

## To the UN Committee on Economic, Social and Cultural Rights

### “Alternative Report – 2015” NGOs of the Kyrgyz Republic

#### Articles 7, 9, 11, 12, 13 of the International Covenant on Economic, Social and Cultural Rights

This report has been prepared by the Civil Partner Platform “Central Asia on the Move” composed of such organizations as Center for Support of International Protection Public Foundation<sup>1</sup>; Human Rights Movement: Bir Duino Kyrgyzstan<sup>2</sup> Public Association, Arysh Public Association; Association of NGOs on Children’s Rights and Interests Promotion in the Kyrgyz Republic; Kyrgyz Family Planning Alliance Public Association; Association of NGOs Human Rights Advocacy Center; Adilet Legal Clinic Public Foundation; KFPA Public Association

The document submitted to the United Nations Committee on Economic, Social and Cultural Rights raises the issues related to the application of the International Covenant on Economic, Social and Cultural Rights (ICESCR) in the Kyrgyz Republic. This document is designed to assist the Committee in considering compliance of the Kyrgyz Republic with the Covenant, as well as to identify some ways forward for legislators in the Kyrgyz Republic. The materials provided below are not complete. They are provided solely to assist the Committee in the current review of the Kyrgyz Republic.

#### A. Introduction

1. Those KR citizens who could not go to Russia, Kazakhstan to make earnings, went to big cities of Kyrgyzstan simply in search of bread, opportunities to educate their children, to obtain the most necessary but not available in rural areas medical services. A number of existing standards of the legislation do not allow the citizens of the Kyrgyz Republic to exercise fully their constitutional rights.
2. The reason for the limited access to basic public services is the lack or insufficiency of the required documents from citizens when they apply to appropriate government agency. The right to freedom of movement or refusal of it within national or international borders infringes such fundamental human rights as the possession of a fundamental right to health care, education, getting a job, which could ultimately improve the quality of life. The main difficulties of the state is reforming the procedures for issuing and receiving the documents, because the system remained from the Soviet era and, as a rule, many of the documents, requirements and services from the state are interrelated. The system of documents is necessary for distribution of appropriate national and local budgets.
3. According to the legislation of the Kyrgyz Republic the absence of registration (residence permit) cannot serve as grounds for restricting the rights and freedoms of citizens. At the same time, access to basic health, education, and social services in Kyrgyzstan directly depends on the availability of registration.
4. Internal migrants cannot be registered at the place of stay and residence in accordance with the requirements of the internal migration law and the regulations on registration rules for obvious reasons: it is necessary to obtain the consent of apartment or house owners, which they, as a rule, do not provide. It is clear that it is connected with taxes and fear for their property. The situation in regional centers, newly constructed buildings of Bishkek, hostels of Osh confirms that. Large part of the population coming from rural areas has been living there for many years illegally. When applying for temporary registration Registering Authority requires notarized consent of dwelling owner, a landlord from a citizen, which makes registration virtually impossible. Because

---

<sup>1</sup> Contact: [meerim.csip@gmail.com](mailto:meerim.csip@gmail.com) ; [www.csip.kg](http://www.csip.kg)

<sup>2</sup> Contact: [aidabaikg@gmail.com](mailto:aidabaikg@gmail.com)

of the reluctance of owners to conclude contracts and provide consent to registration, the majority of internal migrants remain unregistered<sup>3</sup>

## **B. Overview of the provision requiring residence permit in the Kyrgyz Republic**

5. Cities of Bishkek and Osh in the Kyrgyz Republic have become ‘elastic’ because of difficult economic and social situation in independent Kyrgyzstan. As a result, we see emptying villages and district towns in the country. The majority of internal migrants in Kyrgyzstan has no rights.
6. The family of a former resident of Batken province Nurdin has been living in the suburbs of Bishkek in an abandoned cottage for a long time.
7. Currently in Kyrgyzstan as in many other post-Soviet countries the institution of residence permits (today the term ‘residence’ is replaced by ‘registration’) is one of the fundamental documents of a citizen.
8. Institute of registration is mandatory in many countries because it is aimed at keeping records of exact number of people in the country, in a particular area or region. The difference is that the registration is done automatically based on an application rather than as a permitting procedure. For example, today a person comes from Osh and lives in Bishkek and rents an apartment. He/she cannot go and get assistance from the social support institutions until they are actually registered at the housing management, until they obtain a residence permit having collected a bunch of certificates. And a huge number of people do not get registered because it is difficult to obtain registration living in a rented apartment.<sup>4</sup>
9. According to the Regulations on registration and deregistration of citizens at the place of residence and place of stay in the Kyrgyz Republic, approved by the Government Resolution as of 4 December 2004, a citizen having changed the place of residence is obliged after no later than 10 working days after the arrival at a new place to apply to a registration authority with in an approved form<sup>5</sup>.
10. According to the study, 20% of Bishkek citizens have no residence registration.<sup>6</sup> Thus, the lack of registration is also a serious obstacle to access to justice for the people of the Kyrgyz Republic, because the interests and rights of those who do not have necessary documents are not protected by the law enforcement agencies.
11. Absence of residence permits or registration at the place of residence leads to the following consequences: a barrier to obtaining a passport; a barrier to employment; a barrier to obtaining education; a barrier to access to public health services; impossibility to obtain benefits / pensions; a barrier to access to justice and to official authorities

