Belarus

The pseudostate model

The Union State of Russia and Belarus (USRB) is an integration association that was a precursor to the EAEU, but that also existed in parallel to it, like the CIS. The USRB has no direct connection to the lives of residents of either country – airline passengers arriving from Russia are only reminded of its existence by signs in some border guard booths that read "For Citizens of the Union State of Russia and Belarus." A significant number of officials are involved in government and government-related structures of the USRB, which has significant funds at its disposal (revenue for 2016 amounted to RUR 6,606,874,200),[89] hands out literature and art prizes, and has its own television and radio company, but in actuality represents a fiction that is used by Russia and Belarus for different purposes.

The basis for the USRB consists of the Treaty on the Creation of a Union State (signed in December 1999 and ratified in January 2000 by the parliaments of both countries) and the Action

87 http://www.mz.gov.kg/news/view/96
88 http://www.kabar.kg/rus/politics/full/112580
89 https://rg.ru/2016/03/10/budget-dok.html

Program of the Republic of Belarus and the Russian Federation to implement the provisions of the Treaty (1999). But an intergovernmental agreement is not enough for the formal existence of the USRB.

From a strictly legal standpoint, this state does not yet exist: the intergovernmental treaty is insufficient, and a Constitutional Act, which would delineate the authorities of both states on certain matters, has not been approved in final form and has not undergone the complicated process of ratification,[90] a plan for USRB has not been finalized, and other institutions conceived of at the very beginning of the integration process have not been created (for example, the Union Parliament). At the same time, the existence of the USRB is referred to at the international level as if it really does exist.

The Constitutional Act is one of the curiosities of the USRB: years of efforts to create one have led to nothing. Several drafts of the Act had already been published by 2000, a draft was discussed in Moscow and Minsk in 2001, a working group to improve this draft was created in 2002, which was followed by a commission to prepare the Constitutional Act chaired by the chairmen of the RF State Duma and the Belarusian House of Representatives (the group of Russian experts was headed by Aleksey Avtonomov, and the Belarusians were led by I. Andreyev, head of the National Legislation Center). In late March 2003, this commission approved the draft Constitutional Act and forwarded it to the Supreme State Council. Then, in June 2005, the 18th Session of the USRB Parliamentary Assembly prepared to "put the final version on the table."[91] Finally, during the 44th Session of the Parliamentary Assembly, State Secretary of the Union State Grigory Rapota announced: "We are not prepared to submit a proposal for the Constitutional Act at the current time. We have not resolved such questions as creating a single transportation, energy, and migration space, as well as many other issues." He also admitted that members of the Constitutional Commission had their "cars, salaries, and offices" and that it was "unclear what they were working on."[92]

A statement made by Aleksey Avtonomov, a co-author of both the USRB Treaty and the draft used as the basis for the Constitutional Act, is noteworthy: he recognized that the USRB technically lacked legitimacy, that the human rights sphere is dependent on the Treaty's economic provisions, and that neither Russia nor Belarus wants to transfer part of their powers and authority to bodies of the Union State. In response to a question on the creation of the USRB, Avtonomov stated:

> *"But it [the Union State] has not yet been created. There's not much to be proud of. Especially since there's one problem – the main problem – that we have not been able to settle. This is the delimitation of matters of authority. And, by the way, the main component of the Treaty is economics, in other words, the free movement of people, capital, services, and goods. And human rights, business rights, protection of consumer rights, the creation of all-union associations, the regulation of investments both here and*

90 The Constitutional Act of the USRB should have been ratified by the Union Parliament (which was never created; in its place is the Parliamentary Union Assembly of Belarus and Russia, which consists of members of the Russian and Belarusian parliaments), then approved by the USRB Supreme State Council, and then voted on in a referendum.

