

# FROM TAJIKISTAN TO RUSSIA: VULNERABILITY AND ABUSE OF MIGRANT WORKERS AND THEIR FAMILIES

Article 1: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article 3: Everyone has the right to life, liberty and security of person. Article 4: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article 5: No one shall be subjected to torture or to cruel,





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# INTRODUCTION

Every year, hundreds of thousands of people leave Tajikistan to find work abroad <sup>1</sup>. More than 90% of them go to Russia. As of 3 March 2014, according to the Russian Federal Migration Service<sup>2</sup>, there were 1,033,914 Tajik citizens<sup>3</sup> in Russia, representing approximately 10% of foreign citizens residing in the country. Among Central Asian countries, Tajikistan is second only to Uzbekistan in terms of the number of citizens living in Russia.

FIDH and ADC Memorial have undertaken a series of joint investigations to document the situation of Tajik migrant workers in Russia and the violence, xenophobia and violations of economic and social rights they face. An FIDH/ADC Memorial report<sup>4</sup> published in 2011 analysed the measures taken by the Tajik government aimed at protecting its citizens working abroad, including the adoption of multilateral and bilateral agreements and the creation of the Migration Service. The report evaluated the draft laws on external migration and Private Employment Agencies (PEA). FIDH and ADC Memorial concluded that measures had not gone far enough. In particular, consular protection was inadequate and cases of exploitation, forced labour and deception by intermediaries were not effectively investigated. They found that mechanisms for protecting migrant workers lack implementation.

Two years after the release of the report, FIDH and ADC “Memorial” organised a follow-up mission in Tajikistan in June 2013 to assess institutional and legal changes to migration policy and to document ongoing challenges faced by Tajik migrant workers and their families. During the mission, particular attention was paid to gendered aspects of migration, the situations of women migrants and of spouses of migrant workers.

The investigation was conducted within the framework of FIDH’s project on migration in the post-Soviet region, which seeks to strengthen cross-border collaboration between organizations defending migrants’ rights. The mission took place from 3 to 8 June 2013 and was organized by the Tajik Bureau for Human Rights and Rule of Law (BHR) and the Human Rights Centre (HRC) in Tajikistan. FIDH and ADC Memorial express their thanks to the teams of these two organisations and especially to Nargis Zokirova (BHR) and Nodira Abdulloeva (migration expert, HRC) who co-organized the mission. FIDH and ADC Memorial also thank Nodira Abdulloeva for her assistance in drafting this report.

The mission delegation was composed of Andrey Yakimov and Amandine Regamey. The delegates met with government representatives, staff of international, non-governmental and donor organisations, experts, political activists, as well as with migrants and migrant’s families. The delegation visited Dushanbe as well as the cities of Khujand and Istraftshan (Sogd Province), Qurgonteppa and nearby settlements (Khatlon region). The delegates thank all those who assisted the organisation of meetings and who took time to share their knowledge of the situation.

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1. According to official statistics, 744 360 Tajik labour migrants were working abroad in 2012, including 657 345 men and 87 015 women (Ombudsman of Tajikistan 2013).

2. <http://www.fms.gov.ru/about/statistics/data/details/80887/>

3. <http://www.fms.gov.ru/about/statistics/data/details/54891/>

4. FIDH-ADC Memorial (2011), *Tajikistan: Exporting the Workforce - At What Price?* available at [http://www.fidh.org/IMG/pdf/taj\\_report-2.pdf](http://www.fidh.org/IMG/pdf/taj_report-2.pdf)

Since 2011, several reports on Tajikistan have been published and the human rights situation in Tajikistan has been examined by several UN committees (see *infra* and references in Appendix 2). This report aims to focus on developments since 2011 and to further explore some key aspects of labour migration from Tajikistan to Russia<sup>5</sup>.

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5. This report evaluates steps taken by Tajik authorities towards protecting citizens working in Russia since 2011. It does not address the situation of foreign citizens living and working in Tajikistan, nor the particular problems faced by refugees. Though a brief overview of the problems faced by Tajik migrants in Russia is given, based in particular on ADC Memorial's experience, neither the analysis nor the recommendations made to the Russian government are intended to be exhaustive.

# I. MIGRATION: CAUSES AND CONSEQUENCES

Increasing numbers of Tajik citizens leave the country each year to find work abroad: “People go, in spite of the crisis. The orientation is – abroad! The number of potential working migrants is increasing.”<sup>6</sup>; “From four years old, children want to go, ‘I want to be a Russian’, they say”<sup>7</sup>. In the Sogd region of Tajikistan, according to official figures, a total of 152,829 people migrated for work in 2011. In 2012 the figure was 226,178 (including 25,000 women) and there were 105,000 labour migrants during the first five months of 2013<sup>8</sup>.

## 1. Migrants: profile, reasons and conditions

### 1.1 Women, Families, Youth and Rural Populations: the New Faces of Migration

According to the Tajik Ministry of Labour and Social Protection, most members of the country’s female population are of working age, but the majority are not economically active. They often work within the home, raising children, and looking after the elderly. Women also tend to work in the informal sector, including on markets<sup>9</sup>. These roles make them an invisible majority.

Since 2011, the flow of women migrant workers into Russia has increased sharply. According to official figures, 744 women left in search of jobs abroad in 2011 and more than 124,000 in 2012<sup>10</sup>. It is estimated that today between 15% to 20% of migrants are women. It seems that in most cases women leave for the same reasons as men: to improve the financial situation of themselves and their families, to buy or repair a house, pay for children’s education, weddings, etc. Women also leave to join their husbands in Russia, either to persuade them to come back home or to help them earn money. Sometimes they go instead of their husbands: “Sometimes the husband cannot go to Russia, for example if he’s on the non-entry list, and only his wife can go to Russia to work”<sup>11</sup>. Most women, especially young women, take the decision to migrate in consultation with their husband, their husband’s family or their own family.

Although women migrants tend to make significant contributions to the family budget through remittances, women migrants, especially those who leave the country alone, often suffer from stigmatisation. They are accused of not fulfilling a “woman’s role” and of leaving children in the care of their grandparents: “It’s their right, of course, but we don’t really want this, because they leave their families – and anyway they don’t find a good job”<sup>12</sup>. According to Tatiana Bozrikova from the NGO Panorama, “The status of women changes with migration, but it’s a

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6. Interview with Tatiana Bozrikova, NGO Panorama, Dushanbe, 4/06/2013

7. Interview with Zarofi Khudzhaeva, Islamic Renaissance Party of Tajikistan, Dushanbe, 5/06/2013

8. Interview with Dzhamshekhon Ataev, Deputy Head of the Migration Service in the Sogd Region, Khujand, 07/06/2013. Official figures are to be treated with caution, as they are based on migration cards filled out by the migrants when they leave the country, which are not systematically completed or collected by border guards.

9. Women constitute over 75% of workers in the open markets in Tajikistan, where they work in very difficult material conditions, with a constant fear for the loss of their plot in the market or confiscation of goods. Women who sell the surplus of their household economy in the street are particularly vulnerable.

10. Human Rights Centre in Tajikistan, Alternative Report to CEDAW (2013)

11. Interview with Khainiso Rasulova, Association “Women and Society”, Khujand, 7/06/2013

12. Interview with Z. Khudzhaeva, Islamic Renaissance Party of Tajikistan, Dushanbe, 5/06/2013

two-edged sword: if she goes alone, then she has a higher economic status, but there is a lot of prejudice against her. She's seen as a wanton woman"<sup>13</sup>.

In recent years, there has also been an increase in the migration of families, which tends to be longer-term than traditional labour migration of men<sup>14</sup>. "Before, in the planes, there were only men: now there are women and children"<sup>15</sup>. According to HRC, migrants coming from rural areas of Tajikistan and young people (aged 15 to 24 years) constitute an increasing share of labour migrants<sup>16</sup>.

## 1.2 "Whether or not you want to, you have to go"

The economic situation remains the main reason for leaving Tajikistan. According to unofficial data, unemployment rates in the country are between 30 and 45% of the population of working age<sup>17</sup>. According to the Head of the Regional Centre for Employment<sup>18</sup> in Khatlon Province, the average salary there is 700-800 Somoni (110-125 Euros) per month. Of a population of 145,000 persons, about 30,000 leave the region each year. Migration tends to be seasonal, although increasingly migrants try to remain in Russia. According to respondents in Zaria Vostoka, a village near Qurghonteppa (a former *kolkhoz*) visited by the delegation, "How could we do without Russia?", "We couldn't, there are only fields here", "Some of us have six, seven children", "There are no factories here, no plants", "Whether or not you want to, you have to go"<sup>19</sup>. Migration is generally perceived as a necessity, as something that would be avoided if possible: "Eight out of ten migrants go because they have to. They don't want to go, but there is no choice. The youth cannot think without migration. They perceive migration negatively but without the money from migration, how can you build a business?"<sup>20</sup>.

According to one respondent, "In the Russian Federation you can open your own business, in Tajikistan you'll be crushed under taxes"<sup>21</sup>. Economic development is further impaired by the high price of oil (1,5 USD/litre in 2013) and by the weakness of the state infrastructure.

Although economic problems remain the main reason for migration, some migrate for political reasons. Young men often leave straight after finishing school to avoid conscription, fearing abuse<sup>22</sup> and the risk of being sent to conflicts like those in Khorog during the summer of 2011<sup>23</sup>. It is difficult to assess whether religious reasons also motivate departure. One respondent told the delegation, "In Russia it's freer than here; in Russia you can wear a hijab, but in Tajikistan it's forbidden"<sup>24</sup>.

13. Interview with Tatiana Bozrikova, NGO Panorama, Dushanbe, 4/06/2013

14. Interview with Zarofi Khudzhaeva, Islamic Renaissance Party of Tajikistan, Dushanbe, 5/06/2013

15. Interview with Tatiana Bozrikova, NGO Panorama, Dushanbe, 4/06/2013

16. Human Rights Centre of Tajikistan, Respect of economic and social rights of Tajik migrants workers by the Republic of Tajikistan, Submission to the 53 Pre-Sessional Working Group of the CESCR (26 May 2014 – 30 May 2014), p. 1

17. HRC Report to CEDAW 2013

18. Interview with A. Gaduev, Head of the Centre for Employment, Raion Imeni Jaami, Khatlon Province, 8/06/2013

19. Meeting in a village near Qurghonteppa, former Kolkhoz "Zaria Vostoka"

20. Interview with B. Abduzhabbarov, Fond for the Development of Society, Istravshan, 7/06/2013

21. Interview with Zarofi Khudzhaeva, Islamic Renaissance Party of Tajikistan, Dushanbe, 5/06/2013. In February 2013, a rise in taxes led to protests on markets all around the country.

22. See NGO Report to the UN UPR – 1 (2011) and T. Faizulloboeva, "Tajik Army Runs Short of Men", 18/04/2012 <http://iwpr.net/report-news/tajik-army-runs-short-men>

23. On 24 of July 2012, government forces launched a military operation in Khorog (GBAO) against what it called "militants" following the murder of the regional security chief Abdullo Nazarov. The operation lasted for several weeks, and according to various sources, 22 civilians and 23 military personnel were killed during the operation. A year after the operation there was still no reliable information about the military operation (objectives, personnel involved, casualties), nor about the way the Tajik government investigated violations committed during those weeks. See "Tajik human rights organisation conducts independent survey into Khorog events", 24/07/2013, <http://news.tj/en/news/tajik-human-rights-organization-conduct-independent-survey-khorog-events>

24. Interview with Zarofi Khudzhaeva, Islamic Renaissance Party of Tajikistan, Dushanbe, 5/06/2013

## 2. The Consequences of Emigration

### 2.1 A positive short-term economic impact

Migrants' remittances are crucial for the Tajik economy. Remittances represent 47% of the country's GDP, the highest percentage of any country worldwide<sup>25</sup>.

Various governmental and non-governmental programmes have established micro-businesses to ensure that this money contributes effectively to the wider Tajik economy. According to an official in Khatlon province, "Some migrants earn a lot in Russia. They come back and we give them land, they set up workshops or mini-factories, to manufacture cotton, for example. They help to build schools. We also give them interest free loans"<sup>26</sup>. Other government initiatives attempt to prevent remittances being spent, for example, on lavish weddings and other ceremonies<sup>27</sup>.

The short-term economic impact of migration is overall evaluated positively. Many respondents commented that "there are new houses, new buildings, filling stations". A report published by HRC underlines that migration has had a positive impact on living standards for many households in Tajikistan<sup>28</sup>. In Zaria Vostoka, most inhabitants live from farming rice and wheat harvested three times a year. Only those who work in the school or as health workers have a regular salary of about 500 Somoni a month (around 80 Euros). For most, remittances sent back from family members working in Russia are the main source of income. Those interviewed said they use remittances to "pay debts", "build houses", "open a business".

In the National Strategy on Labour Migration of Nationals of the Republic of Tajikistan 2011-2015, the Tajik government acknowledged for the first time that labour migration had contributed to the development of various sectors of the economy such as transportation, banking and trade, as well to the culture of travelling and the level of professional qualifications <sup>29</sup>.

### 2.2 Concerns about the long-term impact of emigration

#### 2.2.1 Those left behind

The situation of the wives and children left behind by male Tajik migrant workers has raised increasing concern. Women who remain in Tajikistan while their husbands work abroad take on greater responsibilities for their families. According to one respondent, they feel that they become "the man of the family"; "There are no women and men spheres any more: women are the majority in all traditionally male roles...Migration has positive economic consequences, but negative socio-psychological ones. Women complain that our children don't have any education and that they grow up without fathers"<sup>30</sup>. Increased responsibilities, economic difficulties and stress experienced by women when their husbands migrate are thought to be factors in the high prevalence of suicide among women in Tajikistan<sup>31</sup>.

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25. World Bank, « Migration and Development Brief N°20 », April 2013, available at <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/MigrationandDevelopmentBrief20.pdf> (It should be noted that the last available data is for 2011.)

26. Interview with Arkhedin Gaduev, Head of the Centre for Employment, Raion Imeni Jaami, Khatlon Province, 8/06/2013

27. See for example the 2007 Law on Regulation of Traditions and Rituals. Traditions and ceremonies play a major role in Central Asia. Expenses for a ceremony frequently exceed a family's income. The 2007 Law regulates the amount that can be spent on holding traditional ceremonies. For example, the law limits the number of guests that can be invited to a wedding and expenses for food, drink etc.

28. Human Rights Centre of Tajikistan, Respect of economic and social rights of Tajik migrants workers by the Republic of Tajikistan, Submission to the 53 Pre-Sessional Working Group of the CESCR (26 Mays 2014 – 30 May 2014), p. 2

29. Human Rights Centre of Tajikistan, Respect of economic and social rights of Tajik migrants workers by the Republic of Tajikistan, Submission to the 53 Pre-Sessional Working Group of the CESCR (26 Mays 2014 – 30 May 2014), p. 4

30. Interview with Kh. Rasulova, Association "Women and Society", Khujand, 7/06/2013

31. Although reliable statistics are not available, the high-rate of suicide reportedly also concerns men.

In Zaria Votsoka, the delegation spoke to a group of men and women. The men were either on their way back to Russia (some had returned home for the harvest) or had been forbidden to enter Russia for a period. When asked what changes migration had brought, the women in the group answered: “It’s a burden on our shoulders”, “All the burden is on women”, “Women have to do the harvest, they work in the fields instead of men...”, “...and we have to work on the vegetable plots...”, “...and go to the market”, “You take children and grandchildren to school and you help them do their homework”.

The situation is even more difficult when husbands stop sending money, or disappear completely, in some cases because they have a second family in Russia<sup>32</sup>: “In the beginning they phone and send money. Then they send money less and less frequently, and then they disappear”. Another respondent told the delegation, “There are women who have between five and seven children, and the husband doesn’t send money, doesn’t phone. I would say that in each *kishlak* [village], of 1,000 people, there are five or six women like that. If a woman is left without a husband, her influence in the family is low, her rights are not respected, she’s always asked ‘and with what money are we to give you something to eat, or to wear?’”<sup>33</sup>.

Women who try to obtain child maintenance through the courts face two major obstacles. First, the law only recognises officially registered civil marriages, while an increasing number of couples only have a religious marriage; secondly, even if the court decision is in their favour, it may not be executed on the grounds that the father is in Russia. According to one respondent, in recent years “there have been more court decisions in favour of women about alimony and division of property, and usually these decisions are executed. The mullahs explain to the youth that alimony has to be paid. But, we can’t limit a person’s right to move, and often the husbands go to hide in Russia”<sup>34</sup>. According to the Bureau for Human Rights in Qurgonteppa “When the court decides in favour of the woman, the husband pays for two or three months and then he runs away. The problem is that most of the men do not have an official job in Russia, so how can you recover maintenance? The law forbids those who have to pay child maintenance from leaving the country, but it’s not applied”<sup>35</sup>. In most such cases, women live with the family of their husband, and become dependent on their in-laws.

The delegation asked the men in the group interviewed in Zaria Votsoka about their perception of the impact of migration on families. They said that, “With migration, a person changes”, “Migration changes people a little, well, not a little - a lot”, “For men, migration opens their eyes”. It was suggested that men’s expectations towards their wives and living conditions change: “Here there is no gas, no electricity, always the smell of smoke, nowhere to wash, unlike in Russia”. They emphasised that men’s knowledge of Russian improves, while women who remain in Tajikistan are not taught much Russian at school. This in turn makes it easier for men to access the Russian labour market.