## **C. Causes and effects of Kyrgyz Republic internal migrants documentation absence**

12. Most people without passports/birth certificates came to Bishkek from other regions of Kyrgyzstan and live in low income households, and a trip to the place of previous residence to collect a package of documents requires expenses and is time consuming. Therefore, one of the main reasons of why people cannot get/restore passport or birth certificate is the need to go to their permanent place of residence, and people lack means and time to collect a package of documents.
13. Persons aged 16 years and older who do not have a valid passport:

“There are no means to collect documents”	43% (458 people)
“There is no time to collect documents”	35% (369 people)

---

<sup>3</sup>The message from the head of the department to oppose illegal migration of MIA KR Asylbek Mambetov fore Region.kg

<sup>4</sup> Director of Adilet Legal Clinic Cholpon Dzhakupova

<sup>5</sup>Regulations on registration and deregistration of citizens at the place of residence and place of stay in the Kyrgyz Republic, the KR Government Resolution as of 16 December 2004

<sup>6</sup> The study has been conducted by DCA Central Asia Central Asian American University.

Children under the age of 16 who do not have birth certificates:

“There are no means to collect documents”

35% (165 children)

“There is no time to collect documents”

23% (children)

14. A serious problem is the lack of available information about the procedure of documents execution. 24% of people at the age of 16 and older who do not have valid passports and 17% of parents of children without birth certificates, cannot get/restore documents, because they know not where they should apply. 16% of persons aged 16 and older who do not have valid passports, and 9% of parents of children without birth certificates, cannot get/restore documents because of no registration.
15. Attempts have been taken to obtain/restore documents of 37% of those who do not have valid passports/birth certificates. In order to restore documents, people mostly applied to passport offices, LSGBs, ayil okmotu, rural council, registry offices. In 63% of cases of application to government agencies, institutions and authorities a refusal to resolve the issue was obtained. The main causes of refusals are an incomplete package of documents and the lack of registration.
16. The main reasons of why no attempts have been taken to get/restore passports/birth certificates are the lack of money and time to collect documents, passports of parents (for children under 16 and those receiving their passport upon turning 16), information about where to apply. The absence of a valid passport/birth certificate is a factor limiting access to free services of public/municipal health. 33% of those who do not have valid passports/birth certificates do not use the services of public/municipal health care institutions or pay for them in full or partly due to the lack of documentation.
17. The lack of documents is a factor limiting children's access to education:

-94% of children aged 3-7 (of those respondents surveyed in residential areas) do not have birth certificates, do not attend kindergartens, 34% of them because of the lack of documentation. 10% of children aged 8-15 (of those respondents surveyed in residential areas) do not have birth certificates, do not attend secondary school due to the lack of documentation (have not been enrolled in schools due to lack of documents or parents cannot pay for enrollment of children at schools without documents).

18. The percentage of persons aged 16 and older living in residential areas without registration at the place of actual residence is 56% (14.8 thousand people). Residential areas of Ak-Jar, Altyn-Kazyk, Dordoy 2 are not legalized, that is why all those living there do not have a residence permit/registration.
19. 38% of persons aged 16 and older who do not have a valid passport (406 people), and 92% of children under 16 who do not have birth certificates (436 children) have never received these documents. 62% of persons aged 16 and older, and 8% of children under the age of 16 do not have documents, because they have been either lost or stolen, the validity of passports expired.
20. The problem of citizens without passports/birth certificate acquires systemic character. Parents of 54% of children without birth certificates (257 children), cannot get them, because they do not have valid passports themselves. Children who do not have birth certificates or whose parents do not have valid cannot get a passport when they turn 16.
21. Persons aged 16 and older who do not have a valid passport:  
“Cannot provide a parent's passport” 10% (101 people)  
“Cannot provide a birth certificate” 6% (61 people)

#### **D. Access to health care**

22. One of the most revealed forms of discrimination in the Kyrgyz Republic is discrimination on the grounds of accommodation absence and/or residence registration. The main contingent of citizens with no registration is internal migrants. In fact, the majority of internal migrants living in Osh and Bishkek are unable to obtain residence registration since they need to have their own property or obtain the consent of the property owner for such registration.