91 http://www.postkomsg.com/news/various/169753/?sphrase_id=11492

92 http://www.belaruspartisan.org/politic/234838/

abroad are all connected with the economics. So this is exactly what we have not been able to spell out, because this question is political. It is very complicated. So depending on jurisdiction, it turns out that Russia and Belarus will have to give up some of their authorities, hand them over to the Union State, and then undertake to implement the decisions of Union bodies. In other words, they will delegate some of their authority to the Union State. So you can see how subtle and complicated this issue is."[93]

However, senior Russian and Belarusian officials are not bothered by the absence of the Constitutional Act: "We have settled for what we have, and we are trying to resolve specific issues that arise in the lives of our peoples and our countries" (A. Lukashenka, 16 October 2012, press conference with regional Russian media).[94]

According to an independent sociological survey of Russians conducted during one of the periodic crises in Belarusian-Russian relations caused by disagreement over gas prices (January 2007), only 21 percent of Russians thought that the relationship between Russia and Belarus was good, while 57 percent thought it was bad. Furthermore, only 16 percent of Russians thought that Russia and Belarus would unite into a single state in the near future, and 60 percent did not think this would happen.[95] The results of this survey are not as noteworthy as the belief among respondents that the unification of Russia and Belarus had not yet occurred in 2007. Technically, the USRB has not changed since then, but attempts are still being made to convince the international community that this state does actually exist.

Article 16 of the Treaty on the Creation of the USRB also never came to fruition. The articles reads that "a Human Rights Commission shall be established in order to further the implementation and protection of fundamental human rights and freedoms of citizens of the Union State. The authorities of this Commission shall be governed by a special Regulation approved by the Supreme State Council."[96]

At a meeting of the USRB Council of Ministers on 2 April 2001, officials admitted that the preparation of proposals to form the Human Rights Commission had not been completed; the Council of Ministers planned to prepare the Regulation on the Human Rights Commission for August 2002 (the RF Ministry of Justice, the RB Ministry of Justice, the USRB Parliamentary Assembly, the Office of the RF Human Rights Ombudsman, and the National Legislation Center under the President of the Republic of Belarus were to have been responsible for this). Now there are no signs that this Commission exists as part of the USRB.

Recently, after the annexation of Crimea and the start of Russia's armed aggression in Eastern Ukraine, which led the EU and other countries to place sanctions on Russia and Russia to retaliate with sanctions of its own, as it found itself in a deep economic crisis, the Union State has been used as a substitute for Russia to put political pressure on the EU through countries where there are players who sympathize with Russia and hope to restore business ties and circumvent the sanctions.

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93 https://rg.ru/2005/07/14/avtonomov.html
94 http://naviny.by/rubrics/politic/2012/10/16/ic_news_112_403641
95 Survey of the population covering 100 localities in 44 RF regions with 1,500 respondents. http://bd.fom.ru/report/map/d070424
96 http://www.soyuz.by/about/docs/dogovor5/

A glaring example of this type of pressure is the V Eurasian Forum, which was held in Verona in October 2016. This annual conference has taken place in Italy since 2008. It was initially called the Italian-Russian Forum but was renamed the Eurasian Forum in 2012. The participation of the heads of the largest Russian oil companies, banks, and corporations speaks to the importance of these meetings for the Russian establishment. Their goal is to mobilize pro-Russian forces in the West, while the EAEU and the USRB are used as platforms for restoring economic relations with the EU and for creating a "Greater Eurasia from Sakhalin to Lisbon."

"Harmonized migration policy," violations of the right to free movement and labor in the USRB

Like CIS documents, USRB documents relating to migration[97] are declarative in nature, and a "harmonized migration policy" of Russia and Belarus is understood as a means to combat illegal migration by sharing information about people who are banned from entering and leaving both countries and by recognizing and implementing each other's bans.[98] While in 2003, the Intergovernmental and Interagency Working Group to Develop Recommendations to Harmonize Migration Policy and Implement Coordinated Measures to Combat Illegal Migration and Other Related Illegal Activities[99] was still comprised of experts on migrant and refugee rights and the constitutional rights of citizens, in 2015 the members of a similar group only represented law enforcement and transportation agencies.[100]

Belarusian citizens in Russia have one important advantage over other foreigners: with the virtual erasure of the border between Russia and Belarus, Belarusian citizens can be located in Russia without a migration card, and their trips into Russia are not documented by border authorities (under the Agreement to Ensure the Equal Rights of RF and RB Citizens to Freedom of Movement and Selection of a Place of Stay or Residence within the USRB Participating States" (2006)).