Several NGOs and international organizations have developed programmes for women’s empowerment. In Khujand, the NGO Woman and Society has a micro-credit system and has set up support groups to develop small businesses in agriculture, sewing, catering etc.<sup>36</sup>. A similar programme has been developed in Qurgonteppa by Save the Children and in Zaria Votsok by the NGO Gamkhori. According to NGO representatives, the results have been positive: “The more independent economically a woman is, the less domestic violence there is. Also her status changes in the eyes of her mother-in-law”<sup>37</sup>.

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32. In 2011, there were numerous discussions about divorce by telephone (sending a text message with the word *toloq* written three times was sufficient for a man to repudiate its wife), but the general opinion is that this practice has ceased, in particular after the religious authorities spoke out against it in public.

33. Interview with a project officer of Save the Children, Qurghonteppa, 8/06/2013

34. Interview with Bakhtier Abduzhabbarov, Fond for the Development of Society, Istravshan, 7/06/2013

35. Interview with Kh. Azimov, BHR and S. Makhmudova, INIS, Qurghonteppa, 8/06/2013

36. Zhenshina i obshestvo/ Woman and Society (2013), *Report on the Project “Social mobilisation of the members of the families of labour migrants, Khujand, October 2010- December 2012”* ; Project funded by AWS, in collaboration with UN Women and IOM and with the support of DFID

37. Interview with Khainriso Rasulova, Association “Women and Society”, Khujand, 7/06/2013

### 2.2.2 Other negative consequences

Tajikistan's dependence on Russian oil and gas means that part of the money from remittances goes back to Russia<sup>38</sup>. Moreover, research contests the positive link between migration and development. Indeed it is argued that migration can aggravate the problems of underdevelopment of a country, depriving countries and especially rural areas of their most healthy, dynamic and productive individuals, provoking consumerist and remittance-dependent attitudes of non-migrants and deepening inequalities<sup>39</sup>. The governmental and non-governmental initiatives described above can be seen as attempts to counterbalance these effects, however there is a need to address not only poverty, but also issues such as corruption. The National Strategy on Labour Markets of the Republic of Tajikistan for 2020 does not foresee a decrease in labour migration<sup>40</sup>.

Exploitation and abuse of migrant workers abroad is a major problem (see Chapter 2). The main complaints made by migrant workers met by the delegation related to access to health care and mistreatment by Russian police and border guards: "At the airport, when you arrive, they treat us badly, they ask for 500 rubles without any justification"; "The police, they pick on us all the time"; "Even if there is no problem with our documents, they find something, 'you respect the police', they say, 'give me 100 rubles'"<sup>41</sup>.

Most of the migrants met by the mission in June 2013 in Tajikistan preferred not to stress the problems and some insisted on thanking Russia "for receiving and feeding them". This orientation towards Russia makes them very sensitive to the way they are represented in the Russian mass media and in Russian public discourse. "These last two years the situation has been better. But on television, every day, they say 'why do we need so many migrants', and it upsets us. Our guys are good guys, and they work well". These worries are shared by the Deputy Chief of the Migration Service, who wants to work more with the Russian media because Tajik citizens are accused of being criminals and drug dealers and these accusations "break our heart"<sup>42</sup>.

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38. Interview with Kahramon Sanginov, OSI Tajikistan Law Program Coordinator, Dushanbe, 06/06/2013

39. Hein de Haas, "Migration and Development: A Theoretical Perspective", *COMCAD - Working Papers* No. 29, 2007, <http://pub.uni-bielefeld.de/luur/download?func=downloadFile&recordOID=2318325&fileOID=2319937>

40. Human Rights Centre of Tajikistan, Respect of economic and social rights of Tajik migrants workers by the Republic of Tajikistan, Submission to the 53 Pre-Sessional Working Group of the CESCR (26 Mays 2014 – 30 May 2014), p. 4

41. Meeting in a village near Qurghonteppa, former Kolkhoz "Zaria Vostoka"

42. Interview with Anvar Babaev, First Deputy Head of the Migration Service of the Republic of Tajikistan, Dushanbe, 5/06/2013

# II. THE DETERIORATING SITUATION OF MIGRANTS IN RUSSIA

The FIDH/ADC 2011 report on Tajik migrant workers documented a range of problems faced by migrants in Russia, including administrative difficulties, poor working conditions, lack of social protection, poor housing, risks of forced labour, xenophobic attacks and police raids. According to the Ombudsperson of Tajikistan, the situation of labour migrants has become even more difficult since 2012, partly because of increased administrative obstacles. More generally, public attitudes towards migrants have deteriorated and attacks against migrants have multiplied.

## 1. Legal reforms

Since 2012 the Russian Federation has passed major reforms to the law on migration. According to the Ombudsperson of Tajikistan, Zarif Alizoda, “Laws on migration are getting tougher in Russia. Lots of migrants are deported and expelled”. He considers that the stricter policies are initiated by the Russian Federal Migration Service, “In the regions, relations to migrants are better than at the federal level”<sup>43</sup>. In 2012 Russia deported 3,927 Tajik citizens<sup>44</sup>.

In contrast to these restrictive measures, in June 2010 Russia adopted a law that increases opportunities for migrants to work legally, through a system of “patents”.

### 1.1 Restrictions on entry and stay

#### *A new law requiring basic knowledge of Russian*

In November 2012, a law was adopted requiring proof of Russian language skills as a condition to obtain a work permit (Law 185-FZ). Under the law, labour migrants working in housing, retail and public utility services must present a certificate proving basic knowledge of Russian. The language tests impose increased expenses on migrants<sup>45</sup>.

#### *An amendment introducing bans on re-entry for three to five years*

The Federal Law “on the procedures for leaving and entering the Russian Federation” was amended in December 2012 by Law 321-FZ. Under Article 16, re-entry by a foreign citizen or a stateless person to the Russian Federation may be banned for a period of three to five years for almost any violation of the law. When a migrant passes through passport control, border guards check whether they are subject to a re-entry ban.

On 23 July 2013, the law was further amended to specify that foreign citizens may be denied entry to the Russian Federation for up to three years if administrative charges have been brought against them more than once within a period of three years (Article 26). Several additional grounds for

43. Interview with Zarif Alizoda, Ombudsman of the Republic of Tajikistan, Dushanbe, 5/06/2013

44. Ombudsman of Tajikistan (2013)

45. Ombudsman of Tajikistan (2013)

denying entry were introduced (Article 27). These include denial of entry for a period of five years if administrative charges related to offences against public order or public safety have been brought against a foreign citizen more than once within a period of one year. Entry can also be denied on the grounds of violation of conditions of stay, violations of conditions of work and if a decision on administrative expulsion or deportation has been issued<sup>46</sup>.

Entry may be denied for a period of 10 years if a decision on administrative expulsion or deportation has been issued more than once. Entry may also be denied in the event that a foreign citizen has an unspent or outstanding conviction for a premeditated crime in the Russian Federation or outside its borders.

During the period of these legal reforms, police raids ended in mass arrests of labour migrants: thousands of people were detained on a daily basis, sentenced to deportation and heavy fines. According to data from the Russian Ministry of Foreign Affairs, over 2,000 raids were carried out in the first half of August 2013.

At the same time, the grounds for denying or annulling temporary residence permits were expanded to include the following: if a foreign citizen has been held administratively liable more than twice during a period of one year for committing administrative violations related to offences against public order or public safety, or violation of the conditions of stay in the Russian Federation, or conditions for working in the Russian Federation, or has committed an administrative violation related to the illegal sale of narcotics, psychotropic substances, or their analogues or precursors, or plants containing narcotic or psychotropic substances or their precursors (Article 7). Article 11 of the law, on conditions for work, was supplemented with paragraph 7, which stipulates that individuals who have submitted documents to receive a work permit or *patent* must register with the tax authorities.

Bans on re-entering Russia are not established by a court decision nor by a decision of the Russian Directorate of the Federal Migration Service (DFMS), as is the case for decisions on deportation. A foreign citizen may leave the Russian Federation without knowledge of any violations and it is only when attempting to re-enter the country, as they try to pass through passport control or to depart for an airport in Dushanbe, that they are informed of a ban.

The database of re-entry bans contains many mistakes. In order to find out the reason for a ban and rectify mistakes, migrants must make an inquiry to the Russian Federal Migration Service (FMS). If the migrant is in Tajikistan, it is extremely difficult to receive an answer from FMS agencies because the inquiry has to be made through the Russian Embassy. Even migrants who are in Russia have difficulties contesting the bans; they are unable to protect themselves effectively due to insufficient knowledge of laws, poor access to legal assistance, and the unfriendly and bureaucratic nature of FMS agencies.

In spring 2013, there were rumours that 400,000 Tajik citizens would be banned from entering Russia<sup>47</sup>. According to HRC in Khujand, which assists labour migrants in finding out whether they are subject to a ban, in May 2012 the list of citizens forbidden to enter Russia included 36,616 persons from Tajikistan. In May 2013, 42,425 persons were listed<sup>48</sup>. Recent statistics from the Federal Migration Service show that in January 2014, 82,000 people were banned from entering Russia, and in February this number grew to 132,000<sup>49</sup>. Although in theory there is an online-system in Dushanbe to inform migrants of bans, in practice only Russian airlines provide this information. Migrants find out that they are on the non-entry list during check in,

46. See Russian text of the law on <http://www.rg.ru/1996/08/22/vjezd-vyezd-dok.html>

47. In reality, rumours seem to have stemmed from a confusion between the alleged number of Tajik irregular migrants in Russia (400,000 according to the head of the Russian Federal Migration Service) and the number registered on the non-entry list (around 38,000) See the site of the Migration service : <http://migration.tj/index.php/ru/home-rus/418-romodanosky> or “Podschitano chislo nev”yezdnnykh v Rossiyu tadjikov”, *Vzgliad*, 28/02/2013, available at <http://www.vz.ru/news/2013/2/28/622468.html>

48. Interview with Azalkhon Alimov, Human Rights Centre in Tajikistan - Khujand, 7/06/2013

49. <http://www.fms.gov.ru/about/statistics/data/details/82856/>

after they have purchased their flight tickets. They are generally reimbursed but lose 25% of the price<sup>50</sup>. Representatives of the Tajik Ministry of Foreign Affairs expressed concern that “there are a lot of people expelled who cannot enter Russia any more”. They underlined that “people don’t know that they are forbidden, there isn’t anything in their passports”<sup>51</sup>.

### **Impact of the law on re-entry bans**

**N.E.**, a citizen of Tajikistan, received authorisation to stay in Saint Petersburg under standard procedures. In October 2013, she filed documents for temporary residence (the first step towards Russian citizenship) under the conditions set by the Russian government in January 2013. In January 2014, she received permission for temporary residence for a period of up to three years from the DFMS for Saint Petersburg and Leningrad Region. Then her documents were forwarded to the FMS corresponding to her location of registration and residence (Leninsky District, Saint Petersburg) for processing of temporary residence.

The procedures for processing temporary residence and registering place of residence began with the collection of numerous documents. On the specified date, she arrived at the inspector’s office with a folder full of documents, but was informed that pursuant to a ruling of the Vasileostrovsky District FMS of 23 December 2013, she was forbidden from entering Russia for a period of three years. She had seen the inspector on several previous occasions but had never been informed of the re-entry ban. The FMS declined to give any explanation for the ban. Over the entire course of her residence in Saint Petersburg (from 2011 to 2014, with breaks for travel outside Russia for the periods required by migration law), N.E. paid her taxes, filled out migration documents, did not commit any administrative or other violations or receive any fines, and was registered at her place of residence. She had never resided in Vasileostrovsky District of St. Petersburg (where the FMS issued the ban). After a lengthy investigation, it emerged that the decision to ban entry into the Russian Federation was issued by mistake, possibly due to a glitch in the computer system or the result of human error.

**Masnav, T.** is a citizen of Tajikistan and the Russian Federation (an agreement on dual citizenship for citizens of Tajikistan has been in force since 1997). In November 2013, Masnav’s wife, a Tajik citizen, and their two minor children left Russia to cross the border with Ukraine because the three-month registration of the children was due to expire. At the border, Russian border guards said that Masnav T.’s wife was banned from re-entering Russia for a period of three years. Masnav T.’s wife and children spent almost a month in Kiev. After several attempts to meet with officials at the FMS directorate and numerous appeals, Masnav left Saint Petersburg for Kiev to collect his children, so that they could continue their studies. His wife left for Dushanbe. The children are still separated from their mother and are living with their father in Saint Petersburg. The FMS has not responded to Masnav’s appeals regarding his wife.

**Zoir**, a Tajik citizen born in 1993, is a second-year student at the Peoples’ Friendship University of Russia (RUDN) in Moscow. In December 2013, he left Moscow for Dushanbe for the winter vacation. When he tried to register for a flight to Moscow at the airport in Dushanbe to return to Russia to continue his studies, he was told that Russia had banned him from re-entering the country for a period of three years. Zoir did not know of any reason for the ban. He filed an appeal with the Russian embassy in Dushanbe, but was told that he would have to wait two to three months for a response. Meanwhile, his absence from the University risked jeopardising his place on the course. According to the Russian embassy in Dushanbe as of June 2013, 45 Tajik students studying at universities in Russia had run into similar problems.

50. Interview with K. Sanginov, OSI Tajikistan Law Program Coordinator, Dushanbe, 06/06/2013

51. Interview with D. Ataev, Deputy Head of the Migration Service in the Sogd Region, Khujand, 07/06/2013

### ***An amendment limiting migrants' maximum length of stay in Russia***

In January 2014, an amendment to Law 389-FZ came into force, modifying article 5 of the Law “on the legal situation of foreign citizens” which sets out the rules for migrants coming from visa-free countries (including Central Asian states). Under previous legislation they were authorised to stay in Russia for 90 days. Migrants would thus exit the country after the 90-day period, usually crossing the nearest borders with Ukraine or Kazakhstan, and re-enter for another 90 days. The amended law specifies that migrants can only stay in Russia for 90 days out of 180 if they do not possess a patent, an authorisation, a residence or work permit. This change has provoked panic among migrants who were not prepared or even informed of the new rules and it remains to see how the situation will evolve<sup>52</sup>.

### **1.2 Increased grounds for deportation**

The Russian authorities have also recently passed two laws that make the deportation of migrants easier: the first allows them to deport any migrant who breaches any provision of Russian legislation on migration; the other explicitly provides for deportation in case of non-respect of the legislation on medical insurance. According to the Russian Federal Migration Service<sup>53</sup>, 16,353 persons were deported in the first two months of 2014.

On 9 August 2013, Law 207-FZ, introducing amendments to migration laws and laws on administrative violations, came into force. Under this law, the sanctions for violating migration regulations were increased significantly. For example, any violation of migration law committed in Moscow, Moscow Region, Saint Petersburg, or Leningrad Region (where most labour migrants from Central Asia arrive) results in mandatory administrative expulsion from Russia and a fine of up to 5000 rubles.

These amendments have led to a hunt for migrants and administrative police raids. There has also been an increase in hate crimes. In reports presented during the 2013 session of the OSCE Office for Democratic Institutions and Human Rights, ADC Memorial noted that, “In 2013 the persecution of labour migrants took on a systematic nature, and people’s guards, Cossack unions, and nationalist groups began to get involved with support from state authorities. This anti-migrant campaign has fired up nationalists, launched racial pogroms and resulted in the harassment of representatives of ethnic minorities<sup>54</sup>. In Saint Petersburg, the main special detention centre (the Detention Centre for Foreign Citizens) has been filled to approximately 1.5 times its regular capacity of 176 people. In April 2014 it held 310 people.

Current FMS practice is to prosecute labour migrants from Central Asia for not having a health insurance policy. Crossing the Russian border without a policy constitutes a violation of Article 27(5) of the federal law “on the procedures for leaving and entering the Russian Federation,” (part 3, Article 18.8 of the Russian Code of Administrative Offences). Under these provisions, administrative deportation has been a mandatory punishment in Saint Petersburg and the Leningrad Region since August 2013. According to an article in *Novaya gazeta Sankt-Peterburga* [New Newspaper of Saint Petersburg], employees from Rosgosstrakh (the largest insurance company) “meet” migrants from Central Asia immediately following their arrival and offer to set up health insurance policies for them, even though, according to FMS officials, the violation took place the moment they crossed the border<sup>55</sup>.

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52. See Memorial Press-Release “*Oдно iz migratsionnykh novshevst v deistvii* (The effect of one of the migratory innovation)”, available at: <http://www.memo.ru/d/182435.html>. For an analysis of the changes in Russian migration law see “Obzor migratsionnykh novovvedenii v Rossii v 2014 godu”, 13.01.2014 <http://www.fergananews.com/articles/8011>

53. <http://www.fms.gov.ru/about/statistics/data/details/82856/>

54. See, <http://adcmemorial.org/www/7785.html/#more-778>. See also [http://tvrain.ru/articles/andrej\\_jakimov\\_iz\\_memoriala\\_v\\_peterburge\\_tozhe\\_idut\\_oblavy\\_na\\_migrantov\\_tam\\_v\\_lagere\\_v\\_2\\_raza\\_bolshe\\_ljudej\\_chem\\_polagaetsja\\_po\\_sanitarnym\\_normam-350516/](http://tvrain.ru/articles/andrej_jakimov_iz_memoriala_v_peterburge_tozhe_idut_oblavy_na_migrantov_tam_v_lagere_v_2_raza_bolshe_ljudej_chem_polagaetsja_po_sanitarnym_normam-350516/) and [http://www.spbvedomosti.ru/article.htm?id=10301729@SV\\_Articl](http://www.spbvedomosti.ru/article.htm?id=10301729@SV_Articl)

55. <http://novyagazeta.spb.ru/articles/8275/>

## Deportation on the grounds of lack of valid health insurance

In October 2013, A. Mirzovokhid, a migrant worker from Uzbekistan, contacted ADC Memorial after being informed that he would be deported due to lack of health insurance. ADC lawyers filed a claim with the Saint Petersburg Municipal Court arguing that it is illegal to prosecute someone for not having health insurance. The claim underlined that the existing Agreement between the Government of the Russian Federation and the Government of the Republic of Uzbekistan on Reciprocal Travel of Citizens of the Russian Federation and Citizens of the Republic of Uzbekistan (as amended by the Protocol of 13 July 2005) sets out a list of documents required by citizens of the Republic of Uzbekistan to enter Russia (Annex 2) but makes no mention of a mandatory health insurance policy. In addition, the Agreement of Governments of CIS Member States of 27 March 1997 “On the Provision of Medical Assistance to Citizens of Member States of the Commonwealth of Independent States” (signed by Azerbaijan, Armenia, Belarus, Georgia (with reservations), Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Uzbekistan, and Ukraine (with reservations)), serves the function of a health insurance policy for foreign citizens (i.e. provision of emergency medical services and urgent care). Confirmation of this can also be found on the official website of the Russian Embassy in Uzbekistan. The Saint Petersburg Municipal Court did not take into consideration the arguments present by A. Mirzovokhid’s representatives and confirmed the decision to deport him.