23. According to USAID data, 37 thousand people living in new settlements of Bishkek suburban area have no registration. For example, in accordance with the legislation of the Kyrgyz Republic one of the documents required to obtain basic health services is a residence registration or certificate of residence.
24. 256,000 people are registered in the city of Osh, in fact, it is home to over half a million people. The city infrastructure is not designed for the influx of so many people – so it is a cause of many problems in all spheres.<sup>7</sup> Instead of 20 children in kindergarten groups there are 50-60 children today! There are not enough schools and hospitals. All this is the consequences of internal migration.
25. The problem of undocumented citizens remains in the Kyrgyz Republic. Thus according to a study<sup>8</sup> 842 people who had never received identity documents were identified in 11 newly constructed apartment buildings of Bishkek. The study also demonstrated that 53% of those who use public health services pay for them fully or partially. The main reason of payment for public health services is the absence of documents (passports, birth certificates). For this reason, 78% of children and 55% of persons aged 16 and older cannot be treated free of charge and they pay for the services of public health facilities.
26. Another reason for restricting the right of internal migrants to health care is illegal status of new buildings and settlements in which they live. So of the 47 newly constructed apartment buildings in Bishkek, 3 are unrecognized by official authority (Altyn-Kazyk, Adilet, Ak-Jar). Only among the residents of these settlements over 10,000 are socially vulnerable. There are no LSGBs in these buildings and accordingly, citizens cannot obtain a certificate of residence, temporary/permanent registration and therefore cannot apply to clinics for medical services guaranteed by the state.
27. Registration is required in case of any change of residence, and study, temporal (seasonal) work, military service, etc. are not exceptions. This procedure requires the submission of a list of documents, including passports and birth certificates, so in the absence of these documents registration cannot be obtained. This again proves deep integration of the citizens' registration system with other services of registry offices.
28. 61% of the residents of residential community who do not have valid passports and birth certificates (74% of children under the age of 16 and 55% of persons aged 16 and older) use the services of municipal/public health institutions.
29. Residential areas can be divided into 3 groups based on the coverage by public health services of undocumented persons. The group of residential areas with wide coverage (over 70%) comprises such residential areas as Zhenish, Ak-Jar, Ak-Bosogo, Altyn-Kazyk, Ak-Ordo. The group with medium-sized coverage (40-70%) comprises of such residential areas as Ak-Bata, Kalys-Ordo, Dordoi 1, Factory village, Kelechek. In Dordoy 2 residential area which constitutes the third group, only 21% of people without documents use the services of public health care.
30. 53% of those who use the services of public health care pay for them fully or partially. The main reason of paying for public health services is the absence of documents (passports, birth certificates). For this reason, 78% of children and 55% of persons aged 16 and older cannot be treated free of charge and pay for the services of public health facilities.
31. 36% of respondents pay for public health services because of lack of registration, and 28% - due to the lack of registration at FGP.
32. The main reason for not using the services of public health by 46% of residential area residents aged 16 and older is no need. For the same reason, 33% of children under 16 without birth certificates do not use health services.
33. 34% of persons aged 16 and older who do not have passports, cannot use the services of public health due to the lack of passports. For children under 16 absence of birth certificates is the main reason of not having access to health care services by 44% of children without documents.

---

<sup>7</sup> The report of Human Rights Advocacy Centre NGO of Osh Ulan Bekmuratov for Region.kg

<sup>8</sup> Clarification of the number of persons who do not have documents in 11 residential areas of Bishkek, report of the Rebikon Research Group, August 2013

34. 11% of respondents indicated that they were denied medical attention without documents. As a result, 52% of those who were denied medical care had to visit private doctors. The remaining migrants treated themselves independently. In this case, 8% of respondents mentioned that self-treatment had a negative impact on their health.

#### **E. Access to Education**

35. Ministry of Education and Science of the KR has provided information about the number of not studying children, which was 12,045 children in August 2012<sup>9</sup>. According to UNICEF data there were 39,000 of not studying children in the Kyrgyz Republic in 2008. According to national statistics of 2009, there were 2,117 illiterate children between the age of 10 and 17 in the country, including 1,251 boys and 866 girls<sup>10</sup>. There is still no clear and understandable criteria regarding not studying children, in connection with which there is no precise data about not studying children.
36. Children of internal migrants are one of vulnerable children categories. Due to the lack of documentation and registration at the place of actual residence, they do not have access to state-guaranteed services: education, health and social services. They are invisible for the state, for the system, for the society. The results of the study conducted in 2013 in 10 newly constructed buildings of Bishkek showed that 1,577 people have problems with documents. Of this number, there are 436 children under 16 who do not have birth certificates (92%) and never received documents. 80% of children working/living in the street are the children of internal migrants.
37. Migrants have become an impressive part of Bishkek. According to the mayor's office of the capital, internal migration is the reason of excessive number of students in secondary school of the capital, at least 1.5 times more.
38. Coverage of pre-school children not having birth certificates by children's pre-school services (kindergartens) is extremely low. 6% of children aged 3-7 attend kindergartens.
39. As for pre-school children without birth certificates there are three main reasons of why they do not attend municipal/state educational institutions:  
"a child was not enrolled due to lack of documents" (34%),  
"there is no need" (33%),  
"cannot afford enrollment of a child into municipal/state preschool institution without documents" (26%).
40. 10% of children aged 8-15 who do not have birth certificates have been identified and they do not attend school due to the lack of documentation. Children were enrolled in schools due to the lack of documents or parents could not pay for school enrollment of children without documents.
41. Due to the lack of documents parents have to bear additional costs of informal stay of their children in kindergartens and schools. Thus, the average additional monthly fee for attending kindergartens for 23% of parents is 1.1 thousand KGS. 19% of parents of children aged 8-15 pay an additional fee of average 374 KGS monthly for their children attending secondary schools, and 13% of parents of children aged 16-18 pay 641 KGS on average.
42. Children whose families cannot afford to educate a child in school, have to stay at home or work in markets, car washes and so on. At the same time, children who miss school and have significant gaps in knowledge are practically impossible to be reintegrated into school process afterwards because there are no correction classes and special curricular for children with gaps in education.