However, even long-existing provisions are being violated: for example, Russian courts adopt resolutions to deport Belarusian citizens from Russia for violating migration rules, namely by not having a migration card.

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97 Main Trends in Migration Policy in the Participating States of the Treaty on the Creation of the Union State (2005); Regulation on the Intergovernmental and Interagency Working Group to Develop Recommendations to Harmonize Migration Policy (2009); Action Plan for the Period of 2014–2016 to Create a Single Migration Space within the Participating States of the Treaty on the Creation of the Union State (2014).

98 See, for example, the Agreement between the RF Government and the RB Government on Reciprocal Recognition of and Procedures for Implementing Decisions to Deny Entry into the Participating States of the Agreement; Agreement between the RF Government and the RB Government on the Procedures for Sharing Information about RF and RB Citizens in Relation to whom Restrictions on Departure are in Effect; both signed in Moscow on 3 March 2015.

99 The composition of this group was approved under Resolution No. 23 of the USRB Council of Ministers of 29 October 2003.

100 The composition of this group was approved under Resolution No. 15 of the USRB Council of Ministers of 29 September 2015.

On 14 April 2016, the Kirov District Court of Saint Petersburg ruled to deport Belarusian citizen Sergey Stoma from Russia and hold him in a temporary foreign citizen detention center until his expulsion for violating residency requirements in Russia (Article 18.8.1 of the RF Code of Administrative Violations) by not having a migration card. This resolution had to be appealed with the Saint Petersburg Municipal Court to achieve Stoma's release from prison.[101]

Despite the "Union State," Belarusian citizens must register in Russia (as Russian citizens must register in Belarus) within a certain timeframe, which was only comparatively recently (March 2015) increased from 30 days to 90.[102] There have been cases where poorly informed RF migration service officials unfamiliar with these changes have threatened migrants from Belarus with fines and expulsion:

"On 26 May 2016, I went to the Vasileostrovsky District FMS office in Saint Petersburg to register after one month in Russia. Before going there, I checked online to make sure that our countries had agreed to increase the term of stay for their citizens to up to three years last March, so I wasn't really worried. I started working on 25 April 2016, and my employer told me that she would only hire me after a one-month probationary period. After one month, she officially hired me and allowed me to use the organization's address for my registration: she gave me notarized copies of the founding documents, copies of her own documents, and a copy of our labor contract and told me to take care of it all myself. After checking my documents, a migration service inspector told me that my term of stay without registration had expired and that if I didn't leave right away and redo the documents, she would call the police, who would take me to migration control, fine my employer, and deport me from Russia. I started to argue with her and tell her about the Agreement, which says 90 days, but she told me this was only for Ukrainian citizens and sent me to a stand by the entrance, where it was written that the term of temporary stay for Belarusian citizens is limited to 30 days. Fortunately, the director walked into the room and post-dated my contract." (A., migrant from Belarus, Saint Petersburg, interview, 2016).

When speaking of freedom of movement and labor within the USRB, it should be noted that as long ago as 1996, long before the creation of the EAEU and its precursors, the Eurasian Economic Community, the Customs Union and the Single Economic Space, migrant workers from Belarus traveling to Russia were provided with the same opportunities for employment as Russian citizens (without work permits or licenses) – these rights were granted under Decision No. 4 of the Supreme Soviet of the Community of Belarus and Russia of 22 June 1996 "On the

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101 ADC Memorial archives.

102 On 3 March 2015, the RF Federation Council ratified the Protocol on Amending the Agreement between the Russian Federation and the Republic of Belarus to Ensure the Equal Rights of RF and RB Citizens to Freedom of Movement and Selection of a Place of Stay or Residence within the USRB Participating States of 24 January 2006. Pursuant to Article 2 of the Protocol (http://www.consultant.ru/cons/cgi/online.cgi?req=doc&base=LAW&n=189596&fld=134&dst=100009,0&rnd=0.5544928845192658#0), the term of stay for Belarusians in Russia and Russians in Belarus was increased from 30 to 90 days (Article 3 of the Agreement http://www.consultant.ru/document/cons_doc_LAW_79643/a1fb9ae290360532369901b7a4dea87791a46267/).