The medical insurance system for foreign citizens is currently in the process of development and various bills are being proposed. For example, the Russian Ministry of Labour and Social Development has developed a bill that would include terms on medical insurance in labour agreements<sup>56</sup>. But until this area is properly regulated, FMS officials will be able to continue prosecuting foreign citizens for not having medical insurance policies. This practice, which is based on the poor quality and vagueness of legislative norms, does not comply with the principle of legal certainty or the requirements applicable to laws that establish liability or that toughen penalties. It also violates Russia’s international obligations and virtually excludes citizens of Tajikistan, Uzbekistan, and Kyrgyzstan from the current Agreement “On the Provision of Medical Assistance to Citizens of Member States of the Commonwealth of Independent States.” The greater severity of punishment for any violation of migration rules in Moscow, Saint Petersburg, and the Moscow and Leningrad regions coupled with the lack of any effective protection of the rights of their citizens who are labour migrants on the part of embassies and consulates have led to significant restrictions of the rights and freedoms of foreign citizens in Russia.

Since 3 January 2014, under Law No. 376-FZ, amendments to several Russian laws introduce criminal and administrative liability for violation of registration rules for place of residence and place of stay<sup>57</sup>. The changes stipulate liability for the false registration of Russian citizens and foreign citizens. The false registration of a foreign citizen or stateless person results in a fine of 100,000 – 500,000 rubles, compulsory labour for a period of up to three years, or deprivation of freedom for a period of up to three years.

While entry into Russia was refused to 190,000 people as of 29 August 2013, following these legislative reforms, approximately 600,000 foreign citizens had been refused entry as of the end

56. <http://www.rosmintrud.ru/employment/migration/40>

57. Articles 322.2, 322.3 of the RF Criminal Code; articles 2.3, 5 – 7 of the law “On the Right of RF Citizens to Freedom of Movement and Selection of Places of Residence and Stay in the Russian Federation;” articles 18.8, 18.9, 19.15, 19.15.1, 19.15.2 of the RF Code of Administrative Offences; articles 2, 19, 23 of the law “On the Migration Registration of Foreign Citizens and Stateless Persons in the Russian Federation”

of February 2014<sup>58</sup>. These reforms have had most impact on the most vulnerable migrants, in particular women and children. It has become impossible for many children of migrants to attend school because the law does not stipulate any grounds for a child from a “non-visa” country to stay in the Russian Federation. Decisions refusing entry to mothers and orders to deport them are made without taking into account family situations or ties. There have even been cases where children were detained and then deported without their parents. There have also been cases where mothers were deported without their children. These new laws and their application have resulted in the simultaneous violation of the right to education and the principle of family unity.

### **1.3 Simplification of procedures for migrants to work legally**

When asked about changes since 2011, some migrant workers suggested that the situation had improved because of the introduction of the “patent” system: “[Before the introduction of the patent], it was very bad, the police arrested us all the time”. The patent system was introduced in June 2010. Under this system, migrants working for a private individual can pay 1,216 rubles per month<sup>59</sup> to obtain a patent and are exempted from the requirement of a work permit. Patents are only intended for private individual employers. They do not apply to legal entities. Patents do not exempt the employer from the obligation to conclude a contract with the employee (although, on the basis of the testimonies gathered, it does not seem that this requirement is always respected).

Since the introduction of this system, patents have been in greater demand than work permits and more have been delivered: “In 2012, 418,000 Tajik citizens worked legally in Russia. They received 168,000 work permits and 250,000 patents... The quota for work permits doesn’t fit the reality, it doesn’t take into account the labour needs of the market”<sup>60</sup>. According to data from the FMS<sup>61</sup>, as of February 2014, the number of patents issued in comparison to the previous year doubled and the number of work permits issued fell by 22,000.

In March 2014, the Russian Federation Council, with the support of the government Commission on Migration Policy, decided to do away with the quota system for migrant workers. In parallel, legislative amendments were approved under which both individuals and legal entities may hire migrants on the basis of a patent. This should simplify the procedure for obtaining permits. The possibility for regions in Russia to determine the cost and number of licenses issued annually is also being considered. These changes are intended to help regulate the flow of migrants, because the number of patents will decrease when the labour market does not need extra workers and the costs of patents will rise. Another possibility under consideration is to allow regions to set the price for patents according to sector of the labour market.

### **1.4 Further reforms anticipated**

Other bills aimed at “improving migration policy” have been submitted to the Russian parliament (*Duma*). According to instructions issued by the government, implementing a Presidential Message dated 12 December 2013, to the Federal Assembly, the Russian Ministry of Labour and Ministry of Finance were required to ensure, before 2 April 2014, that legislative changes were introduced to provide legal entities and individuals with the right to engage foreign citizens entering Russia without work visas. They are also to stipulate limits on the effect of a patent in one region of the Russian Federation and grant that region the power to determine the cost of a patent.

During the FMS round-table “Changes in Migration Law: Labour Activities of Foreigners without Work Permits,” on 4 March 2014, various challenges were discussed, including the

58. [http://www.gazeta.ru/social/news/2014/01/14/n\\_5873729.shtml](http://www.gazeta.ru/social/news/2014/01/14/n_5873729.shtml), [http://windowrussia.ru/rv/news/2014\\_02\\_25/FMS-RF-v-Rossiju-zapreshhen-vezd-bolee-chem-600-tisjacham-migrantov-6254/](http://windowrussia.ru/rv/news/2014_02_25/FMS-RF-v-Rossiju-zapreshhen-vezd-bolee-chem-600-tisjacham-migrantov-6254/), <http://itar-tass.com/obschestvo/884625>

59. Increased in 2014 from 1000 rubles per month

60. Interview with Anvar Babaev, First Deputy Head of the Migration Service of the Republic of Tajikistan, Dushanbe, 5/06/2013

61. <http://www.fms.gov.ru/about/statistics/data/details/82856/>

absence of quotas and the need for foreign citizens to indicate at the border that the purpose of their visit is “work” in order to be eligible for a license on application to the territorial FMS agency within 15 days after their arrival in the country. However, if an employer engages foreign citizens for work illegally, then in addition to administrative penalties, the employer will face a two-year ban on hiring foreign workers.<sup>62</sup>

A bill introducing amendments to the federal law “on the legal situation of foreign citizens in the Russian Federation”<sup>63</sup> that proposes requiring confirmation that foreign citizens who apply for temporary residence permits, residence permits, and work permits or patents, speak Russian and have knowledge of Russia’s history and the fundamental principles of the law has been under review in the State Duma since October 2012, but has not been approved by the Federation Council because it has not been harmonized with other laws and because the mechanism for confirming the existence of the required skills has not been fully developed.

On 11 March 2014, a bill was submitted to introduce a simplified procedure for conferring citizenship on foreign citizens and stateless persons recognized as Russian speakers. It, and would also establish additional favourable terms for such foreign citizens and stateless persons to enter and stay in Russia with a view to providing them with the opportunity to gain Russian citizenship. However, this bill, which could be used widely in the future, has not yet had a first reading in the State Duma.

On 19 February 2014, a bill<sup>64</sup> was introduced stipulating that migration cards must indicate “work” in the purpose of visit section, and that there will be additional grounds for banning the issuance of a work permit if the migration card does not indicate this purpose.

On 19 February 2014, a bill<sup>65</sup> was introduced adding paragraphs to Article 27 of the Law “on the procedures for entering and leaving the Russian Federation” stipulating that punishments would depend on the length of violation. For example, there are proposals to set a ban on entry into Russia of five years for violations of no more than 90 days, seven years for violations of no more than 180 days, and ten years for violations of over 270 days.<sup>66</sup>

## **2. Increased anti-migrant aggression and the rise of xenophobia**

The vulnerability of migrant workers in Russia is increased not only by restrictive legislation but by the permanent politicisation of the migration issue and the targeting of migrants by public authorities (official declarations, public raids) as well as by ordinary citizens. In many places in the Russian Federation, including the Moscow region, Saint Petersburg, Voronezh and Sochi, migrants are victims of these tensions, which can take various forms: police raids, raids and assaults by citizens and violations of migrants’ social rights and access to justice.

### **2.1 Repression by police**

In February 2013,<sup>67</sup> the Moscow authorities announced the creation of a volunteer squad to help track down “illegal” migrants. These squads were supposed to check documents and detain

62. [http://www.fms.gov.ru/press/news/news\\_detail.php?ID=81622](http://www.fms.gov.ru/press/news/news_detail.php?ID=81622)

63. <http://asozd2.duma.gov.ru/main.nsf/%28SpravkaNew%29?OpenAgent&RN=161211-6&02>

64. <http://asozd2.duma.gov.ru/main.nsf/%28SpravkaNew%29?OpenAgent&RN=454696-6&02>

65. <http://asozd2.duma.gov.ru/main.nsf/%28SpravkaNew%29?OpenAgent&RN=454671-6&02>

66. [asozd2c.duma.gov.ru/addwork/scans.nsf/ID/9D0EAFEED6D6712143257C8400307A5A/\\$FILE/454696-6.PDF?OpenElement](http://asozd2c.duma.gov.ru/addwork/scans.nsf/ID/9D0EAFEED6D6712143257C8400307A5A/$FILE/454696-6.PDF?OpenElement)

67. Claire Bigg “Volunteer Squads Chase Illegal Migrants In Russia”, RFERL.org, February 12, 2013, available at: <http://www.rferl.org/content/russia-illegal-migrants-patrols/24900274.html>

individuals. Despite the illegality of such a system, the creation of the squads met with the support of the Head of the FMS, K. Romodanovski: “The Migration Service doesn’t have enough forces (...) and reinforcement from society is needed”<sup>68</sup>. In May 2013, Moscow police detained more than 400 migrant workers following a raid on a construction site: migrants were shown as criminals being paraded in a line<sup>69</sup>, an image that sparked protests on social media. The only reaction of the Mayor of Moscow, S. Sobyanin, was to declare that he was against the permanent residence of migrants in Russia: “It’s better for people who speak poor Russian and have another culture to live in their own country,” he said, “We don’t welcome their integration in Moscow”<sup>70</sup>.

In July-August 2013, the Moscow police raided markets and construction sites and detained thousands of migrants for alleged violations of migration and employment laws. Arguing that there were no places in standard detention centres, they organised a camp, where migrants were detained in tents, in appalling sanitary conditions, without communication with the outside. There were allegations of beatings and bribery<sup>71</sup>. International and Russian human rights organisations protested against ethnic profiling, detention of migrants in camps and large-scale deportations<sup>72</sup>. It appeared that the raids were conducted for political reasons, linked to the Moscow municipal elections, which took place in September 2013. Indeed, both the acting Mayor, Sobyanin, and his leading opponent, Alexey Navalny promised actions against “illegal” migrants and defined migration as one of the main problems to be addressed<sup>73</sup>.

In October 2013, riots broke out in Biryulevo, a southern district of Moscow, after the murder of a young man described as a “native of the Caucasus”. These riots immediately took on an anti-migrant aspect: protesters demanded the closure of a vegetable warehouse, which supposedly employed undocumented migrants. The reaction of Moscow and Russian authorities led to the further designation of migrant workers as scapegoats. The Moscow police detained around 400 rioters, but also some 1,200 migrants from Central Asia and the Caucasus. On 13 October, the Russian Minister of the Interior, Vladimir Kolokoltsev, “urged law enforcement officials to check all vegetable warehouses in the Russian capital for illegal migrants and possible suspects in the killing”<sup>74</sup>. The Head of Moscow police announced that every Friday there would be anti-migrant raids<sup>75</sup>.

Following a large-scale anti-migrant campaign in Moscow, a similar campaign was launched in Saint Petersburg in late 2013. By unfortunate coincidence, the official anti-migration campaign was launched on the heels of the so-called “Russian clean-up operations” initiated by nationalists at the city’s markets. Raids were conducted by the police and the Directorate of the Federal Migration Service (DFMS) at migrants’ places of work and residence in all the city’s districts and throughout the region. Such raids followed other such operations, for example at Apraskin Dvor and the Salova Street Market in February 2013.

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68. “‘Migratsionnyye patruli’ neobkhodimy v krupnykh gorodakh, schitayet glava FMS Konstantin Romodanovskiy” <http://www.echomsk.spb.ru/news/obschestvo/migratsionnyye-patruli-neobkhodimy.html> 14.02.2013

69. See for example : <http://www.youtube.com/watch?v=fxN6pZcAa-s&feature=share>

70. “Sobyanin vystupil protiv postoyannogo prozhivaniya migrantov v Moskve”, RBK daily, 30/05/2013, available at: <http://rbedaily.ru/society/562949987154212>

71. “1,000 Detained Immigrants Held in Tent Camp”, The Moscow Times, 02/08/2013, <http://www.themoscowtimes.com/news/article/tent-camp-can-hold-1000-detained-migrants/484008.html> ; Daisy Sindelar and *alii*, “Central Asian Migrants Describe Beatings, Ill-Treatment In Russian Market ‘Zachistki’”, RFERL.org, 08/08/2013, available at: <http://www.rferl.org/content/russia-raids-migrant-labor-markets/25070219.html>

72. Svetlana Gannushkina, “Lager’ dlya nelegal’nykh migrantov - eto zhestoko, nezakonno i bessmyslenno”, 03/08/2013, available at: <http://www.memo.ru/d/167198.html> ; Human Rights Watch Russia “Mass Detention of Migrants Racial Profiling, Arbitrary Detention, Harsh Detention Conditions”, 08/08/2013, available at: <http://www.hrw.org/news/2013/08/08/russia-mass-detention-migrants>

73. See analysis by M. Reeves, “Mayoral politics and the migrant economy: talking elections and “illegals” in Moscow”, September 5, 2013, <http://citiesmcr.wordpress.com/2013/09/05/mayoral-politics-and-the-migrant-economy-talking-elections-and-illegals-in-moscow-3/>

74. RFE/RL’s Russian Service, “Migrant Round-ups Follow Moscow Rioting”, 13/08/2013, available at: <http://www.rferl.org/content/moscow-riot-ethnic-migrants/25135698.html>

75. “On anti-migrant campaigns in Russian towns. Declaration of Memorial Human Rights Centre” (in Russian), 11/11/2013, available at: <http://www.memo.ru/d/177042.html>

The raids were accompanied by anti-migrant information from media outlets, which tried to outdo each other with cries of “What are we to do with the illegals?” The message of zero tolerance for “violations of the law” appeared to be a pretext for displays of racism and xenophobia. This was illustrated by the “people’s gathering” against migrants on Vasilyevsky Island in the dormitory at 6 Veselnaya Street, which regional media outlets took up with enthusiasm. Despite the fact that the DFMS inspection concluded that all the Tajik and Uzbek migrants living in this dormitory were in a regular situation, participants in the “people’s gathering” immediately came up with other reasons for displaying hatred towards their neighbours. It is also telling that there was no information about mass detention of Ukrainian and Belarusian nationals during the raids, despite their significant presence as migrant workers.

As a result of raids, the Detention Centre for Foreign Citizens (DCFC) was overflowing. The DFMS for Saint Petersburg and Leningrad reported that “a trailer camp has been built at the centre for the temporary detention of illegal migrants in Krasnoye Selo. It contains all the necessary conditions for living. This has made it possible to create another 260 places for the temporary detention of illegals.”<sup>76</sup> Although legally foreign citizens can only be held in DCFCs prior to deportation, law enforcement authorities brought back the outdated practice of placing foreign citizens in the temporary detention facility on Zakharevskaya, which is ill-equipped to serve this purpose, and held migrants for long periods of time in police stations and other unsuitable places that were only identified by the detainees themselves.

### **The Apraskin Dvor raids**

On 8 February 2013, the Main Department of the Ministry of Internal Affairs, the FSB, the DFMS, the Chief Investigations Directorate, SOBR and OMON special forces, and the Centre to Combat Extremism raided prayer rooms at Apraskin Dvor in the Central District of Saint Petersburg. The reason for this special operation was said to be “investigatory activities” in a case of religious extremism and the spread of propaganda by Islamic fundamentalists, whom the media hurried to count among those detained.

Z., a migrant from Uzbekistan, had been praying with his sons in the mosque at the time of the raid. He was beaten by police. “I walked out holding my 10-year-old son by the hand. He looked into the eyes of a SOBR officer and smiled—he was curious. The officer got mad at my son and said, ‘What are you grinning at?’ I said, ‘What’s wrong? He’s a kid!’ That’s when they fell on me and starting beating me and insulting me. Then they beat me and insulted me again downstairs, at the exit.” Z., his eldest son, and another 50 – 60 people, mostly citizens of Tajikistan and Uzbekistan, were arrested and taken by bus to Centre E at 8 Ruzovskaya, where they were questioned at length and fingerprinted. Z. requested assistance from ADC Memorial but refused to file a complaint about the actions of the officers: “There’s no point in sticking my neck out again. There were high-ranking officials there. I even saw an FSB colonel.” According to witnesses, almost 200 migrants suffered from police violence during the raid.