---

<sup>9</sup> The response of the Ministry of Education and Science of the KR to the letter of 01.03.2014, № 03-6/1216.

<sup>10</sup> Statistical collection "Children of Kyrgyzstan", Bishkek 2012 – p. 215

43. The national legislation of the Kyrgyz Republic stipulates that primary, secondary, and general education is free<sup>11</sup>. At the same time, in addition to the means needed to buy clothes and stationery for a student, administration of almost any school asks for collection of additional fees to rent textbooks, to repair rooms, to guard buildings, to purchase detergents, to celebrate various events. According to the conclusion of the Interdepartmental Committee which studied the legality of money collection from parents of students in the institutions of Chui province, Bishkek and Osh in 2009: children's access to education is limited by the fact that students whose parents are unable to make established monetary contribution into "associations" and "funds" functioning in schools are often not allowed to attend classes. When a child enters school the administration often organizes a kind of entrance exams for 6-7-year-old children. As a rule, these exams are converted into a kind of auctions for parents under the slogan "Who will pay more for the enrollment of children in school". Even in August 2012, despite the official ban for testing, some schools in Osh to continue this practice<sup>12</sup>.

#### **F. Passport**

44. Since 2005, Kyrgyzstan has been issuing ID cards which are mainly an internal identification document. In 2006 passports started to be issued for 10 years and the document became more secure. Both the passport and the procedure for its preparation have the possibility of including biometric data.<sup>13</sup>
45. On June 28, 2012, a bill of the Kyrgyz Republic about national passports of the Kyrgyz Republic citizen was adopted. According to the law the passport of the Kyrgyz Republic citizen will not have the box of marital status and registration. However, the President of the Republic Almazbek Atambaev sent objections to the parliament demanding to leave the mark about place of person's residence. In their turn, human rights defenders from Adilet LC circulated a letter of appeal urging officials to reject the objections of the Kyrgyz Republic President about leaving the box "residence" in the passport and be guided by the current Constitution<sup>14</sup>. According to the Constitution of the Kyrgyz Republic as of 27 June 2010 "Everyone in the Kyrgyz Republic has the right to freedom of movement and choice of residence in the territory of the Kyrgyz Republic and is free to travel abroad and return without hindrance"<sup>15</sup>. Consequently, the state has no right to fix the place of a person's residence, especially in a visible document. In other democratic countries, the government is aware of the place of a person's residence but it is not public information. It is kept in the so called black box of the passport.
46. The passport (ID-card) should serve as identity and nationality of a citizen, and not a document confirming the right of movement and residence. The possibility of obtaining a passport should not have any link to the registration. The possibility of obtaining a passport of a citizen of the Kyrgyz Republic is directly related to the availability of his/her residence registration. At the same time, a person can obtain registration only if he/she has a passport<sup>16</sup>.
47. ID-card holders face difficulties as it is required each time to change the document after marriage, change of residence, etc. SRS mentions great number of complaints about this system, both from citizens and from public authorities.
48. It is rather difficult to restore a passport; this requires a number of documents. Then the subsequent verification is required on the basis of which a conclusion is provided.

---

<sup>11</sup> KR Constitution, Paragraph 7 Item 5 Article 20, Article 45; KR Education Law as of 30 April 2003, No. 92, Article 16.

<sup>12</sup> According to the materials of Blagodat PA, Osh, 2012.

<sup>13</sup> Kyrgyzstan: Passports and ID documents. Landinfo, 2013

<sup>14</sup> AN appeal from Adilet LC and Central Asia on the Move Civil Platform to the KR President regarding his objection to the KR law about national passports of the Kyrgyz Republic citizens

<sup>15</sup> Constitution of the Kyrgyz Republic 2010

<sup>16</sup> Appeal of Adilet LC to the Chairperson of the Constitutional Legislation, State Structure and Human Rights Committee of the Parliament. (<http://adilet.kg/ru/node/126>)

Particular difficulties arise if a person received a passport in a remote area of the country. In this case among other things it is necessary to send a request and obtain confirmation.