Equal Rights of Citizens to Employment, Payment for Labor, and Provision of Other Social and Labor Guarantees." [103]

Nevertheless, research by ADC Memorial has shown that Belarusian citizens in Russia frequently work without formal employment or enter into fictitious labor contracts.

The question of protecting migrant workers depending on their country's membership in an integration association

A comparison of the situation of migrant workers in countries that are part of various intergovernmental formations shows that Belarusian citizens, who have recently been allowed to register in Russia within 90 days, are technically in the most "privileged" situation; their equal right to employment appeared in 1996, and entry bans into Russia do not apply to them because there is no border control. Second place goes to citizens of EAEU countries, who have received the advantages described in the EAEU Treaty.

The worst off are migrant workers from CIS countries that are not EAEU members (Ukraine, Moldova, Tajikistan, Uzbekistan):[104] they have no employment privileges (they need a license for employment with individuals or legal entities in Russia and a work permit for employment with individuals as "domestic workers" in Kazakhstan), they must register within seven days (as opposed to the 30 days allowed for migrants from EAEU countries)' their family members can only live with them for a limited time (family members of migrants from EAEU countries can stay for the same term as the migrant's labor contract); and their children have only limited access to education (the children of migrants from EAEU countries have the right to attend school). Migrants from Tajikistan have some advantages in Russia as a result of bilateral agreements between the two countries,[105] but their situation is extremely difficult in Kazakhstan.

However, some data shows that there have been signs of improvement in the situation of the children of migrants in Russia from non-EAEU countries: according to an internal migration service order that was never published, the terms of legal residence for the children of migrants from Uzbekistan and Tajikistan are also being extended for the term of the parent's labor contact or license (the practice of applying this order requires monitoring).[106] Furthermore, it should be noted that donor countries that have ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Tajikistan, Kyrgyzstan) are taking some measures to fulfill their obligations to citizens in migration. Even though these measures, which include creating an ombudsman for migrants at consulates and visits by

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103 http://www.consultant.ru/document/cons_doc_LAW_75118/

104 A significant barrier to labor migration for Georgian citizens is the visa requirement (while Russian citizens do not need a visa to visit Georgia).

105 Federal Law No. 43-FZ of 2 April 2014 "On the Ratification of the Protocol on Amendments to the Agreement between the RF Government and the Government of the Republic of Tajikistan on Labor Activities and the Protection of the Rights of RF Citizens in the RT and RT Citizens in the RF of 16 October 2004," pursuant to which, prior to the introduction of the license system, Tajik citizens could have work permits for a period of up to three years, while migrants from other countries had to renew these permits every year. http://www.consultant.ru/law/hotdocs/32698.html

106 This information was received by the Tsentralny District Migration Service Office in Saint Petersburg in February 2016.

diplomats to detention centers for foreigners who have violated the migration regime, are still incomplete and insufficient, overall this is one positive trend.

Still, the risk of cruel exploitation, xenophobia, arbitrary treatment by the police, the high likelihood of becoming a victim of corruption or hate crimes, the lack of social protection, and difficulties accessing medical care remain a reality for migrants from all of these countries, regardless of their membership in intergovernmental unions. Job safety is also a common problem for all migrants:

> *On 27 August 26, there was a fire at the Pechatny Express Printing House on Altufevsy Shosse in Moscow. Seventeen women, 14 of whom were migrant workers from Kyrgyzstan, including one minor and one pregnant woman, died from smoke inhalation and carbon monoxide poisoning. Many of them had small children in Kyrgyzstan. The Kyrgyz Embassy reported that it had raised the question of compensation for the victims' families. After consultations involving the Kyrgyz State Migration Service, the Ministry of Labor and Social Protection, the Federal Labor and Employment Service, the Russian Ministry of Internal Affairs, and attorneys, each family was paid compensation in the amount of 300,000 som (almost 4,000 euro) in September 2016.*[107]