After these events, Apraskin Dvor was raided every two to three weeks. The market was under a regime of “migration patrol.” “Inspection measures” were undertaken by forces from a whole range of agencies including the Immigration Control Department of the DFMS, the police, OMON, Centre E, the Ministry of Emergency Situations, the Federal Drug Control Service, and the prosecutor’s office. One such raid took place on 3 April: acting on information from the Saint Petersburg DFMS, 142 foreign citizens were apprehended. Twenty-five of them were prosecuted, nineteen received administrative fines, five were told to shorten their stays in Russia, and one was sent for deportation. According to witnesses, the inspection was accompanied by demands for money, insults, and confiscation of personal documents.

76. <http://www.kurier-media.ru/articles/43465/>

**B.**, a citizen of Tajikistan, was detained during the 3 April raid and taken to the Immigration Control Department (ICD). Unlike other migrants, B. did not have the 1,000 rubles on him that were demanded as a bribe, so officers confiscated his migration card and notice of arrival and issued a receipt with details to pay a 2,000 ruble fine “for lack of a medical policy.” B. had only arrived in Russia on 22 March and had not had the chance to submit documents for a work permit. He requested assistance from ADC Memorial. ICD officials refused a request to have the illegally confiscated documents returned to their owner, and on 12 April 2013 an ADC Memorial lawyer applied to the Kuybyshevsky District Court concerning the actions of the FMS, but the FMS answered that there were no protocols or any other materials on the case, in effect denying that the incident had occurred. As a result, B. has been forced to stay in St Petersburg as an “illegal” due to the arbitrary actions of migration service officials.

The signal to launch the operation was given at the very top: on 19 March 2013, the Saint Petersburg Governor, Poltavchenko, gave a speech about the rise in crime committed by migrants in the city and stated that he would not put up with “illegal migrants”. By 20 March, on the eve of the holy holiday Nowruz, the Central Internal Affairs Directorate and the FMS had launched the citywide operation known as “Illegal Migrant.” Labour migrants living in the Primorsky and Krasnoselsky districts told ADC Memorial that they witnessed mass detentions, confiscation of documents, demands for money, and even beating of foreign citizens. Questions raised by ADC Memorial regarding possible abuse of official powers during the investigation were only reviewed as a formality, and the migrant victims of the police actions preferred not to complain to the prosecutor’s office about the offenders in order to avoid more serious persecution. Further raids followed. FMS officials and police officers inspected the Salova Street Market on 27 March and the Sennoy Market on 11 and 12 April and detained over 600 people, and on 14 April the DFMS officials conducted a special operation named “*Marshrutka*”<sup>77</sup>.

Children suffer most from repressive measures to combat illegal migrants. For example, 27 Tajik minors were detained during a raid by the DFMS and the Ministry of Internal Affairs at the Volodarsky and Gorelovo settlements in Krasnoselsky District of Saint Petersburg in February 2013. The children were taken from their parents, who are among the ethnic group known as the Central Asian gypsies and who had been living in Krasnoselsky District for over ten years.

## **2.2 Rising xenophobia: raids and assaults by ordinary citizens**

The results of police raids against “illegal” migrants have been modest compared to scaremongering public discourse about the criminality of migrants. While the overall number of people detained is sometimes in the hundreds, the number of people who are found to have committed violations usually does not exceed two dozen, and no one suspected of committing a crime has ever been apprehended in this way.

According to statistics summarized on the website of the Russian Federation Prosecutor’s Office (crimestat.ru), only about 2 percent of all crimes registered in the Russian Federation in January 2013 were committed by immigrants from CIS countries. The same site shows that nobody was prosecuted for any of the 926 crimes committed against foreign citizens and stateless persons in 2012.

But regional authorities do not take statistics into account when designing migration policy. Any migrant from Central Asia is treated as a potential illegal, extremist, fundamentalist, or criminal who is superfluous on the labour market. For example, on 27 March 2013, Leningrad Region Governor Drozdenko stated that “illegal migrants have crawled” out across his region “like cockroaches,” crime rates are growing among them, and inter-ethnic relationships are worsening because of them.

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<sup>77</sup>. A *marshrutka* is a high-occupancy taxi that makes limited stops along a specific route

Fuelled by such discourse, xenophobic attacks are on the rise. Data for 2013 reveals a situation of extreme concern. The drop in racially-motivated street violence observed in 2009-2012, according to the Sova Centre for Information and Analysis, switched course in 2013, marked by an upsurge in ethnic violence. A campaign was launched against people from Central Asia and the Caucasus. The number of killings motivated by racial hatred exceeded those recorded in 2012. According to the Sova Centre, in 2013, 21 people were killed, 178 were wounded and 9 people received serious death threats as a result of violence motivated by racism and neo-Nazism<sup>78</sup>. Organized attacks were carried out with the use of weapons. The number of attacks that take place on the street, at markets and in commuter trains and metro cars (the so-called “Russian Clean-ups” and “White Car” actions) have seen a particular surge.

On 9 March 2014, a group of nationalists organised a “White Car” in a suburban Moscow commuter train. About five young people entered a car of a commuter train in the town of Khimki shouting “Get the hell out of here, *Churki*<sup>79</sup>” and waving an imperial Russian flag. They started beating people “of an Asian appearance” in the car. According to a witness, “the strikes were precise, professional, short, but strong. After several strikes, they dragged the victims into the front part of the car.” One of the migrants tried to hide, but didn’t succeed. “One young Tajik crawled up along the wall and onto the racks where passengers put their bags. But they caught him and dragged him off,” explained a witness. One female passenger tried to drag an attacker off his victim, but she was returned to her place with a quick blow. One witness said that the nationalists moved their raid through the entire train. In October 2013, instances of group attacks on trains bound for Tajikistan were recorded.<sup>80</sup>

On 26 October 2013, Tajik migrants travelling from Dushanbe to Moscow by train through the Voronezh Region were attacked when the train stopped for maintenance purposes at Ternovka Station (South-eastern line). The Tajik Embassy in Moscow reported that several passengers were physically injured and 20 windows were broken in the attack. According to Muhammad Egamzod, the official embassy spokesperson, “During the pogrom, attackers used abusive language and directed threats and nationalistic statements at the passengers on this train”. Tajikistan made an official request to conduct an investigation to identify and prosecute the perpetrators as well as the railway workers and police officers who did nothing to prevent the attack or to assist the victims. The Tajik government also requested financial compensation for the victims. According to the embassy, this was the first time such an attack had occurred on a train travelling from Dushanbe to Moscow. They blamed the incident on “the heightened anti-migrant climate in the Russian Federation”<sup>81</sup>

On 30 June 2013, employees at ADC Memorial learned from the media that actions by radical groups, known as “Russian Clean-ups,” took place on 26, 27, 29 and 31 July 2013 in various districts of Saint Petersburg. According to information published on the social network *Vkontakte*, these actions were organized and held by branches of the unregistered social organizations *Svetlaya Rus* [Light Russia] and *Slavyanskaya sila* [Slavic Forces], which have a distinctly nationalistic overtone. The actions were said to be aimed at stopping the illegal street trade. Videos uploaded by participants show that unlawful actions were taken against representatives of national minorities and that these actions are of a clearly racist and xenophobic nature. Calls and slogans of a racist and xenophobic nature can be heard on the recordings. The participants in the actions, who were armed with baseball bats, checked the documents of street sellers. In fact, they performed actions that could be classified as “mass unrest” and “incitement of hatred and enmity and abasement of human dignity.” They overturned fruit and vegetable stands, insulted foreign citizens, and rudely called on them to leave Russia. The police did not intervene to stop these actions and in some cases appeared to approve them. The illegal sales

78. In 2012, 19 people were killed, 191 were wounded, and two received death threats.

79. *Churki* is a derogatory name used for people from Central Asia of the Caucasus.

80. <http://www.sova-center.ru/racism-xenophobia/news/racism-nationalism/2014/03/d29110/>

81. See [http://kaspy.info/materialy-nomera/194-komsomolec\\_kaspy/materiali-kk/10538-poezd-i-pogrom-chp-v-pechalno-izvestnom-poezde-moskva-dushanbe.html](http://kaspy.info/materialy-nomera/194-komsomolec_kaspy/materiali-kk/10538-poezd-i-pogrom-chp-v-pechalno-izvestnom-poezde-moskva-dushanbe.html)

points that were discovered were destroyed, goods were confiscated by the police, and the sellers who did not have documents on them confirming that they were in Russia legally were detained and escorted to police precincts by participants in the actions and police officers.

During preparations for another action to be held on 31 July near the Sennaya Ploshchad metro station, the presumed organisers were detained. It was announced on 1 August that the detainees were being charged with hooliganism under Article 213 of the Criminal Code. Considering the severity and social consequences of the actions committed by this group of people, the level of liability that suspects could incur if found guilty seems extremely low. At the time of writing, none of the participants or organizers of the “Russian Clean-up” had been punished for his or her actions. Dmitry Yetushenko, one of the organisers, continued to publish materials online that contribute to igniting inter-ethnic hatred and enmity. He was later convicted by a Court for his activity on the internet and was sentenced to 160 hours of obligatory labour.

On 9 March 2013, adolescents attacked a 20-year Tajik man near 10 Nauki Prospekt in Saint Petersburg. The victim was exiting the store *Pyaterochka* when unknown people attacked him for no obvious reason. The attackers hit him on the head, jabbed a knife into his leg, and fled the scene. The man was hospitalized with a laceration to the back of his right hip. A passer-by who called the police reported that the attackers were a group of Nazi skinheads and that they had filmed the attack.<sup>82</sup>

Those responsible for attacks against migrants benefit from almost total impunity.

On 11 December 2010, as widespread demonstrations were held by nationalists, Firdavs Yusupov, a Tajik migrant worker, was attacked in Tavrishesky Garden in Saint Petersburg. Three young men and one woman dressed in the manner characteristic of skinheads (tall black boots with white laces, bomber jackets, rolled-up jeans), started to insult Firdavs. They shouted nationalistic slogans and beat him with knives and brass knuckles. The young woman used a gas cylinder during the attack. Firdavs was saved by his brothers, whom he was able to call for help. They drove away the attackers and helped Firdavs make his way to a clinic, where he received first aid. One of the attackers, Udaltsov, was also taken there with a knife wound. The expert medical report that was received later showed that Firdavs’ life was in immediate danger from over nine knife wounds to his back, eyes, and chest and blood loss which could have resulted in the loss of his eyesight. The police officers summoned by doctors examined the location of the event and even established the identities of the attackers. They were P.V. Udaltsov, A.S. Krivinkova, I.V. Golyakov, and A.N. Mamontov. Some of them had previous convictions for attacking foreign citizens. Nevertheless, a criminal case for grave bodily harm was initiated only against P.V. Golyakov and also against Furkat Yusupov, Firdavs’s brother (for the wound inflicted on Udaltsov). Later Furkat was beaten at the police department and placed in an isolation cell. Confessions were illegally obtained from him and his brothers. It was only after the Yusupovs appealed to ADC Memorial for assistance and received legal aid that cases were opened against the other attackers as well. However, case against Furkat was pursued and court hearings continued right until the fall of 2013. On 19 September 2013, Judge Gorodnichevaya of the Smolninsky District Court sentenced Furkat to three years conditional deprivation of freedom.

On 26 December 2013, 32-year-old Shokhdzhon Rakhmatshoyev, a citizen of Tajikistan, was murdered on General Antonov Street in Moscow. The killing was particularly violent: Shokhdzhon’s body was mutilated to such an extent that it was initially impossible to identify. Forensic specialists counted 25 knife wounds on Shokhdzhon, and his neck was also slit. The killers did not touch his money or valuables. According to detectives, this crime was committed by a group of radical nationalists. A criminal case was opened and investigatory activities were conducted to determine all the circumstances of the crime, but there have still not been any results.

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82. <http://www.sova-center.ru/racism-xenophobia/news/racism-nationalism/2013/03/d26621/>

### 2.3 Forced labour

Russia ratified the UN Convention against Organized Crime and the Palermo Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children in 2004. Following ratification, article 127.1 (human trafficking) and 127.2 (use of forced labour), which contain a definition of human trafficking and give a concrete definition of exploitation, were introduced into the Russian Criminal Code.

#### The Case of Mukhamadzhan in Rostov Region

In September 2011, Mukhamadzhan called the hotline of a Tajik human rights organization in Moscow to report that an organisation engaged in agricultural work in Semikarakorsky District of Rostov Region was detaining 150 Tajik citizens for work in the fields. He said that Zukhra Yusupova had promised them work in Russia for 15,000 rubles a month including meals and housing. Mukhamadzhan himself had arrived on 21 August of that year, while the others had arrived earlier. The workers lived in barracks and were poorly fed. Their passports were confiscated. When they asked Yusupova to give them back, she demanded money in return. Mukhamadzhan said, “We are being fed, but I have already worked for a month and I haven’t been paid anything or told anything. Other Tajik citizens,... have been harvesting in the fields for longer than me, and some have even been here for a year. Over the course of the year, they have received almost 20,000 rubles, but they are no longer being paid and none of them have been given back their passports... When I asked Zukhra to give me back my passport, she said that for 20,000 rubles she would return it and let me go. But I don’t have money like that. I don’t even know who we’re working for. We only see Zukhra. We never got in touch with any human rights organizations. I only called the hotline in Moscow and asked for help.”

ADC Memorial wrote a letter to the Rostov Regional Prosecutor’s Office and the State Labour Inspectorate. A response was received from the prosecutor’s office that the materials would be forwarded to the district prosecutor’s office for review. The Regional State Labour Inspectorate responded that “this issue is not part of their jurisdiction” and cited the fact that the Tajik workers and their employers did not enter into any agreements. It was later determined that officials from the prosecutor’s office did find 150 foreign workers from Tajikistan at the site, but that these workers had their passports in their possession, were not complaining about their work conditions, and had properly executed work permits. Employees at ADC Memorial suggested either these people had been intimidated, or that they had been issued their documents and salaries because their employer learned of the threat of inspection. A correspondent for *Kavkazsky uzel* was not able to reach Mukhamadzhan by phone. It took a long time to reach him by phone to check the information he provided, but an employee of ADC Memorial was finally able to do this and to determine that he received his passport. However, this happened only after the inspection conducted by the Rostov Regional Prosecutor’s Office in conjunction with the FMS, and the claimant’s passport was confiscated by DFMS officials and then handed over to the claimant. When Mukhamadzhan finally established contact, he was collecting money to return home. He was never paid for the time he worked, because he was told this went to compensation for paying for his ticket to Tajikistan. Several days later, a representative from a Tajik human rights organization said that Mukhamadzhan had received his passport and even been paid his salary, but it is impossible to verify this information as no one answers Mukhamadzhan’s phone.

### 2.4 Violations of migrants’ access to justice

The review in court of administrative cases on the violation of migration regulations usually resembles the final stages of DFMS procedures and the logical conclusion of an administrative

raid, rather than a legal process. It is not without cause that migrants view the court as a place for confirming the DFMS's decision to prosecute them, after which they will inevitably be deported or, in the worst case scenario, placed in a detention centre for foreign citizens.

When reviewing this kind of case, first instance courts almost always violate the right to an interpreter, which is guaranteed by the Code of Administrative Offences, and the right to a legal representative. The violation of procedural rights is generally encouraged by the fact that DFMS protocols must indicate that the foreign citizen "speaks Russian," "does not need the help of a legal representative," and "admits guilt and repents." Even though the foreign citizen diligently copies all these phrases from a "sample," at best, he or she only learns of his or her right to legal representation in court, and he or she frequently does not know what of the content of allegations until the court issues its judgement. Judges almost always base their judgement on what is indicated in the protocol, or at least use this as a pretext for denying any subsequent objections. In a case concerning ADC Memorial in 2013, during an appeal against a ruling by the Gatchinsky District Court imposing administrative penalties, a judge at the Leningrad Regional Court stated in response to an Uzbek citizen's request for an interpreter that he had already signed the protocol stating that he speaks Russian and that she would take his reluctance to speak as a refusal to give an explanation.

In a situation like this, it is virtually impossible for foreign citizens to appeal administrative sanctions. Now that legislators have left judges with no discretion over whether to impose administrative deportation (with long-term consequences in the form of a five-year ban on entry to Russia), courts are basically "rubber stamping" deportation rulings on the basis of protocols compiled by DFMS employees instead of reviewing migration cases with consideration for all the circumstances. Instead of serving as a monitoring authority that can provide balance to the actions of executive agencies, the courts have become part of the policy "to combat illegal migration." The court interprets any doubts or contradictions in favour of the DFMS.

Labour migrants are not the only group to be affected by the toughening of Russian migration laws. Tajik students studying at Russian institutes and universities under agreements between educational institutions have also faced difficulties.

### **The case of Tajik student Parviz T**

The case of Parviz T., a citizen of Tajikistan and a second-year student at the Institute of Refrigeration and Biotechnology in Saint Petersburg serves as an example that even well-educated foreign citizens who speak Russian are not given the possibility for effective legal representation in deportation cases in Russian courts. Parviz arrived in Russia to pursue his studies and lived in a dormitory of the institute, which is where he was registered.

On 26 August 2013, he was detained by police officials, who found that his registration had expired five days before. They wrote up a protocol on an administrative violation under part 3, Article 18.8 of the Russian Code of Administrative Offences ("violation by a foreign citizen of rules to enter or stay in the Russian Federation") and sent the case to court.