**G. State's obligation to ensure unimpeded access to education and health services:**

49. Resolution of the Government of the Kyrgyz Republic dated November 14, 1997 No. 667 Instruction about the procedure of recording children and adolescents of school age. In accordance with the KR Law about education in order to ensure coverage by compulsory education of all children and adolescents their recording is done by compiling lists. It includes children from 6 through 16. The law requires registration of school age children by local state administrations, aiyyl okmotu together with the authorities and institutions of education. Bodies of the National Statistics Committee of the Kyrgyz Republic take the necessary part in the preparation and registration of children subject to compulsory education of the main stage (nine forms).
50. However, in accordance with the Standard Regulations about an educational institution approved by the Ministry of Education, Science and Culture of the Kyrgyz Republic as of September 16, 1997 No. 376/1, the procedure for admission of students, especially "living in the area. Those not living in the area may be denied admission only because of the lack of free places in the institution".
51. Article 10 of the Internal Migration Law. Every citizen of the Kyrgyz Republic shall enjoy the rights and freedoms guaranteed by the Constitution and laws of the Kyrgyz Republic, in the whole territory of the Kyrgyz Republic, regardless of the fact of registration of residence or place of stay. The absence of registration cannot serve as grounds for restricting the rights and freedoms of citizens.
52. The Constitution of the Kyrgyz Republic; the Kyrgyz Republic Law about the citizenship of the Kyrgyz Republic. According to Article 9 of the Law documents certifying citizenship of the Kyrgyz Republic are all types of national passports of the Kyrgyz Republic citizens, birth certificate of a citizen and other documents certifying the identity of the Kyrgyz Republic citizen.
53. The Kyrgyz Republic Code about administrative responsibility. Articles 384 and 385 of the Code set rules providing for administrative responsibility for living without registration, for damage to or loss of passport
54. Instruction on the admission of documents, execution, issuance, recording and preparation of a passport and personalization of the passport of the Kyrgyz Republic citizen, approved by the Resolution of the Kyrgyz Republic Government on June 20, 2011 No. 332. The provision on the rules of registration and deregistration of the Kyrgyz Republic citizens at the place of residence and place of actual stay, approved by the Government of the Kyrgyz Republic on December 4, 2004 No. 886.
55. In accordance with Paragraph 9 of this Provision, every citizen is obliged to obtain registration at the place of residence and the place of actual stay within the Kyrgyz Republic in accordance with Article 9 of the Internal Migration Law of the Kyrgyz Republic.
56. Citizens who changed their place of residence shall apply to the registration authorities with an application in the approved form within 10 working days from the date of arrival at the new place of residence. They have to submit:
  - a. Passport or another equivalent document certifying the identity of a citizen - a document which is the basis for letting the citizen live in a house/apartment (authorization, contract, a statement of the person having provided the dwelling or other document), or its duly certified copy - the address certificate of moving out from the residence place in an approved form in case of deregistration;

- b. For those to do military service (conscripts) – a military card (certificate of conscription at the recruiting station) with a mark of military deregistration at the place of previous residence and military registration at the new place of residence.
57. According to the legislation of the Kyrgyz Republic the absence of registration (residence permit) cannot serve as grounds for restricting the rights and freedoms of citizens. At the same time, access to basic services in Kyrgyzstan directly depends on the availability of registration. Its absence prevents citizens from obtaining social and health services, access to education, the justice system, and opportunity to participate in elections. Thus, according to instructions on the procedure for payment of pensions according to the state social insurance, approved by the Board of the Social Fund of the Kyrgyz Republic on April 12, 2002 No. 27, one of the mandatory requirements for obtaining benefits of state social insurance is the availability of passport data and place of permanent residence.
58. The study identified persons who cannot obtain a passport because of not having a birth certificate or passports of parents, birth certificate due to the absence of parents' passports. People without any documents proving their identity are “invisible”. Accordingly, they do not have the opportunity to enjoy their basic rights and to receive services guaranteed by the Constitution to all citizens of the Kyrgyz Republic. The legislation of the Kyrgyz Republic has no mechanisms to determine the procedure for obtaining the documents in such cases.

#### **H. Recommendations:**

59. It is necessary to eliminate contradictions in by-laws and other normative documents regulating the current system of registration, providing legal status to discrimination, under which the opportunity to enjoy basic rights and to receive services guaranteed by the Constitution to all citizens of the Kyrgyz Republic depends on the availability of registration at the place of residence or stay.
60. It is necessary to align the requirement of the Constitution and the internal migration law with international standards that the absence of registration cannot justify restrictions of rights.
61. It is necessary to amend the Law on Local Self-Government regarding identification of “invisible people” and keep records of internal migrants, and to take into account their needs in development plans and budgets.
62. Monitoring of population service centers and passport offices to ensure legal registration.
63. Ensure registration of internal migrants by increasing the number of inspections at the places of internal migrants residence.
64. Include the citizens moving from remote rural areas due to lack of income sources to support their families into the number of forced migrants
65. Develop a simplified procedure for registration of forced migrants in order to record internal migrants in the cities of Bishkek and Osh. The list of required documents should be reduced, the following documents should be excluded from the list, given that responsibility for completing these documents lies with the registration authorities and not to demand confirmation of documents from house management or neighborhood/quarter committees:
66. **For registration:**
- a. Shailoo card (F-10);
  - b. Statistical record card to departure certificate;
  - c. Address registration certificate;
  - d. Military card (pre-conscription certificate) imposing a duty on registration bodies to inform military commissariats of the Republic about citizens who register at the place of residence.
67. **when applying for a passport:**
- a. Form number 1;
  - b. A certificate from the address and information bureau;
  - c. A residence certificate;