This incident became widely known, but it is far from isolated. A widespread practice in Russia is for migrant workers and their families to live at their places of work (in portable trailers at construction sites, utility rooms and production facilities). In January 2016, twelve people, including three children, living in a sewing workshop in Moscow (Stromynka) perished after a nighttime fire. Eight of the victims were Kyrgyz citizens, two were people of Kyrgyz origin with Russian citizenship, and they were all from the regions of Osh or Batken. The two remaining victims were citizens of Uzbekistan.[108]

Finally, it should be noted that the EAEU inherited the "Agreement on the Procedures for Investigating Workplace Accidents Involving Citizens of One of the Member States of the Eurasian Economic Community during the Performance of Labor Activities in Another Member State of the Eurasian Economic Community" (2013)[109] from previous stages of integration, but no information is available about whether or not it has actually ever been applied.

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107 http://www.mz.gov.kg/news/view/95
108 https://ria.ru/incidents/20160202/1368787087.html
109 Ratified by the RF within the EAEU framework in October 2014. http://moscalkova.ru/http_moscalkova_ru_allnews/o_ratifikacii_soglasheniya_o_poryadke_rassledovaniya_neschastnyh_sluchaev_na_proizvodstve/

Conclusion

Labor migration has become a regular way of life for millions of people in the former Soviet Union. The majority of migrants from former Soviet countries in Central Asia (Kyrgyzstan, Tajikistan, Uzbekistan) travel to Russia and Kazakhstan, while hundreds of thousands of people from countries that have chosen the European path of integration (Moldova, Ukraine, Georgia) and have reoriented themselves towards Europe for migration still travel to Russia as well for work (in the case of Georgia, migration is complicated by the need for a Russian visa). Meanwhile, an overwhelming number citizens of Armenia, which is both an EAEU participant and a European Union-associated country, travel to Russia for work.

Inertia, economic stagnation, and – in some cases – a harsh political regime are not the only reasons why so many migrants cannot even conceive of a different way of earning money. There is also a tremendous interest in revenue from migration on the part of various actors in both donor and recipient countries (from the government and businesses affiliated with it in donor countries to migration services and their infrastructures in recipient countries, and criminal associations that are in bed with law enforcement agencies).

Against the background of this economic and political environment, caused by the pursuit of revenue from labor migration, the migration strategies of donor countries are less important. These strategies vary from betting on labor migration as a primary source of national revenue to rejecting the need for it and persecuting migrants who travel abroad for work.

Given the harsh approach to migrants' status in their countries of employment (primarily Russia), donor countries do surprisingly little to protect their citizens abroad: diplomatic and other missions do not provide sufficient support, even the most blatant violations of human rights are ignored out of a desire to avoid "spoiling relations" with a more influential country, and the continual restructuring of migration bodies has damaged the competence of their workers and the quality and transparency of their work.

Despite the fact that freedom of movement and labor has been proclaimed in various agreements, the approach to labor migration of intergovernmental associations existing in the former Soviet Union continues to be restrictive. First of all, this includes repression against migrant workers who have committed even minor infractions of migration rules and lost their "regulated status" in their country of employment, leading to deportation and – in the case of Russia – multiyear entry bans (the problem of so-called blacklists). A similar approach of recognizing only people who are "legally located" in the country of employment as migrant workers is found in migration laws and bilateral agreements between certain countries and contravenes the UN Convention on the Protection of the Rights of **All** Migrant Workers and Members of Their Families, which has been ratified by a number of countries. Second, migrant workers' access to labor markets in other countries has been restricted, even in the EAEU, which has declared freedom of movement for the workforce (the national laws and bilateral agreements of certain countries claim priority for the national labor market and are not in line with the EAEU Treaty and the international conventions ratified by some countries).

Accession to intergovernmental unions, primarily promoted by Russia, does not provide migrant workers with all the advantages it promises. The easing of migration rules is proceeding

at an extremely slow pace and requires additional agreements between specific countries, as well as membership in unions like the EAEU. The problem of protecting the rights of migrant workers remains unresolved, regardless of whether or not a donor country has acceded to a particular union.