On 27 August 2013, Judge E.A. Trifonova of the Primorsky District Court heard the case and, on the basis of the protocol drawn up by police officials, issued a ruling finding Parviz T. guilty and sentenced him to a fine of 5,000 rubles and administrative deportation. The court did not review any issues related to Parviz's studies and did not take into consideration the insignificant nature of the violation.

To defend his rights, Parviz T. turned to ADC Memorial for help to appeal the deportation ruling and gave an ADC Memorial lawyer power of attorney to participate in the administrative case as his legal representative.

The lawyer sent the appeal with the power of attorney attached on 5 September 2013. The judge prevented the lawyer from reviewing the case files on the basis that power of attorney had not been drawn up properly. The judge also prohibited Parviz T. from reviewing the case files. Such violation of the procedural rights of a foreign citizen when the time frame for filing an appeal is limited and when a foreign citizen must leave Russia immediately in the event of a decision against him and would have no time to appeal, means that further defence is virtually impossible.

On 23 September 2013, Judge E.A. Trifonova issued a judgement denying admission of the appeal, stating that, in her opinion, the power of attorney was not drawn up correctly.

Since the deportation ruling had already taken effect, and the institute expelled Parviz as soon as it learned that he was being prosecuted because it was not able to extend his registration, Parviz T. was forced to leave Russia and look for opportunities to continue his studies elsewhere.

Parviz's lawyer filed an appeal to the judgement with the Saint Petersburg Municipal Court and a separate complaint about the judge's actions with the Judges' Qualification Board. In a letter from the Deputy Chairman of the Primorsky District Court of Saint Petersburg dated 5 November 2013 responding to the complaint, the refusal to allow the person against whom a ruling had been issued the opportunity to review the materials was acknowledged to be without grounds. The letter indicated that "measures to prevent a similar incident in the future have been taken".

For a long time there was no information regarding the appeal that was sent to the Saint Petersburg Municipal Court available from the court's office or on the court's website. It was only on 11 March 2014 that the lawyer was notified that the appeal would be reviewed on 13 March 2014 (four months after the appeal was filed and one day before the hearing). More importantly, the appeal had lost any point for Parviz T., since he was no longer in Russia and could not present any evidence, and also since he was already studying at a different institute in Bishkek.

On 13 March 2014, the Saint Petersburg Municipal Court reviewed Parviz T.'s case. The judge granted his lawyer's motion to attach the decision of the Judges' Qualification Board, which confirmed that Judge Trifonova's actions to limit access to the case materials was illegal, and also found that the lawyer's power of attorney, which Judge Trifonova refused to accept, was properly drawn up. Despite the proven significant procedural violations that deprived Parviz T. of the right to a defence, the Saint Petersburg Municipal Court upheld the deportation ruling. The judge noted orally that since August 2013, courts cannot make any other ruling except administrative deportation in cases such as these.

The vulnerability of foreign citizens means that procedural violations and violations of time frames for review appeals make it virtually impossible for foreign citizens to defend their rights or appeal deportation rulings. Once a foreign citizen leaves Russia under migration laws, he or she has virtually no ability to effectively appeal an illegal ruling. In Parviz T.'s case, his lawyer did succeed in appealing the ruling, but only after an extended period of time. However, most Tajik citizens in Russia are labour migrants and are deprived of the ability to defend their rights in an effective manner, since court proceedings in these types of cases are basically formalities and violation of the procedural rights of migrants does not lead to a reversal of the deportation ruling.

A Tajik citizen named C. appealed to ADC Memorial for help after his 18-month-old daughter ended up in Children's Home No. 7 under a decision issued by the Child Welfare Department of the administration of the Konstantinovskoye Interdistrict Department after a raid on 7 February 2013. His daughter had a birth certificate and her parents' personal documents were in order.

The head of the Child Welfare Department explained that “pursuant to Russian law, we must return the child to its parents, but we have an order from the City Prosecutor’s Office that children should not be returned while this office is carrying out inspections, as long as the parents do not leave Saint Petersburg”. In this way, children are basically used as hostages in order to force their parents to leave Russia. The media has reported on similar cases in Moscow.

Evidence that children have been separated from their parents has attracted the attention of the UN Committee on the Rights of the Child, which requested special comments on the grounds used for forcefully separating children from their parents prior to its review of Russia’s periodic report.

On 22 March 2014, police officers in Saint Petersburg detained three Tajik children: Akhmat Musayev (aged 13), Abdullah Musayev (aged 11), and Salakhidin Musayev (aged 9). Their older brother—a student—was with them. When their documents were inspected, it was discovered that the time frame from registration had expired on 3 March 2014. The parents asserted that this was a mistake and that the registration was completed in January for a period of three months, but that there was an error on the documents. The children were taken to the 40<sup>th</sup> Police Precinct and were then moved by an inspector to the Temporary Detention Centre for Juvenile Offenders at 54 Sedova Street. The police knew that they were dealing with minors. The children were kept at this centre—without their parents and surrounded by juvenile offenders—for two days and two nights before appearing before the court. Their mother’s documents contained the same mistake so she was detained when she attempted to get her children out of the detention centre.

Contrary to Russian law banning the administrative prosecution of children under the age of 16 and their placement in detention centres except under special circumstances, the Temporary Detention Centre for Juvenile Defenders accepted and placed in what amounted to prison conditions children who were not guilty of anything but a mistake in the date of their registration. Human rights defenders tried to convince law enforcement authorities that their actions were illegal, but this did not lead to any results.

On 24 March 2014, the three children and their mother were vindicated in a hearing at Frunzensky District Court and released.

### **3. Specific Difficulties Faced by Women Migrants**

As migrant workers in Russia, women are confronted with the same problems as men: extortion at the borders, difficult living conditions, lack of social and legal protection, lack of access to medical treatment, lack of contracts, delays in the payment of salaries and no payment of overtime, theft, xenophobic and police violence. But some of these problems are exacerbated for women: they are often employed in sectors in which salaries are lower (catering, retail, maintenance, cleaning, home care, etc.). There is little information available on sexual and other gender-based violence.

They may be also more vulnerable than men because of their lower access to education (poorer knowledge of Russian, access to less qualified jobs). Indeed, in spite of specific government efforts, the proportion of girls has been decreasing in secondary school<sup>83</sup>, especially in rural areas<sup>84</sup>. “In the Khatlon region, 70% of the girls do not study after the seventh class, because their family don’t have money to spend on their education. Religious families don’t give girls

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83. According to official statistics, girls make up 48.1% of all school students in grades 1-4, but only 42.3% in grades 10-11 and 29% of the university students. In the period from 2005 to 2009, the share of girls among the students of PVE (primary vocational education) institutions fell from 28.1% to 15.4%. (NGO Alternative report to CEDAW 2012)

84. See IWPR article by Haramgul Qodir [1] - 18 May 12, <http://iwpr.net/report-news/education-hampers-marriage-rural-tajik-women>

to schools, because they are not allowed to wear the hijab”<sup>85</sup>. “About women’s education, the situation could not be worse: girls without money have no chance to enter university or anything else, so they get ready to marry or to migrate”<sup>86</sup>.

**Nigora S. is a Tajik citizen, born in Sughd Province. After divorcing her husband, in 2008 she left her three children with her elderly parents and moved to Russia in search of work. Like many others travelling to Russia for the first time, she had no friends, no job and no idea of how to find work or a place to live. On arrival in Saint Petersburg, she spent a long time wandering around in search of housing and a way of making money. She became increasingly desperate and eventually attempted suicide. She says it was only the thought of her children that saved her and gave her the strength to carry on with her life and to try to survive in Russia**<sup>87</sup>.

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85. Interview with Z. Khudzhaeva, Islamic Renaissance Party of Tajikistan, Dushanbe, 5/06/2013. She created her own NGO, Nishot, to attract girls to education.

86. Interview with O. Bobonazarova “Perspektiva+”, Dushanbe 4/06/2013

87. Interview, ADC Memorial, 2013.

# III. MIGRATION POLICY IN TAJIKISTAN

Migration is clearly a major issue for the Tajik authorities. They regularly take measures aimed at improving the situation of their migrant-citizens. However, largely due to the lack of good governance in the country, they face significant difficulties when it comes to their implementation.

## 1. Measures taken by the Tajik authorities

### 1.1 Migration, an important topic for the Tajik authorities

The issue of migration is high on the Tajik international human rights agenda. In 2002, Tajikistan ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), and its first report was presented to the UN Committee on the Rights of Migrant Workers (UNCRMW) in April 2012. The rights of migrant workers have also been discussed during sessions of other Treaty Bodies (Human Rights Committee in July 2013<sup>88</sup>, CEDAW in September 2013<sup>89</sup>). Moreover, specific recommendations on migrant workers were made during the UN Universal Periodic Review in October 2011<sup>90</sup>.

Tajik authorities have indicated willingness to take measures to implement the recommendations of UN bodies. With the support of the Open Society Institute, a National Action Plan on the implementation of the recommendations of the UNCRMW was drawn-up in June 2013. A similar Action Plan was adopted after the UN UPR<sup>91</sup>. The department for Constitutional Guaranties, under the supervision of the President, is said to play a positive role, but, as one expert noted, “they work on plans, they include civil society, but they are not responsible for the execution”.

There appears to be a gap between the importance given to the issue on the international stage and at the national level. For example, in an address to Parliament in April 2013, the Tajik President did not mention migration<sup>92</sup>. It would seem that the Tajik President tends to downplay the issue, drawing the question out of political discussions and leaving it to a closed sphere of experts.

### 1.2 The creation, role and functioning of the Migration Service

In 2011, when FIDH and ADC published their first report, the Migration Service had just been created. After three years, this structure has developed and enlarged its activities, however problems have been observed. The mission delegates met with Anvar Babaev, Deputy Chief of

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88. Human Rights Committee, Concluding observations on the second periodic report of Tajikistan, CCPR/C/TJK/CO/2, 22 August 2013, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fCO%2fTJK%2fCO%2f2&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR%2fCO%2fTJK%2fCO%2f2&Lang=en)

89. CEDAW, Concluding observations on the combined fourth and fifth periodic reports of Tajikistan, CEDAW/C/TJK/CO/4, 18 October 2013, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/TJK/CO/4-5&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/TJK/CO/4-5&Lang=en)

90. <http://www.ohchr.org/EN/HRBodies/UPR/PAGES/TJSession12.aspx>

91. Available in Russian at: [http://www.bhr.tj/public/userfiles/downloads/Publications/Nationalniy%20plan\\_UPR\\_2013\\_rus.pdf](http://www.bhr.tj/public/userfiles/downloads/Publications/Nationalniy%20plan_UPR_2013_rus.pdf)

92. Address of the President of the Republic of Tajikistan, Emomali Rakhmon, to the Mazhlis Oli of the Republic of Tajikistan (in Russian), 26 April 2013, <http://www.tajembassy.ru/novosti/poslanie-prezidenta-respubliki-tadzhikistan-emomali-rachmona-madzhlisi-oli-respubliki-tadzhikistan-26-04-2013-12-12-gorod-dushanbe.html>

the Migration Service in Dushanbe, and Dzhamshedkhon Ataev, Deputy Head of the Migration Service in Khujand.

Since 2011, the structure has been completed, several offices have been opened (in Dushanbe, Qurgonteppa, Khujand, Khorog and Moscow) and the service has been staffed with persons coming partly from the Ministry of Labour and partly from the Ministry of Interior<sup>93</sup>.

With the support of the International Organisation for Migration (IOM), the Migration Service has published several booklets in Tajik and Russian on migration laws in Russia, including “How to get a work permit in Russia”, “Changes to Russian migration legislation”, “Patents” and others. These booklets can be found in places frequented by future migrants (travel and employment agencies, migration services, airports etc.), but they are written in very formal, legal language, which is difficult to understand and may be of poor practical use for migrants. Several videos were also prepared with the support of the IOM and broadcast in a television campaign. The booklets give telephone numbers migrants can phone for information, but the migration service does not operate a hotline.

Since 2011, the Migration Service has also established a Public Council that includes members of civil society organisations and international organisations working on labour migration in Tajikistan. A Gender Working Group was created to ensure that activities and strategies include a gender perspective, and UNICEF supported the creation of a Department for the protection of children’s rights under the Migration Service.

In the Sogd region, the Migration Service employs around 40 persons from the Ministries of Labour and Interior. The service’s motto is “more attention to migrants”<sup>94</sup>. They work together with the Centre for Human Rights in Khujand to provide information and preparation for departure as well as legal advice. There is a representative of the Migration Service in the Khujand airport, as well as an information centre, and an information stand in the Khujand public library. According to the Deputy Head of the Migration Service in Khujand, there are one to two hundred requests to the Migration Service every day, either in person or by phone. These requests relate to various problems: false migration cards received in Russia, accidents, murders, legal problems, etc.<sup>95</sup>

In 2012, the UN Committee on the Rights of Migrant Workers recommended that clear and easily accessible complaint procedures be established within the Migration Service, which should also “strengthen its cooperation with the law enforcement agencies of the main countries of employment of Tajik migrant workers”. The National Plan to implement the recommendations of the UN UPR also planned improvements to dealing with migrants’ complaints both inside and outside the country, and the implementation of a pilot project on the use of modern electronic technology to register complaints and appeals of migrant workers, including cases of deportation, detention, slavery, forced labour, sexual exploitation.

## 2. Risk prevention

In order to prevent migrant workers from risks linked to migration such as forced labour or violations of the legislation of the country of destination, the Tajik authorities have taken several measures: on the one hand they try to support departing migrants by providing information and training; on the other had they try to control migration through officially registered Private Employment Agencies (PEA).

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93. Indeed, before becoming an independent structure under the Government, the MS was part of the Ministry of Labour (up to 2007) and then of the Ministry of Internal Affairs. Police Colonel Safiallo Devonaev is at the head of the Migration service since its creation.

94. Interview with D. Ataev, Deputy Head of the Migration Service in the Sogd Region, Khujand, 07/06/2013

95. Interview with D. Ataev, Deputy Head of the Migration Service in the Sogd Region, Khujand, 07/06/2013

## 2.1 Accompanying departing migrants: information and training

Support to departing migrants can take various forms. Firstly, the Tajik authorities can inform future migrants about the migration-linked legislation in their country of destination so they can take the necessary steps to ensure they comply and have legal status there. In April 2012, the UNCRMW recommended that Tajikistan “organizes training for migrant workers and members of their families on employment laws and practices in countries of employment” and “ensures that migrant workers have access to information on their rights under the Convention, and collaborates with civil society organizations in promoting and disseminating information on the Convention.” Such measures are indeed taken by the Migration Service in collaboration with NGOs. NGOs play an important role providing booklets or CD-Roms with information on Russian legislation. Video-clips are broadcast on television, and this seems to be crucial as migrants say: “we learn about the changes in Russia on television”. But they also rely information received by other means: “when we buy a plane ticket, everything is written, there are telephone numbers”<sup>96</sup>. The result of this pre-departure training is assessed positively: “all in all, the number of cases of trafficking and forced labour are decreasing. People are becoming more educated; there is more and more information from international organisations”<sup>97</sup>.

Secondly, the Tajik authorities try to ensure that migrant workers find decent jobs in the country of destination by providing vocational training. In April 2012 in a speech to the UNCRMW the Tajik Minister of Labour declared that “the Tajik Government pays special attention to the issue of professional training of its citizens through development of Education Centres for adults and vocational training schools” and that Education Centres for adults were established in four regions on the basis of the existing training facilities<sup>98</sup>. As the Migration Service does not have its own vocational training centres, courses are provided either by the Ministry of Education or by the Ministry of Labour and Social Protection. Various international organisations, NGOs, as well as the Russian government through Rossotrudnichestvo<sup>99</sup>, have given support.

The mission met with the Head of a local Centre for Employment in the Khatlon province<sup>100</sup>. This centre organises courses for the unemployed, including former migrant workers, in 18 areas (sewing, welding, electricity, bee-keeping, information technology, book-keeping etc.). The trainees (145 a year in his district) receive 40 Somoni (6 Euros) per month and a certificate at the end of the course. Labour fairs are organised on a regular basis to help them find a work.

According to the Head of the Employment Department, since Russia introduced a requirement for migrant workers to show they have adequate Russian, there has been increased demand for Russian courses.

The Director of a technical college in Khujand<sup>101</sup> confirmed this. His institute has been organising short-term professional courses for adults (welding, electricity, book-keeping, sewing, carpentry, car-mechanics) since 2008 and delivers certificates, which are recognised in Russia and Kazakhstan. They also teach Russian language, though only the certificates given by the Russian-Tajik Slavonic University in Dushanbe are recognised in Russia. Around 400 adults a year take their courses, most of whom already have work experience and take part in order to obtain a certificate. “Before, Russians took everybody, they didn’t look at the certificates, but

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96. Meeting in a village near Qurghonteppe, former Kolkhoz “Zaria Vostoka”

97. Interview with Muzaffar Zaripov, Fond “Migration and Development”, Dushanbe, 9/06/2013

98. Speech by the Minister of Labour and Social Protection of Population of the Republic of Tajikistan, Mahmaminov M.B., at discussion of initial Report of the Republic of Tajikistan on International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families before UN Committee (15-18 April, 2012, Geneva), available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCMW%2fSTA%2fTJK%2f16%2f11168&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCMW%2fSTA%2fTJK%2f16%2f11168&Lang=en)

99. Rossotrudnichestvo: the Federal Agency for the Commonwealth of Independent States, Compatriots Living Abroad and International Humanitarian Cooperation

100. Interview with Arkhedin Gaduev, Head of the Centre for Employment, Raion Imeni Jaami, Khatlon Province, 8/06/2013

101. Interview with Abdulkhafiz Abdukodriov, Director of the Professional-technical Institute n°31, Khujand, /06/2013

since the beginning of 2012, it's more organized, and the Federal Migration Service looks for these documents”.