- d. Military card (pre-prescription certificate) imposing a duty on registration bodies to inform military commissariats of the Republic about citizens who register at the place of residence; obtaining passports for the first time (turning 16, adoption and restoration of the Kyrgyz Republic citizenship).
68. Include the norm into the Provision on the KR citizens registration and deregistration rules at the place of residence and place of stay and the Instruction on the order of registration, issuance and recording the KR citizen passport which will avoid inclusion of additional documents into the list not identified in the legislation, but required in practice, such as:
- a. A certificate from the address and information bureau;
  - b. Residence certificate.
69. Registration at the place of residence should be done by issuing **a registration card (to be attached)** to the passport of the Kyrgyz Republic citizen. The concept of registration card should be included into the Provision on the KR citizens registration and deregistration rules at the place of residence and place of stay, stated as follows:
- a. Registration of citizens at the place of residence or actual residence is carried out by the issuance of **a registration card according to the form** approved by the State Registration Service under the Government of the Kyrgyz Republic.
  - b. Registration card consists of three parts - stub, main and control one. The stub of a registration card is torn off and is kept in registration bodies which issued the card, the main one is issued to a citizen at the place of registration by the registration bodies as attachment to the passport of the Kyrgyz Republic citizen (ID-card). The control card is transferred to the address and information bureau.
  - c. Recording and issuing registration cards is carried out on the basis of a registration card log book at the place of issuance of passports by registration bodies.
70. The information entered in the passport of the Kyrgyz Republic citizen should be reduced by excluding the data on marital status and place of residence, which will exclude the need to exchange passports in these cases. After all, the main purpose of a passport is to be an identity card of the Kyrgyz Republic citizen.
71. Review the timeframe of issuing passports in case of exchange or including changes (in cases of change of surname, name and patronymic name, nationality, loss, damage, etc.), since its data is already in the database of the State Registration Service.
72. It should be possible to obtain passports by persons turning 16 even if their parents do not have registration or documents, and to obtain documents by children of stateless persons.

## **I. Social and economic rights of external migrant workers from Kyrgyzstan in the Russian Federation and the Republic of Kazakhstan.**

73. The total number of citizens of the Kyrgyz Republic being in labor migration in the Russian Federation and the Republic of Kazakhstan is about 640 thousand people. The actual number of labor migrants is much higher than the official statistics of the host countries reaching more than one million people. Most of the migrants (about 90 percent) go to Moscow and Moscow region. Such a great number of labor migrants cannot get official jobs. Therefore, each year about 200,000 migrants stay in Russia illegally. In such circumstances, there can be no question of labor protection or a decent salary. To date, hundreds of Kyrgyzstan citizens are expelled and deported from the Russian Federation, hundreds are in detention centers for foreign nationals, thousands are automatically denied from entry to the territory.

## **J. Article 7**

### **The right to fair working conditions for external migrants from KR in RF**

74. The main areas of employment for Kyrgyz citizens in Moscow and St. Petersburg are hotel service, catering, housing, construction, companies providing cleaning services and laundry, sewing industry, markets.

75. According to the legislation, there is no discrimination of working conditions and remuneration on the basis of gender, race, nationality, language, religion, etc. Foreign workers in the Russian Federation shall enjoy the rights and perform duties in labor relations as Russian citizens. However, Russian law has restrictions for labor migrants to engage in certain positions, which is related to the protection of labor and social rights of its citizens and the security of the country.
76. Most migrants are employed through informal channels, i.e. through relatives, friends, countrymen, public associations who often find jobs for them in the companies where they work/worked themselves. According to migrants, employment through acquaintances is convenient, the level of trust to the employer in such cases is high.
77. Some migrants find jobs through employment agencies, illegal intermediaries from among the migrants themselves and former citizens of the Kyrgyz Republic who provide paid services for employment at the informal labor market are also involved in employment of migrants. There are documented cases when labour migrants become victims of not honest intermediaries and private companies.
78. Practically all labor migrants who do not have a work permit, work based on a verbal agreement with an employer and do not make any tax and social security payments. It is beneficial for an employer to employ migrants unofficially since they “save” their part of social security payments. Employers of migrants usually establish long working days with one day off, with no guarantee of payment, working conditions and exclusion of professional injuries.
79. Dismissal procedure depends entirely on the will of an employer, who may dismiss a migrant at any time. To reduce the risk of non-payment of wages, migrants working without contracts, try to get a weekly or which is even better a daily wage. However, it is possible mainly in the service sector and commerce, employers in other sectors, such as construction, do not accept such conditions.
80. Working hours and the number of days off are determined by the employer and depend on the sphere of work. Typically, labour migrants work 8 - 12 hours a day and have no more than one day off a week. At the same time in the sphere of catering and construction working hours can reach 14 hours.
81. According to trade union organizations and local NGOs, the situation in the labor market in the Russian Federation has deteriorated in recent years. The increase in working hours to 12 hours is becoming the norm for Russian citizens too.
82. Migrants are willing to accept the worst working conditions and work for lower wages, from this point of view they play a negative role in the fight of Russian workers for better working conditions. If a labour migrant is willing to work 12 hours a day with one day off for the same wage as a Russian citizen for 8 hours with two days off, the employer tries to hire a migrant. The influx of migrants in the industry leads to lower pay, worse working conditions and safety for local workers as well as for migrants themselves who often being violators of migration and labor laws of the Russian Federation are especially helpless in case of employer’s lawlessness.
83. Large part of all applications to human rights organizations is recorded on the basis of non-payment of wages. For example, the integration center “Migration and Law” (Moscow) received applications from 4,460 people for 6 months of 2013, including 675 from Kyrgyz citizens. A relatively large number of applications (41%) were on the basis of non-payment of wages. According to statements of citizens, the total amount of non-payment is about 18 million rubles. Due to the lack of employment contracts it is difficult and sometimes impossible to legally and in practice prove the fact of employment relationship existence, as a result hitherto the center lawyers managed to retrieve about 5-6 million rubles.
84. From the interview with a citizen of the Kyrgyz Republic having applied to the Memorial ADC (St. Petersburg):
85. I and my friends received work permits as laborers. We found a job in waste processing through our friends. We were promised a lot of money, that it was possible to earn 1,000 rubles and more