Inequality among countries that make up the EAEU has meant that less prosperous countries have inevitably been subjected to political pressure from more powerful countries, which contravenes the stated exclusive economic nature of the EAEU.

Some countries' approach to labor migration as a, if not the, leading branch of the national economy has led to stagnation in manufacturing and agricultural production, a lack of desire on the part of the country's residents to work at home, and, as a result, the inability of countries to reintegrate thousands of migrants returning home due to the economic crisis in Russia or migrants who have been blacklisted. The advantages of labor migration pale in comparison to the negative consequences noted by experts, which include migrant fatalities at work, abandoned families and orphaned children, a return to harmful traditional practices (forced early marriages), trauma from humiliations (hate crimes, arbitrary treatment by the police and other law enforcement structures, attacks by nationalists, fraud committed by employers and intermediaries), loss of health, widespread HIV infection and other illnesses, and vulnerability of migrants to recruiters from radical religious movements, especially since the main revenue from labor migration goes not to the migrants themselves, but to the structures that parasitize them.

Mass migration in the former Soviet Union is an established phenomenon that is not going to go away. However, a number of measures can be taken to humanize the situation and improve access to human rights for migrants:

- Migration laws and other documents (strategies, action plans) of countries involved in labor migration must be in line with the international obligations of these countries, which means that they must fully include norms of international law relating to migration, including the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Migrant workers must have the real opportunity to protect their rights in domestic courts on their own or through their representatives by citing the relevant norms of migration laws.

- The conventions of post-Soviet intergovernmental unions relating to migration and human rights (like the CIS Convention "On Human Rights and Fundamental Freedoms," the Convention on the Legal Status of Migrant Workers from CIS Participating States and Their Family Members) must be updated by developing a mechanism to monitor the implementation of legal norms: protocols on individual and collective complaints from migrant workers; the ability to submit reports on observance of migrant rights, including alternative reports from members of civil society; and a periodic review procedure to monitor compliance with human rights in the CIS, EAEU, etc. (following the example of the UN's periodic review process), where representatives of civil society could discuss the situation in a country and state their issues and requests in the spheres of human rights and labor migration.

- All CIS countries must ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Social Charter of the Council of Europe (and the additional protocol on collective complaints), and the ILO Migrant Workers Convention. International organizations (the UN, the Council of Europe, the European Commission, and the European Parliament) must closely track the problem of the legal status of migrant workers and their families and compel countries in the CIS, EAEU, USRB, and any other union structures (which will likely come and go in the years ahead) to enforce the norms of international law relating to people in migration.

ANNEX

Ratification of labor migration conventions by CIS countries

	RF	RB	RK	RA	KR	RT	RU	Az.	Ukr.	RM	Turkm.	Geor.
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1997–2003)				S 26.09. 2013								
					R 2003	R 2002		R 1999				
ILO Convention No. 97 “On Migrant Workers” (1949)				R 27.01. 2006	R 10.09. 2008	R 10.04. 2007				R 12.12. 2005		
European Convention on the Status of Migrant Workers and Members of Their Families (1977)		-	-		-	-			S 02.03. 2004	S 11.07. 2002	-	
									R 2007	R 20.06. 2006		
CIS Convention on the Status of Migrant Workers and Members of Their Families (2008)	S 2008		S 2008	S	S	S	S	S	S			S
		R, EF 2010	R 31.12. 2009, EF 2010	R, EF 2010	R, EF 2010			R, EF 2010	R 21.12. 2011, EF 2012			
CIS Convention on the Human Rights and Fundamental Freedoms (1995)	R, EF 11.08. 1998	R, EF 11.08. 1998		S	R 21.08. 2003	R, EF 11.08. 1998				S		S
ILO Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (1975)				R 21.01. 2006		R 10.04. 2007						
European Social Charter (1961)									S 02.05. 1996			
	Partially ratified*											

S – Signed

R- Ratified

EF – entered into force

* - 19 of 31 articles and a number of individual clauses were ratified (see RF FZ No. 101 “On the Ratification of the European Social Charter”).