To what extent are such short-term courses useful? It seems that a majority uses them to certify already existing professional skills. According to the Ministry of Labour, “the advantage of this training system, as per short-term prognosis, lies on its direct link with the demands of the labour market”<sup>102</sup>. The labour market referred to by officials is in reality the Russian labour market: “citizens have to be retrained depending of the needs of Russian Federation. The Russian Federal Service has given us a list of 800 needed professions, we picked out 300 of them, gave them to the Ministry of Education, and they are now elaborating a program”<sup>103</sup>.

Nevertheless, this system raises several questions: should vocational training really be oriented only to the needs of the Russian labour market? What if Russian policy towards migrants changes? This system seems to make Tajikistan very vulnerable. Should the main efforts rather be focussed on the general education system, especially on secondary schools? The collapse of the secondary educational system, and especially the teaching of Russian, is regretted by everybody. Vocational training for migrants should not divert money or efforts from the task of reconstructing the general education system.

## 2.2 Private Employment Agencies

To prevent the risks of forced labour and exert better control over intermediaries, the Tajik government promotes the development of employment agencies, both governmental structures and private bodies that are licensed and controlled by the government.

A new law on Private Employment Agencies (PEAs), which raises several concerns <sup>104</sup>, has been under negotiation for several years, but has still not been adopted. The mission delegates were unable to obtain the most recent draft version of the law. Existing agencies work under the law on the “Licensing of specific activities”<sup>105</sup>.

The Migration Service is the body in charge of giving licences to PEAs. According to the Deputy Head of the Migration Service, thirty-five enterprises have received a license but only thirteen operate and most are actually importing labour to Tajikistan. In Dushanbe, the most frequently mentioned employment agencies are Uralski Dom, the Youth Labour Exchange (Birzha Truda Molodezhi) and the governmental structure Todzhikkhorichakor (in English, the Tajik external work) (Tadzhikvneshtud). In the Sogd region, six employment agencies have been licensed, including Nakliot and The Youth Union for Voluntary Work (Soiuz Dobrovolnogo Truda Molodezhi) while the Ministry of Transport has given licenses to twelve transport enterprises, including Somonekspresstrans and Avtovokzal<sup>106</sup>.

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102. Speech by the Minister of Labour and Social Protection of Tajikistan before UN CRMW April 2012

103. Interview with Anvar Babaev, First Deputy Head of the Migration Service of the Republic of Tajikistan, Dushanbe, 5/06/2013

104. The ADC/ FIDH 2011 report pointed to the fact that PEAs were used by only a small percentage of migrants, and that the potential of corruption in the development of PEAs was high. The report also underlined that existing legislation made it possible to prosecute dishonest intermediaries and that the problem was less the legal framework than the poor implementation of existing laws. During a EU/ Tajikistan civil society seminar, the participants noted that the draft law on private employment agencies ignored the most important provisions of ILO Convention 181. Although Tajikistan is not a signatory to this Convention, the latter embodies the key, focused, standard approach which will ensure the positive regulation of legislative positions while reflecting the balanced interests of the state, trade unions, employers, employment agencies and migrants. (EU-Tajikistan Civil Society Seminar, 2011). The CRMW also noted “that the draft Law on Private Recruitment Agencies has significant gaps in relation to implementation mechanisms and mechanisms to protect the rights of migrants who are recruited through employment agencies” and recommended amending the draft Law on Private Recruitment Agencies in order to provide for mechanisms of implementation and protection of the rights of migrants. (CRMW Concluding Observations on Tajikistan, 2012).

105. In Russian, *litsenzirovaniye ot del'nykh vidov deyatelnosti*

106. Interview with D. Ataev, Deputy Head of the Migration Service in the Sogd Region, Khujand, 07/06/2013

In Khujand, the mission delegates met with the Managing Director of the PEA Nakliot<sup>107</sup>, which has been sending migrant workers to Russia and Kazakhstan since 2006 and to South Korea since 2011. Through a network of contacts in Russia, Nakliot finds employers and selects employees according to the required qualifications; they collaborate with various technical colleges for that purpose. Migrants are usually men and women from 25 to 50 years old. Younger men are not recruited, for fear that they would use migration to escape conscription. Up to 25% are women sent to work in agriculture, cleaning or cooking.

According to the standard agreed contract, the employer pays for transport, the work permit and medical tests in Russia. These expenses are deducted from the migrants' salary and usually "in six months, the employer's expenses are covered". Nakliot claims not to take money from migrants for the service they offer: a contract is concluded as well as an acknowledgement of responsibilities in case of non-departure or premature leaving (in the latter case, the migrant has to pay for all travel expenses). The family also has to sign that it agrees to the migrant's departure, "so as the wife won't come afterwards and complain".

The Director of Nakliot claims to be concerned about migrants' rights: "our goal is that the word 'cheating' totally disappears". Migrants are informed about the working conditions in Russia and receive a briefing on Russian legislation from a representative of the Human Rights Centre in Khujand. In the entrance hall, several booklets on migration to Russia, published by the Migration Service and/or the IOM, are at migrants' disposal.

### **3. Difficulties Faced by the Tajik Authorities in their Attempts to Regulate Migration**

Even though positive steps have been taken in recent years in terms of the Tajik migration policy, many shortcomings remain. Firstly, the lack of democracy creates a situation in which the representation of citizens in general and migrants in particular in Tajik political life is low and civil society organisations work in difficult conditions. Secondly, each positive measure presents difficulties: implementation of laws and measures is often slow; the Migration Service faces financial and structural difficulties; information to migrants and employment agencies as means of risks prevention do not necessarily fit the needs of migrants.

#### **3.1 Lack of democracy, a problem for the representation of Tajik citizens in political life and for NGOs to work effectively**

##### *Representation of Tajik citizens and migrants in particular in political life*

Experts, international organisations and even government representatives and NGOs may agree on what should be done, but the overall political situation and especially the lack of democracy impede possibilities to defend migrants' rights. Indeed, the lack of pluralism and respect for political rights has a direct link with migrants' rights in several ways. Firstly, it prevents some migrants from exercising the right to vote. Secondly, it impairs the possibility for migrants to defend their rights through representatives elected under fair, transparent and pluralistic elections, who could take an active and decisive part in policy-making. The need for Tajik migrants to exercise their voting rights seems all the more important in a context in which mass migration has an undeniable political advantage for Tajik authorities: it contributes to relieving social tensions caused by the economic situation that could otherwise turn into discontent and protest against the government..

Before the presidential election, the Human Rights Centre in Tajikistan raised the issue of the participation of migrant workers living in Russia. It underlined that during Tajik parliamentary elections in February 2010 Tajik authorities had established only eight polling stations in Russia,

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107. Interview with Mukhsin Saidov, General Director of the Society "Nakliot", Khujand, 7/06/2013

for an estimated 800,000 to 1 million migrant workers there<sup>108</sup>. During the 2013 presidential election, the Tajik Embassy announced that twenty-four polling stations would be set up in different regions of Russia<sup>109</sup> and that only a passport would be required to vote. But it is not clear to what extent information was available for migrants and, in the absence of observers, how these polling stations complied with international standards.

The way results were compiled is not clear either, especially as “the lack of a centralized voter register prevented any nationwide cross-checks for potential multiple entries in the voter list”<sup>110</sup>. In Tajikistan the OSCE Election Observation Mission observed that, at times, election commissions “excluded labour migrants (...) from the main voter lists and compiled separate unofficial lists for those categories of voters”<sup>111</sup> and it is not clear how these lists were used<sup>112</sup>. The OSCE Election Observation Mission also observed that before the vote “[t]he requirement of local authorities to certify the support signature forms effectively removed the right of labour migrants to sign in support of a potential candidate”.

In addition, the Ombudsman report for 2012 drew attention to the risk of loss of citizenship for Tajik nationals who live permanently in Russia<sup>113</sup> and this question, which is supposed to be addressed in a new draft law on nationality aimed at reducing statelessness, is of utmost importance when it comes to the representation of migrants through electoral processes.

### *Lack of democracy*

In April 2013, the Vice-President of the Party for Islamic Renaissance (PIVT), the main opposition party, was assaulted in the street<sup>114</sup>. In May 2013 the businessmen Zait Saidov, who was felt to be a potential competitor to incumbent President Rakhmon, was arrested under various charges including polygamy, fraud and corruption; he was convicted in December and sentenced to 26 years of imprisonment<sup>115</sup>. In July 2013, the UN Human Rights Committee was very critical of Tajikistan’s implementation of the International Covenant on Civil and Political Rights<sup>116</sup> and urged “the state party to foster a culture of political plurality and, to this end, desist from harassing opposition political parties and groups that are considered as holding contrary political views to the ruling party”<sup>117</sup>.

108. Human Rights Centre in Tajikistan Report to UNHRC, 2013.

109. Polling stations were to be opened in Moscow, St. Petersburg, Tver, Tula, Yaroslavl, Ryazan, Kaliningrad, Saratov, Volgograd, Kazan, Ufa, Nizhniy Novgorod, Krasnodar, Astrakhan, Ekaterinburg, Tyumen, Krasnoyarsk, Blagoveshchensk, Chelyabinsk, Novosibirsk, Samara, Perm, Khabarovsk, Republic Sakha (Yakutia). The Tajik government received the support of the Russian electoral commission and Russian Ministry of Foreign Affairs. “The Tajik Embassy in Russia announces that it is ready to hold elections” (in Russian), 6 November 2013, <http://www.tajembassy.ru/novosti/6-noyabr-intichoboti-prezidentichumchurii-tochikiston-barguzor-megardad.html>

110. OSCE International Election Observation Mission, Statement of Preliminary Findings and Conclusions, 7 November 2013, <http://www.osce.org/odihr/elections/107944>

111. OSCE International Election Observation Mission, Statement of Preliminary Findings and Conclusions, 7 November 2013, <http://www.osce.org/odihr/elections/107944>

112. According to HRC in Tajikistan, the practice of “family” or “group” voting, when members of families in Tajikistan vote on behalf of a migrant worker, had been widely used in previous elections in 2006 and 2010 both in Tajikistan and in Russia. In Tajikistan, absent migrant workers were included on the list of voters by local authorities and their relatives or representatives of housing committees voted on their behalf. (Human Rights Centre in Tajikistan Report to UNHRC 2013)

113. According to Tajik legislation, a person who lives abroad and fails to register in a consulate within a period of 5 years, without providing a valid reason, can be deprived of citizenship. Migrant workers who live in Russia for a long period run the risk of losing their citizenship, while the rules of lodging an appeal against deprivation of citizenship are not defined by law.

114. In January 2014, a member of Tajikistan’s opposition Islamic Renaissance Party, Umed Tojiev, died in a prison hospital in Khujand. He had been arrested just before the elections on charges of extremism, and was hospitalised in November after jumping from the third-floor of a police station. He later claimed he had been tortured by police (Tajikistan: Opposition party member dies in hospital, <http://www.amnesty.org/en/library/info/EUR60/001/2014/en>)

115. Khumaro Bakhtiyor, Lola Olimova, “Tajik Opposition Figure Gets 26 Years”, RCA Issue 723, 8 Jan 14 <http://iwpr.net/report-news/tajik-opposition-figure-gets-26-years>

116. FIDH and Members of the Coalition of NGOs of Tajikistan: “UN experts critical of Tajikistan’s implementation of civil and political rights treaty”, 31 July 2013, <http://www.fidh.org/un-experts-very-critical-of-tajikistan-s-implementation-of-civil-and-13745>

117. Human Rights Committee, Concluding observations on the second periodic report of Tajikistan, CCPR/C/TJK/CO/222 August 2013

The presidential election took place in November 2013 and led without surprise to the re-election of the President Emomali Rakhmon against six challengers who “often took time to praise Rakhmon’s policies... avoided criticizing the incumbent [and] even stopped short of explicitly calling on people to vote for them”<sup>118</sup>. The opposition candidate Oinihol Bobonazarova, who was supported by the Islamic Renaissance Party and the Social Democratic Party, did not collect the required number of signatures and accused the administration and the police of interference<sup>119</sup>. FIDH denounced the crackdown on the opposition ahead of the presidential election<sup>120</sup>. According to the OSCE/ODIHR Election Observation Mission, “the 6 November presidential election in Tajikistan took place peacefully, but restrictive candidate registration requirements resulted in a lack of genuine choice and meaningful pluralism. The campaign was formalistic and limited voters’ opportunity to make an informed decision. Extensive positive state-media coverage of the official activities of the incumbent President provided him with a significant advantage<sup>121</sup>”.

### ***Lack of efficiency and independence of the justice system***

In 2013 the UN Human Rights Committee recommended that Tajikistan take “effective measures to guarantee the competence, independence and tenure of judges, including by (...) reducing the excessive powers of the Prosecutor’s Office” and that “the procedures and criteria for access to and conditions of membership of the Bar do not compromise the independence of lawyers”. The Human Rights Committee also recommended that the state party create a state-subsidised legal aid system for persons in need. This recommendation echoes the calls of NGOs and especially of the BHR which has been advocating for such a measure for a long time. The improvement of the protection of migrant workers is clearly linked to the improvement of the justice system and access to courts for all citizens of Tajikistan.

### ***Obstacles to the work of NGOs***

Respect of political and civil rights is also an imperative condition to allow NGOs to do their work. Indeed, a large part of the migration policy is implemented through and by NGOs, who work effectively and with a great professionalism. However an expert regretted that “in the field of human rights, we are going backwards: human rights defenders keep publishing analysis and reports, but they don’t make any public declarations”. NGOs are indeed excellent experts on the question they specialise in, but they do not seem to feel secure and free to openly criticise the government. Several references were made to the case of the NGO Amaparo, which worked on the rights of conscript soldiers and was closed in 2012<sup>122</sup>. Checks by the Ministry of Justice were carried out at the offices of FIDH’s partners during the mission: although these controls were planned and did not threaten their work, they certainly put unnecessary burden on human rights organisations.

One of the NGOs met by the mission explained the difficulties this way: “the government wants transparency, each month we have to give reports, and to pay taxes... The governmental structures want money for their services, there is corruption everywhere”. The issue of corruption was raised a number of times during different meetings, and the fight against corruption is closely linked with transparency, civil rights and the possibility for the justice system to operate effectively.

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118. Farangis Najibullah, “Tajik Elections Are All About Rahmon”, 5 November 2013, <http://www.rferl.org/content/tajik-election-feature-/25159204.html>

119. RFE/RL’s Tajik Service “Tajik Opposition Candidate Bows Out Of Race”, 11 October 2013, <http://www.rferl.org/content/tajik-opposition-president/25133663.html>

120. FIDH “Tajikistan: Crackdown on opposition ahead of presidential elections”, 5 November 2013, <http://fidh.org/en/eastern-europe-central-asia/Tajikistan/14196-tajikistan-crackdown-on-opposition-ahead-of-presidential-elections>

121. OSCE International Election Observation Mission, “Statement of Preliminary Findings and Conclusions”, 7 November 2013, <http://www.osce.org/odihr/elections/107944>

122. FIDH/ OMCT “Tajikistan: Closure of the NGO ‘Amparo’” 8 November 2012 <http://www.fidh.org/en/eastern-europe-central-asia/Tajikistan/Tajikistan-Closure-of-the-NGO-12421>

The same NGO pointed out that “the government administration doesn’t always understand the problems. People are not always competent, they change all the time. Each year, in February, the local administrations make their activity report, and some regional heads are replaced – and these changes go from top to bottom”. It was regretted that the local administration and state employees feel that their main responsibility is to their hierarchy and not to the people of Tajikistan, who have few possibilities to influence the system.

### **3.2 Difficulties in implementation and lack of efficiency**

Plans may be good on paper, however they are often not fully implemented, sometimes because of a lack of money. This is the case, for instance, of the National Strategy for Migration, adopted in October 2011 with the support of the World Bank. Other obstacles include bureaucracy, corruption and lack of political will.

#### ***The Draft Law on Labour Migration of Tajik Nationals Abroad***

The Draft Law on Labour Migration of Tajik Nationals Abroad (referred to as the Draft Law on Labour Migration) was already under discussion during the first FIDH/ADC mission in June 2011, it had still not been adopted in June 2013, nor has it been passed since, in spite of what officials of the Migration Service told the mission delegates. The first draft raised concerns for our organisations (see the FIDH/ADC 2011 report): they were echoed by the UN CRMW, which recommended that it should be amended “to ensure that it is fully in line with the Convention, namely by using the terminology ‘migrants in an irregular situation’ and lifting restrictions to leave the country”<sup>123</sup>.

A number of consultations have been held since 2011 and NGOs are part of the working group, which is composed of experts and officials. According to experts from the Migration Service, the provision forbidding holders of state secrets to leave the country was removed, but the notion of “illegal labour migrant” had not been abandoned and was still under discussion. NGOs criticize other aspects of the law: restrictions on disabled persons leaving the country, obligation to register with the Migration Service before leaving and in the consulate or embassy when arriving in a foreign country; the organisation of the social fund for migrants (mainly from migrants’ donations with insufficient contribution from the state)<sup>124</sup>. The draft versions that were shared with the mission delegates contain other elements of concern, including the tendency to place responsibility for social protection and care for elders on labour migrants themselves, rather than on the state (articles 14 and 18 of the draft Law on Labour Migration).