- a day, and housing was provided free of charge. The work was done on the basis of verbal agreement and no contracts were signed.
86. After 15 days of the son of my brother-in-law injured his hand in the machine. To save his hand, I had to insert a rebar between the drums of the machine. I wanted to take him to the hospital but he refused, you know, how the Kyrgyz do. His hand was so swollen that he could not hold a spoon. The next day the employer came, found out what had happened, and dismissed us from the jobs. I wanted to ask him to pay at least half of the earned money so that we could have something to live on until we found a job. Instead, he beat me so hard and the scar remained on my face. He drove us out, did not pay a penny, and threatened to bury us. He cursed us as he wished, said that the machine was worth more than our lives. It was 11 pm. I did not know what to do, and called the consulate, where I was recommended to apply to the trauma hospital and the police.
  87. The next morning I went to the hospital, received the conclusion of a traumatologist and neurologist, wanted to apply to the police, where I was advised to hire a lawyer and file a suit against the employer. The police also promised to talk to the employer and convince him to pay the salary, but did nothing.
  88. After that, following the recommendations of my brother and sister-in-law, I applied to the "Memorial". They began to work, and I was called to the police and sent for a forensic examination. When they were talking to me in the police they said that I should blame myself because it was necessary to establish employment relationship as it is necessary to do.
  89. We went to the work with the lawyer, he wanted to find witnesses who had seen that I had been beaten by the employer. However new migrants were working there. Everyone with whom I worked and even my relative whose hand I saved and because of whom all that started refused to go to the police. Migrants did not support me in my determination to go to the end.
  90. The fact that hurts most is that the wife of the employer is Kyrgyz, her name is Aida, she is from the Issyk-Kul province. She helped us to find the job, and she intimidated my relative and told him that if we did not calm down, then they would file a suit against us and we would have to pay for the repair of the machine, which was much more expensive than our salary.
  91. Often, nonpayment of wages is associated with physical violence against migrants insisting on its payment. Labour migrant hardly ever go to law enforcement agencies and are not willing to do anything to restore their violated rights.
  92. On the one hand, they do not believe that will be defended, on the other hand, they are afraid to go to the police because they are often break the law themselves, in addition, many believe that "it is better to work rather than spend time on trying to obtain the salary". But even in those cases when individual migrants are trying to protect their rights, they encounter lack of understanding and unwillingness of other migrants to help them. The reason for this is the inability to maintain collective defense (migrants are actually excluded from the sphere of regulating collective labor relations) and dissociation with other workers.
  93. Also there is information about forcing migrants to work and forcibly keeping them at work by taking their documents under the pretext of registration. Most of these enterprises are out of town and it is possible to get there only through security service. Due to the limited time it was impossible to identify such facilities during monitoring.
  94. In general we can say that in the field of labor relations the following multiple violations of the rights of migrants can be observed: No employment contracts with the employer; Unjustified dismissal; Keeping at work by taking documents by the employer; Refusal of the employer to pay wages, introduction of unjustified fines, unpaid overtime work; failure to comply with work conditions and safety; Refusal of the employer to pay compensation for employment injury; No guarantees for temporary disability; Excessive load and exploitation of labor.