In June 2013 the project was said to be blocked because of reservations expressed by the Ministry of Finance (in particular on the way the social fund for migrants would be financed) and especially the Ministry of Justice. “The idea of the draft law was approved by the government, an inter-agency commission was created, members of the working groups came to an agreement”, explained the Deputy Head of the Migration Service, “and then the Minister of Justice came and said that there is no need for a new law. ‘What? Something here we didn’t get?’, we told them!” The Ministry of Justice produced a ten page document containing proposals to avoid contradictions between different legal acts<sup>125</sup>.

Several experts commented that nobody was in a hurry to adopt this law, especially not those who are paid for their participation in the working group. Others stressed that “what is needed is not a law, but an application of existing mechanisms on external and labour migration”<sup>126</sup>

123. CRMW Concluding Observations on Tajikistan 2012.

124. Interviews with O. Bobonazarova “Perspektiva+”, Dushanbe 4/06/2013, Tatiana Bozrikova, NGO Panorama, Dushanbe, 4/06/2013, Malika Yarbabeva, IOM, Dushanbe, 4/06/2013

125. Interview with Anvar Babaev, First Deputy Head of the Migration Service of the Republic of Tajikistan, Dushanbe, 5/06/2013

126. Interview with Muzaffar Zaripov, Fond “Migration and Development”, Dushanbe, 9/06/2013

and that anyway “these draft laws are interesting, but they don’t have any impact on the situation”<sup>127</sup>.

### ***The National Strategy on Labour Migration of Nationals of the Republic of Tajikistan 2011-2015***

In its 2014 report to the UN Committee for Economic, Social and Cultural Rights, HRC shows how measures comprised in the National Strategy on Labour Migration of Nationals of the Republic of Tajikistan 2011-2015 are written in terms so vague that they cannot be implemented: it uses formulations such as “Conduct review of current legislation on external labour migration” and “Based on review introduce relevant changes in current legislation on external labour migration”, which do not specify the objectives of the Strategy nor the steps and the methodology to be followed to improve the situation of migrants <sup>128</sup>.

### ***Lack of efficiency of the Tajik Ombudsman and of Tajik representatives in Russia***

Despite the positive measures taken by the Tajik Ombudsman, Zarif Alizoda was dubbed “the invisible man” by an expert, because of his frequent travel to foreign countries and of his lack of public, oral positions on human rights issues. This may explain why only six complaints related to labour migration were received by his office in 2012<sup>129</sup>.

According to research conducted in January 2014, Tajik migrants in Russia are not informed about the presence of Tajik representatives in Russian regions, which leads to their under-use. Moreover, migrants report bad experiences with the Migration Service and with the Honorary Consulate in Saint Petersburg. In general they are very sceptical about the idea of seeking assistance from Tajik officials: they tend not to trust them because of corruption and incompetence.

### **3.3 The Migration Service**

Evaluation of the work of the Migration Service by NGOs is not very positive: although some representatives of civil society acknowledge that “since the Migration Service separated from the Ministry of the Interior, people call on it more often, before they didn’t even want to go there.” The mission delegates were also told that, “There just has been a staff reduction according to the programme of reduction of state employees and now there is nobody responsible for information”; “We don’t have the interaction we would wish with the Migration Service”; “The stand they opened is empty”.

This mixed appraisal of the work of the Migration Service was shared by several experts met by the delegation and can be summed-up in the statement of one of them: “The Migration Service, it’s just like the Ombudsman: they started a frantic activity, showing off, requiring money and declaring that they will soon begin to work. In fact, they do try to do something, but there is not enough money, and everything depends on the Head of the service – who for his part always tries to be on the safe side. He didn’t do any statements in 2013, in spite of Zhirinovskiy’s declaration, in spite of deportations and of the video where you see migrants being led just as the Nazis did<sup>130</sup>. And then the Migration Service complains that they don’t have enough money, enough power, that they cannot influence the government.”

Apart from possible internal problems and tensions, about which the Migration Service representatives are not very willing to talk (“We have our problems, but we solve them by ourselves” the delegation was told in Khujand), the Migration Service faces a range of financial and structural problems.

127. Interview with Bakhtier Abduzhabbarov, Fond for the Development of Society, Istravshan, 7/06/2013

128. Human Rights Centre of Tajikistan, Respect of economic and social rights of Tajik migrants workers by the Republic of Tajikistan, Submission to the 53 Pre-Sessional Working Group of the CESCR (26 Mays 2014 – 30 May 2014), p. 5

129. Ombudsman of Tajikistan 2013 Report

130. This is a reference to the arrests in Moscow in May 2013 – see supra

### ***Financial shortages of the Migration Service and its dependence on NGOs***

The first problem is the lack of money and an expert told the mission that “the lawyers working for the Migration Service become migrants themselves: their salaries range from 400 to 700 Somoni [60 to 100 Euros]. Even the repairs in the buildings, the employees of the Migration Service had to pay by themselves”.

The lack of funds explains why representations have only been opened in the main regional centres, and not in smaller towns – a fact that was regretted by all the official representatives met by the mission delegates as well as by NGOs. Potential migrants and their families may not be able to cover the expenses to reach the Migration Service if it is too far.

As a result of the lack of adequate funding, part of the activities of the Migration Service are covered by international organisations or NGOs. In the Sogd region, the Khujand Migration Service organises meetings and consultations in the villages, however all the material distributed as well as the expenses linked to these trips are financed by the Khujand section of the Human Rights Centre. This externalisation of the Migration Service responsibilities cannot be a long-term solution and raises serious concerns: the activities of the Migration Service, a state organisation, should not be dependant on NGOs, which are themselves dependant on grants for their funding.

### ***Structural shortcomings of the Migration Service: broad and undefined functions***

The lack of means is aggravated by the fact that the functions of the Migration Service are very broad: “The five functions of the migration service are - regulation of emigration, vocational training, job placement abroad, work with compatriots and regulation of immigration”<sup>131</sup>. According to an expert met by the mission delegates, “Their main focus now is to control labour migration into Tajikistan, mainly immigration from China, Iran, Afghanistan. The Migration Service doesn’t have people to give information to labour migrants: they do mainly controls and raids, like those the Federal Migration Service does in Russia, they detect irregular migrants and extort money from them”.

Moreover, the functions of the Migration Service overlap with those of other Ministries or state agencies: Ministry of Labour, Ministry of Education, Ministry of Foreign Affairs as well as with the State Committee for National Security (GKNB), which is in charge of border control. At the external level, the functions of the Migration Service are partly redundant with those of the Ministry of Foreign Affairs, which is in charge of the preparation and implementation of migration policy. This can lead to serious tensions when the division of resources (national funding or international grants) is at stake.

Another consequence of the lack of clarity over functions is that “when there is a duplication of functions, migrants may be just kicked from one institution to the other”<sup>132</sup>. The National Plan to implement the recommendations of the UN UPR<sup>133</sup> recognises the need to clarify and define the functions of the Migration Service: it proposes the adoption of a *memorandum* on the interaction between the Migration Service, the Ministry of Foreign Affairs, the *Prokuratura* and the Ombudsman in order to better protect migrants’ rights. Another proposition could be to advocate for inter-sector cooperation – that is the creation, in each ministry, of a department dedicated to migration<sup>134</sup>.

Finally, the role of the Migration Service in the fight against forced labour and trafficking is not clear enough. There is an Inter-Ministerial Commission on Combating Human Trafficking,

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131. Interview with Anvar Babaev, First Deputy Head of the Migration Service of the Republic of Tajikistan, Dushanbe, 5/06/2013

132. Interview with Malika Yarbabeva, International Organisation for Migration, Dushanbe, 4/06/2013

133. <http://www.humanrts.tj/ru/index/index/pageId/17/>

134. Interview with Gulnora Mukhammadieva, DFID, Embassy of Great Britain, Dushanbe, 5/06/2013

which, though more focused on sex trafficking, also reviews appeals from migrants and transmits the cases to the competent bodies<sup>135</sup>. In any case, the opening of civil or criminal cases when migrants' rights are violated depends on the police and on the *Prokuratura*, and the final decision on the Courts.

### **3.4 Information to migrants and employment agencies: inadequate methods to prevent risks?**

#### ***“No need for information, Russia is not a foreign country”***

It is unclear to what extent pre-departure information is perceived as important: “Russia is not seen as a foreign country, migrants are used to see our countries as one and the same country and they don't feel the need for preparation: ‘We're not leaving for America, they say, what's the use of getting special preparation?’”<sup>136</sup>. Moreover, information received by informal channels, for instance by experienced migrants who have already been to Russia, may be considered as more reliable than official information.

#### ***Low salaries and visa-free regime make employment agencies ineffective***

In spite of some positive aspects, the Director of Nakliot himself recognises that there are problems with the role of private employment agencies. He says, “We work as an employment agency, but also as a travel agency, because just employment doesn't cover the costs... We send around 5000 persons per year, but in the last two years it's been decreasing – we hardly make both ends meet”. The Director also complained that the Migration Service does not combat unfair competition from travel agencies operating as PEAs without a license.

But he considers the main problem to be that people do not want to use the PEAs: the salary offered is too small: “15,000 rubles, it's not enough for them, give them 30,000 rubles, that's what they ask for!”. Some prefer informal, short-term work than a formal contract. Another expert told the delegation, “Through organised employment (*orgnabor*) migrants receive and transfer small salaries, that's why people prefer to go by themselves. Uralski dom proposes no more than 12,000 to 18,000 rubles per month, for example”<sup>137</sup>.

The fact that there is no real demand for PEAs' services and that people prefer to go by themselves was noted in the FIDH/ADC 2011 report. Officials recognise that nothing has changed since then: “Despite ten years working with PEAs, the situation is not better, there are 4,000 to 12,000 persons each year leaving the country through these agencies, no more than 15,000, it's a drop in the ocean”<sup>138</sup>. When asked about PEAs, labour migrants answer that, “They're OK, but none of us ever use them”. People still prefer to use informal contacts: “I work on a construction site, I have my contacts, I don't need anybody to send me there. The salary is good, they treat me well”<sup>139</sup>.

According to the Director of Nakliot, “The visa-free regime is the death of PEAs because people don't need any intermediaries to migrate and nothing is really controlled”. In addition, PEAs pose the problem of fraud and corruption. The case of the PEA Zamoni Yunus<sup>140</sup> is an illustration.

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135. Human Rights Centre in Tajikistan Report to CCPR, 2013.

136. Interview with Anvar Babaev, First Deputy Head of the Migration Service of the Republic of Tajikistan, Dushanbe, 5/06/2013

137. Interview with Muzaffar Zaripov, Fond “Migration and Development”, Dushanbe, 9/06/2013

138. Interview with Anvar Babaev, First Deputy Head of the Migration Service of Tajikistan, Dushanbe, 5/06/2013

139. Meeting in a village near Qurghonteppe, former Kolkhoz “Zaria Vostoka”

140. Information on the case is based on interview with Inoiat Inoiatov, lawyer who defended part of the victims in the Zamoni Yunus Case, and with Nodira Abdulloeva, HRC in Tajikistan, Dushanbe 5/06/2013.

PEA Zamoni proposed employment opportunities in Saudi Arabia, for medical doctors, nurses and other highly qualified workers. Future migrants paid for courses (language, culture, legislation in the country of destination), but they never went to Saudi Arabia and were unable to repay the loans they had taken. After several complaints a case was opened for large-scale fraud (article 247-4 of the Criminal code) in April 2012. Some migrants complained about pressure from the defendant during legal proceedings. The Director, Mr Zamonov, refused to pay compensation, despite the fact that it could have resulted in a lighter sentence. In November 2012 he was sentenced to 10 years' imprisonment. However, he appealed and proposed compensation to some victims, who withdrew their complaints. Some of the victims could not attend the hearing because they had left for Russia for work.

Experts asked about this case suggested that “in all logic, the Migration Service should have been regarded as co-defendants”. From 2009 Zamoni Yunus had a licence from the Migration Service, which was only cancelled in 2011; the Director had worked in the Ministry of Labour and in the Migration Service and their logos were used. In fact, officials in the Migration Service gave the impression of downplaying the problem and their responsibilities: “About Zamoni Yunus, yes, they didn't succeed in sending people, I don't know why. Maybe it's linked with the Arab language courses... There was a process and they were closed. But with Russia, nothing of this kind happened... There has been no case of legal proceedings against intermediaries for fraud or deceit of labour migrants”<sup>141</sup>. More generally, the delegation was told, “There are no dishonest intermediaries in the Republic of Tajikistan”<sup>142</sup>.

The IOM recommends establishing a black list of PEAs, which does not yet exist<sup>143</sup>.

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141. Interview with Anvar Babaev, First Deputy Head of the Migration Service of Tajikistan, Dushanbe, 5/06/2013

142. Interview with D. Ataev, Deputy Head of the Migration Service in the Sogd Region, Khujand, 07/06/2013

143. Interview with Malika Yarbabeva, International Organisation for Migration, Dushanbe, 4/06/2013

# IV. RUSSIAN-TAJIK COOPERATION ON MIGRATION POLICY

The Russian and Tajik authorities have developed various forms of cooperation on migration, however difficulties remain, partly linked to the imbalance of power between the two countries.

## 1. The Various Forms of Cooperation between the Russian and Tajik Authorities

### 1.1 High-level Tajik/Russian agreements

The main instrument regulating Tajik/Russian relations is a 2004 agreement on Labour Activities and the Protection of Tajik Nationals' Rights in the Russian Federation. Several aspects of the agreement remain unimplemented and negotiations have been continuing for years. This applies to the provisions on social insurance and pensions for migrant workers: "These questions are still not resolved, there is no agreement with Russia, in 2007 we proposed a project for social protection of Tajik citizens in Russia, but it is still under discussion in Russia"<sup>144</sup>. Moreover, as underlined by HRC in Tajikistan, this agreement covers only migrants in a regular situation, leaving those in irregular situations with no grounds for protection<sup>145</sup>.

In February 2013, Moscow agreed to grant work permits to Tajik labour migrants for three years instead of one and to allow them a longer period of time to register their presence with the authorities. This agreement was presented as a major step by the Migration Service: "To be able to stay in Russia without registration for fifteen days, and not only seven, it's important if, for example, you go up to Vladivostok."<sup>146</sup>.

### 1.2 Multiplication of Tajik diplomatic and migration-linked offices in Russia

Some steps forward have been taken through the opening of offices of Tajik migration-linked bodies in Russia. For instance, in December 2012, the Migration Service opened an office in Russia, within the Tajik Embassy. Fifteen people work in Moscow and travel to the regions. Their tasks are to study the labour market, to work with the Russian FMS and employers and to protect migrants. In addition, as underlined by representatives of the Ministry of Foreign Affairs' Legal Department<sup>147</sup> there are Tajik Consuls in Ufa and Yekaterinburg and Honorary Consuls in Saint Petersburg, Petrozavodsk and Kaliningrad. The relationships between the diplomatic

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144. Interview with Anvar Babaev, First Deputy Head of the Migration Service of the Republic of Tajikistan, Dushanbe, 5/06/2013

145. Human Rights Centre of Tajikistan, Respect of economic and social rights of Tajik migrants workers by the Republic of Tajikistan, Submission to the 53 Pre-Sessional Working Group of the CESCR (26 Mays 2014 – 30 May 2014), p. 7

146. Interview with Anvar Babaev, First Deputy Head of the Migration Service of the Republic of Tajikistan, Dushanbe, 5/06/2013

147. Interview with M. Aslamov, B. Murodov, B. Makhudov, Ministry of Foreign Affairs, Legal Department, Dushanbe, 6/06/2013

bodies and the offices of the Migration Service are smooth, according to representatives of the MFA, and there is no conflict of competence: “When the Migration Service cannot help, than the consulate intervenes, it depends on who has the most competence”<sup>148</sup>. Moreover, they argued, a hotline has been created and the Tajik MFA works with the IOM office and various Russian NGOs.

### **1.3 Development of official and non-governmental reactions and cooperation**

The Tajik authorities also use additional diplomatic and political means in order to defend Tajik migrants’ rights: the Ministry of Foreign Affairs, which is in charge of negotiating several political agreements on migration, reacts with letters of protest in cases of particularly blatant violations committed in Russia<sup>149</sup> while the Tajik Ombudsman has concluded an agreement with his counterpart in Saint Petersburg, visited the town and several other regions and created a working group with several regional Russian Ombudsmen.

The work with Russian NGOs was mentioned several times during meetings with officials: “The representation of the Migration Service tries to have close contacts with the Russian FMS and NGOs. They know better, on the field, how to react to deportations”<sup>150</sup>. While this cooperation is certainly a positive step, it nevertheless raises concerns: to what extent should Tajik authorities rely on Russian NGOs, while these NGOs themselves are under severe pressure from Russian authorities. Though cooperation with Russian NGOs is essential, it cannot be the only and/or main way of action of Tajik authorities in the Russian Federation.

## **2. Difficulties in Cooperation between Russian and Tajik Authorities**

The Tajik authorities face numerous difficulties when it comes to cooperation with Russia to protect Tajik migrants’ rights. Several factors combine to explain these difficulties: the lack of power of the Migration Service at the international level (though responsible for migrants, it can only sign inter-agency conventions with the Russian FMS), timidity and lack of reaction from the Tajik authorities when their citizens’ rights are violated, weakness of Tajikistan compared to Russia in the international arena.

### **2.1 The weakness of the Migration Service at the international level**

One of the most sensitive issues during the June 2013 mission was the one of Tajik citizens on the non-entry list in Russia. This question concerned the Migration Service all the more because, they said, they are unable to get access to this list. “The Migration Service suffers from a lack of recognition from other structures, especially the border guards, which depend on the GKNB”, said an expert. “The GKNB can send an official request to the Russian FSB (Federal Security Service), which has this list<sup>151</sup> – but they don’t do it, because migrants are not supposed to be within their field of responsibility. And the Migration Service cannot do it”.

Anvar Babaev, the First Deputy Head of the Migration Service, confirmed that, “The Migration Service requested this list from the Russian FMS. But the Deputy Chief of the Migration

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148. Interview with M. Aslamov, B. Murodov, B. Makhudov, Ministry of Foreign Affairs, Legal Department, Dushanbe, 6/06/2013

149. On 28 December 2013, it addressed a diplomatic note to the Russian Embassy in Tajikistan after a Tajik citizen had been brutally murdered in Moscow, and expressed indignation at xenophobic declarations made in the Russian media. “Tajikistan addressed a protest not to Russia”, (in Russian), 28 December 2013, <http://tjinform.com/ru/news/20131228/09419.html>

150. Interview with Anvar Babaev, First Deputy Head of the Migration Service of the Republic of Tajikistan, Dushanbe, 5/06/2013

151. The list of all persons subject to an entry ban in Russia is drawn up by nine Russian official structures (Federal Migration Service, Rosпотребнадзор, Ministry of the Interior etc.) and coordinated by the Border guards, a service which depends on the Russian Security Service (FSB). People may be included because they were deported, or expelled, or for other reasons. (Interview with M. Yarbabeva, IOM, Dushanbe, 4/06/2013)

Service, Mr Kuznetsov, refused to transmit it, arguing that there is no agreement between our institutions. The Russian FMS cannot give us information, they say we should do it through the Ministry of Foreign Affairs... Five to twelve persons are sent back to Tajikistan when they arrive in Russia on each plane. Ural airlines have information on these lists and within two weeks of issuing the plane ticket they know whether this Tajik citizen will be able to enter Russia or not. We want Tajik Air and Somon Air to receive the same information”<sup>152</sup>.

More generally, the Deputy Head of the Migration Service himself confirms that the steps forward are not sufficient: “The fact that the Migration Service doesn’t have offices in the regions is a big problem”. Moreover, “Sometimes, Russian authorities inform us about upcoming deportations, but most of the time they expel or deport immediately. And not all migrants have a possibility to appeal to the Embassy”<sup>153</sup>.

## **2.2 Tensions between Russia and Tajikistan over migration issues**

The Russian authorities launch regular attacks on Tajikistan over migration. On 14 April 2013 for example, after inspecting a Dushanbe-Moscow train, Russian officials declared that it was unfit for transporting human beings and that it represented a sanitary risk for Russia<sup>154</sup>. On this occasion, Tajik Ambassador Abdulmadzhid Dostiyev regretted publicly that “certain state-run TV channels are creating an atmosphere of hatred and intolerance toward Tajik citizens” and announced that the Embassy would regularly send staff to Moscow’s airports and train stations to protect its citizens from harassment on entering and exiting Russia<sup>155</sup>.

## **2.3 Weakness of the Tajik authorities in negotiations with Russia over migrants’ rights**

According to an expert met by the mission, “medical certificates from Tajikistan are not accepted in Russia, in spite of an agreement. Discussions about opening a medical centre for Tajik migrants ended with nothing. Neither the Migration Service nor the Embassy can defend migrants... because the Migration Service and the Embassy have parallel functions and their responsibility is limited to ‘assistance’, no more, migrants are bounced around”.

Another example of the consequences of the imbalanced relationship between the two countries can be found in the agreement that was concluded in February 2013 (see *supra*). The provisions of the agreement concerning migration constitute only a small part of a wider agreement according to which Russian forces were allowed to stay in Tajikistan for another 30 years, while Russia would provide military support and up to a million tons a year of Russian petroleum products duty-free. The agreement followed Mr Putin’s visit to Tajikistan in October 2012. Several experts met by the mission were unenthusiastic: “It gives few advantages to Tajik migrants. The IOM consultant for Central Asia, Thomas Achacoso, suggests that Tajikistan has to ask for special quotas for its citizens, or long-term work permits”<sup>156</sup>. In addition, the possibility for Tajik citizens to obtain Russian citizenship in a simplified way - as has been the case for Kirghiz citizens for some time - has not even been discussed. Finally, it took nearly one year for this agreement to be ratified by the Russian Duma, and it only entered into force in January 2014<sup>157</sup>.

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152. Interview with Anvar Babaev, First Deputy Head of the Migration Service of Tajikistan, Dushanbe, 5/06/2013

153. Interview with Anvar Babaev, Deputy Head of the Migration Service of the Republic of Tajikistan, Dushanbe, 5/06/2013

154. Declaration by the Main Sanitary Doctor of Russia G. Onishenko, 16/04/2013, available at: <http://www.interfax.ru/russia/txt.asp?id=301902>

155. Alexander Winning “Tajik Embassy Decries ‘Atmosphere of Intolerance’ in Russia”, The Moscow Times, 30 April 2013, <http://www.themoscowtimes.com/news/article/tajik-embassy-decries-atmosphere-of-intolerance-in-russia/479457.html>

156. Interview with Malika Yarbabeva, IOM, Dushanbe, 4/06/2013

157. <http://tajmigration.ru/news/101-v-silu-vstupilo-soglashenie-o-prebyvanii-grazhdan-tadzhikistana-v-rossii.html>

# CONCLUSION

Over the past three years there have been several positive developments in terms of measures taken by the Tajik authorities to increase protection of the rights of Tajik migrants. The Migration Service has become operational, measures have been taken to improve pre-departure information and professional training of migrants, and the authorities have tried to establish working relations with their Russian counterparts on various levels. The issue of labour migration is the focus of support from various international organisations and NGOs are consulted in discussions about draft laws and in the design and implementation of programmes to support labour migrants and their families. The adoption of a plan to implement the recommendations of the United Nations Committee on the Rights of Migrant Workers issued in May 2012 also represented a constructive step. However, the impact of positive institutional and policy reforms has been impaired by insufficient budget allocation, but also by structural problems: unclear definition of functions between the Migration Service and other structures, insufficient presence of Tajik support services in Russia, excessive reliance on NGOs, lack of effective mechanisms for complaints and remedies.

Meanwhile, changes to legislation in Russia have made it increasingly likely for migrants to become “illegal” and face increasingly severe consequences including automatic deportation and lengthy re-entry bans. A surge in xenophobic attacks, fuelled by anti-migrant political discourse, has further increased the vulnerability of migrants in Russia. The lack of response of the Russian justice system to serious violence and discrimination against non-nationals sends a clear message that perpetrators benefit from total impunity.

In the longer-term, reliance on emigration and the remittances sent back by migrant workers risk stifling the development of Tajikistan. The situation of those left behind – women and children – is of particular concern. Tajikistan’s willingness to adapt education programmes to the needs of the Russian labour market places it in a highly vulnerable position in relation to its powerful neighbour. The political crisis between the two countries in November 2011 was a stark reminder of the way in which Tajik migrants easily become scapegoats and bargaining chips<sup>158</sup>.

Finally, respect for political rights, pluralism and the rule of law as well as the fight against corruption are essential conditions to enable Tajikistan to face its social and economic problems and more effectively defend the rights of its citizens at home and abroad.

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158. In November 2011, a Tajik court sentenced a Russian pilot to 8.5 years for smuggling and illegal border crossing on 8 November 2011. The court’s judgement was strongly criticized by Russian officials as politically motivated. Russian government structures responded by targeting migrant workers from Tajikistan, suggesting that undocumented Tajik citizens should be forcibly deported from Russia and that controls on entry should be reinforced (FIDH, “Tajikistan: Migrant workers must not be held hostage to the Russian-Tajik political crisis”, 20 November 2011, available at: <http://fidh.org/en/eastern-europe-central-asia/Tajikistan/Tajikistan-Migrant-workers-must>). See also A. Regamey “Institutional Violence Against Migrants – The Tajik-Russian Crisis, November 2011 (in French)”, 18 November 2011, <http://russiaviolence.hypotheses.org/1831>

# RECOMMENDATIONS

## **Recommendations to the government of Tajikistan**

### **Good governance and access to justice**

- Ensure that the process of drafting legislation is open and transparent; that it includes representatives of all political parties; and that the results of consultations with the civil society are taken into consideration. Ensure that draft laws can be readily accessed on institutional web sites.
- Ensure the effective investigation, prosecution and punishment of employers, intermediaries and human traffickers responsible for violations of migrants' rights; strengthen measures aimed at fighting forced labour and human trafficking.
- Establish, develop and adopt a law on free legal aid services.
- Take immediate measures to address corruption in consulates and at the borders.
- Ensure the participation of Tajik migrants working abroad in national and local elections on an equal basis with citizens living in Tajikistan.
- Enact legal reforms to ensure that no citizen is deprived of his or her citizenship for failing to respect administrative procedures such as registering in a consulate.

### **Compliance with international standards**

- Ensure that the provisions of the laws on labour migration and on private employment agencies are in complete conformity with the provisions of international human rights conventions ratified by Tajikistan and in particular with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW), as well as with relevant Conventions of the International Labour Organisation (ILO).
- Ratify ILO Convention 181 on Private Employment Agencies, ILO Convention 189 on Domestic Workers and ILO Convention 118 on Equality of Treatment of Nationals and Non-Nationals in Social Security.
- Make declarations under articles 76 and 77 of the ICRMW to recognize the competence of the Committee to receive communications from States parties and individuals.
- Implement all recommendations issued by the United Nations Committee on the Rights of Migrant Workers in May 2012 and comply with reporting requirements (next periodic report due by 1 May 2017).

## **Migration policy**

- Ensure that the terminology “migrants in an irregular situation” is used in all official documents instead of the term “illegal migrant” in accordance with the ICRMW and UN General Assembly resolution 3449 of 9 December 1975.
- Expand the network of local offices of the Migration Service in Tajikistan, Russia and other countries of destination. Establish a wide, effective and strictly controlled network of consulates of Tajikistan in Russian regions, with adequate human and financial resources, to provide support and protection to Tajik migrants in Russia.
- Ensure that the functions of the Migration Service and its interactions with other Ministries and bodies are clearly defined and allocate adequate resources.
- Establish clear and accessible complaint procedures within the the Migration Service.
- Improve the efficiency of public employment agencies, closely monitor the activities of private employment agencies and investigate, prosecute and sentence those involved in cases of forced labour.
- Establish a system of governmental interest-free loans to migrants so as to support their trips and avoid dependence on intermediaries.
- Ensure that training organised for migrants does not replace measures required to improve the general operation of the education system. Ensure that schools provide high quality training, including the learning of a foreign language and ensure the maintenance of Russian language education in Tajikistan.
- Develop procedures in countries of destination to help particularly vulnerable groups, including the creation of shelters for people in need of temporary accommodation.
- Develop programs aimed at enhancing gender equality and fighting stereotypes leading to stigmatisation of women migrants. Ensure that the rights and interests of women migrant workers and migrant’s families are reflected in migration policies.
- Amend the Family Code of Tajikistan to ensure that it protects not only officially registered marriage but all forms of existing families and relationships that produce effects equivalent to marriage.

## **Recommendations to the governments of Tajikistan and Russia**

### **Improvement and implementation of the rights of migrants and their families**

- Implement existing legal agreements to ensure that persons working or residing in Russia pay maintenance to their wives and families remaining in Tajikistan, in accordance with court orders issued in Tajikistan.
- Implement existing agreements in order to ensure that Tajik migrant workers benefit from fair working conditions and remuneration on an equal basis with Russian nationals.
- Continue negotiations to reach agreement enabling migrant workers to have access to effective social protection and decent pensions.
- Ensure that children of Tajik working migrants in Russia have access to education and that this is not limited to a 90-day period.

- Take measures to ensure that the children of migrants are authorised to stay in Russia during their parents' stay according to principles on family unity.
- Immediately stop ethnic profiling practices and anti-migrant measures leading to increased xenophobia in Russia.
- Provide assistance to Tajik migrants who are victims of discrimination and violence. Ensure effective investigations into cases of human trafficking and violations of migrants' rights in Russia, prosecute and sentence the perpetrators.

### **Improvement of the cooperation between Russian and Tajik authorities**

- Refrain from any negotiation or agreement that would link the question of labour migration to other political, defence or security issues.
- Take measures to inform Tajik migrants of the existence of a non-entry list in Russia and whether they are subject to such a ban. Give migrants the opportunity to check the list for free at airports and other places open to the public and ensure that requesting money for such information is prohibited.
- Ensure that Tajik official representatives are informed about decisions on deportation and have access to migrants in detention centres. Ensure that there are no collective expulsions.
- Support the new initiatives of liberalisation of Russian migration laws, in particular the one taken in December 2013 by the Head of the Russian FMS who proposed to extend the patents system to moral persons instead of requiring a work-permit.
- Introduce an amnesty for those migrants who live in the Russian Federation with irregular administrative status and remove entry bans imposed on the grounds of violations of Russian migration laws.

### **Recommendation to the UN Special Rapporteur on the human rights of migrants**

- On the basis of information received, engage in active dialogue with the authorities of Tajikistan and Russia on the concerns and cases of human rights violations raised in this report.

### **Recommendations to the Organisation for Security and Co-operation in Europe (OSCE)**

- The OSCE Office for Democratic Institutions and Human Rights (ODIHR) should closely monitor the situation in Tajikistan and the OSCE Parliamentary Assembly should follow-up on the issues raised in this report and invite its Tajik members to take the relevant legislative initiatives to bring domestic law into conformity with international human rights standards in this field.

# APPENDIX 1 –

## LIST OF PERSONS MET BY THE MISSION

### **National authorities**

Anvar Abdulloevich Babaev, First Deputy Head of the Migration Service of the Republic of Tajikistan, Dushanbe, 5/06/2013

Zarif Alizoda, Ombudsman of the Republic of Tajikistan, Dushanbe, 5/06/2013

Mukim Ashurov, Department of the Protection of Economic, Social and Cultural Rights, under the Ombudsperson of Tajikistan, Dushanbe, 5/06/2013

Murod Aslamov, Bakhtior Murodov, Bakhtior Makhudov, Ministry of Foreign Affairs, Legal Department, Dushanbe, 6/06/2013

Dzhamshedkhon Ataev, Deputy Head of the Migration Service in the Sogd Region, Khujand, 07/06/2013

Arkhedin Gaduev, Head of the Centre for Employment, Raion Imeni Jaami, Khatlon Province, 8/06/2013

### **International organizations**

Malika Yarbabeva, Coordinator, International Organisation for Migration, Dushanbe, 4/06/2013

Gulnora Mukhammadieva, Program Manager, DFID, Embassy of Great Britain, Dushanbe, 5/06/2013

### **NGOs**

Nargis Zokirova, Director, Bureau For Human Rights and the Rule of Law, Dushanbe 4/06/2013

Oinikhol Bobonazarova, Director of the NGO “Perspektiva+”, Dushanbe, 4/06/2013

Tatiana Bozrikova, Director of the NGO “Panorama”, Dushanbe, 4/06/2013

Nodira Abdulloeva, Coordinator Human Rights Centre Tajikistan, Dushanbe, 5/06/2013

Kahramon Sanginov, OSI Tajikistan Law Program Coordinator, Dushanbe, 06/06/2013

Azalkhon Alimov, Human Rights Centre in Tajikistan, Khujand, 7/06/2013

Khairiniso Rasulova, Association “Women and Society”, Khujand, 7/06/2013

Bakhtier Abduzhabbarov, Fond for the Development of Society, Istravshan, 7/06/2013

Moniso Shonazarova and other representatives of “Akhtari Bart”, Qurghonteppa 8/06/2013

Save the Children, Qurghonteppa, 8/06/2013

Khaidarzho Azimov, Bureau For Human Rights and the Rule of Law, Qurghonteppa, 8/06/2013

Sayiera Makhmudova, INIS, Qurghonteppa, 8/06/2013

### **Political Parties**

Zarofi Khudzhaeva, lawyer for the Islamic Renaissance Party of Tajikistan, NGO 5/06/2013

### **Experts and professionals**

Inoiat Inoiatov, lawyer, Dushanbe 5/06/2013

Abdulkhafiz Abdukodriov, Director of the Professional-technical Institute n°31, Khujand, /06/2013

Mukhsin Razzakovich Saidov, General Director of the Society “Nakliot” (Transport and Employment Agency); Khujand, 7/06/2013

Muzaffar Zaripov, fond “Migration and Development”, Dushanbe, 9/06/2013

### **Labour migrants (anonymous) in the Qurghonteppa region**

Former Kolkhoz “Zaria Vostoka”, 8/06/2013

# APPENDIX 2 –

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### Establishing the facts

#### Investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

### Supporting civil society

#### Training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

### Mobilising the international community

#### Permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

### Informing and reporting

#### Mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.



**Anti-Discrimination Center «Memorial»** protects the rights of the most vulnerable groups in Russian society, such as ethnic minorities, Roma, migrants and sexual minorities (LGBT). Memorial fights against discrimination by various means, including written and oral reactions, legal aid, legal

education, research and publications. Over the last few years, one of ADC «Memorial»'s priorities has been the protection of human rights defenders and civil society activists.

[www.adcmemorial.org](http://www.adcmemorial.org)

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# FIDH represents 178 human rights organisations on 5 continents



inhuman or degrading treatment or punishment. Article 6: Everyone has the right to recognition everywhere as a person before the law. Article 7: All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination. Article 8: Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law. Article 9: No one shall be subjected to arbitrary arrest, detention or exile. Article 10: Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 11: (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty

## ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

### **A broad mandate**

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

### **A universal movement**

FIDH was established in 1922, and today unites 178 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

### **An independent organisation**

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

# fidh

Find information concerning FIDH's 178 member organisations on [www.fidh.org](http://www.fidh.org)