## **K. Changes in legislation**

95. Before 2015, Russia had a system according to which a labour migrant could carry out labour activity only if he/she had a work permit or a patent. These documents were effective for one year and gave the right to a foreign citizen to work and stay in Russia during this period, but obtaining these documents was accompanied by numerous bureaucratic requirements and delays and first of all, by the system of quotas established by the state for attracting foreign labour force to a given region. Companies which wanted to hire migrants had to apply for the required number of migrants long before the beginning of the calendar year, the quotas were insufficient and quickly ended, the migrants themselves did not know where to take them and who to contact.
96. In 2014 in the presence of strong anti-migrant sentiments a number of tough amendments was introduced in the Russian legislation about legal status of foreign citizens. Thus, in January 1, 2014, amendments to the Law about Legal Status of Foreign Citizens in the Russian Federation became effective, according to which the period of temporary stay of foreign citizens in Russia was limited to 90 days out of 180 possible. (Before this innovation migrants could leave Russia at the end of 90 day- period and immediately come back, and stay there for another 90-day period legally. Beginning since 2014, migrants were deprived of this opportunity, and many of those who did not have a work permit or a patent providing them with the right to stay in Russia for a year were forced to leave Russia or stay there illegally. In the first place, the wives of labour migrants and their minor children who come to Russia not to work but for other purposes were affected. Almost simultaneously with this amendment changes to the Code of Administrative Offences of the Russian Federation were made, according to which entry to Russia was prohibited for those who had committed two or more administrative offenses (e.g., crossed the road in the wrong place). And the entry can be denied for three, five or ten years.
97. From 1 January 2015, the Federal Law about the Legal Status of Foreign Citizens was again changed. For labor migrants from visa-free countries quotas and work permits were abolished and a unified patent system was introduced (a patent allows labor migrants work for physical and legal persons, it is required to pay a fixed monthly cost of patents). On the one hand, the innovations simplify the regime of stay in the Russian Federation: patent holders do not have to travel outside of the Russian Federation at the end of one year (the maximum validity period of a patent) and have the patent extended (but for no more than 1 year), staying in the Russian Federation. However, there are also disadvantages: the cost of patents is now defined by regions of the Russian Federation, the cost has increased from 1,200 rubles (in the most attractive regions for migrants up to 3,000 rubles in St. Petersburg and up to 4,000 rubles in Moscow. According to some politicians, such a patent price increase will allow additional revenue for the state treasury and reducing the influx of foreign workers, since the total migrants' expenses at an average salary of 15-20 thousand rubles a month simply will not allow them to exist here. But in light of the fact that the salary in home countries of many labour migrant is 4-5 times lower than in Russia, and at least one third of migrants work in Russia illegally bypassing legalization procedures, even after price increase of patent cost the number of labour migrants remains high.
98. The introduction of the patent system can be welcomed: in case of its success the risks associated with intermediaries who provide migrants with false documents and actually resell the labor force in violation of labor rights of labour migrants will be reduced. The Russian state has become an intermediary: currently, document services for labour migrants are provided by commercial structures of the Federal Migration Service (for example, in St. Petersburg it is Federal State Unitary Enterprise "Passport and visa service" of FMS of Russia). In the same building a migrant can have medical examination, take an exam in the Russian language, buy a health insurance policy, translate and notarize documents, obtain necessary consultations. As stated by the

employees of such structures, “a migrant will not spend more money and even less than a migrant will spend if does it on his/her own”<sup>17</sup>.

99. However, regional authorities make the patent system more complex. So, on January 22, 2015, Governor of St. Petersburg Georgiy Poltavchenko signed a decree according to which a specialty will be included into universal labor patents (position, type of work), according to which a labour migrant will work (it must be specified in the employment contract or, if such contract is signed or according to a migrant if such a contract has not been signed yet). A migrant can change jobs but only within the given profession<sup>18</sup>. Thus, some freedom provided by the patent system is limited - probably in the future a mechanism to control migrants' adherence to the profession and a repressive mechanism in case of violation of this adherence will be developed<sup>19</sup>.

#### **L. Article 7.**

##### **The right to fair working conditions for external migrants from Kyrgyzstan in Russia.**

100. Since 2001, Kazakhstan has had a quota system for labour migrants. It is designed to fill jobs with qualified professionals on a temporary basis. For example, in Almaty only 33 Kyrgyz citizens out of approximately 10,000 migrants have official work permits including 19 who occupy leadership positions, 14 are qualified professionals. In January 2013, the government of Kazakhstan introduced mandatory registration as a sole proprietor (SP). Kyrgyz citizens with a residence permit along with the citizens of the Republic of Kazakhstan can register as SP.
101. According to the monitoring, migrants need 1,500 – 2,000 US dollars to obtain a residence permit in Almaty and Astana, although the official amount is about \$15. According to experts, many Kyrgyz citizens are not able to make such payments, so most do not even try to get the status of SP. Only a third of 10 thousand Kyrgyz citizens working in Almaty have a residence permit and a SP certificate. Some receive a residence permit and SP status in the areas where it is cheaper and work in the markets of Astana and Almaty. It is illegal, because SP status allows them to work in the places where it was received.
102. Measures are taken against violators of migration legislation from penalties to deportation. Migrants are in detention centers while their identity is determined. In Almaty, for 6 months of 2013 566 labor migrants received administrative responsibility 19 people were expelled pursuant to court decisions.
103. Migrants working in the markets are checked most often. The number of labour migrants employed in the agricultural sector has been declining year by year and according to various estimates may reach 23 thousand people. The vast majority of them do not have permits. Some of them return to Kyrgyzstan at the end of the registration period for a short time then go back thus obtaining an opportunity to get new registration. The majority because of specificity of agricultural activities do not have this opportunity and have to violate the law of Kazakhstan.
104. Labor disputes occur frequently, but labour migrants do not practically have a chance to protect themselves from the arbitrariness of the employer. They practically do not apply to the authorities because of the risk of being expelled, there are no any association whether trade unions or on the basis of national groups. There are several NGOs specializing in protecting the rights of labor migrants, but their resources are very limited.

---

<sup>17</sup> [http://www.spbvedomosti.ru/news/obshchestvo/chezher\\_ternii\\_k\\_nbsp\\_patentu/?sphrase\\_id=7182](http://www.spbvedomosti.ru/news/obshchestvo/chezher_ternii_k_nbsp_patentu/?sphrase_id=7182)

<sup>18</sup> The register of regulations and norms of St. Petersburg, 26 January 2015. Registration No. 17588.

<sup>19</sup> Anti-discrimination center "Memorial" NGO "Human Rights Movement: Bir Duino - Kyrgyzstan".

Alternatives Report to the UN Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families. March 2015

105. In general, according to NGOs and human rights organizations the following violations prevail in the field of labor rights of migrants:
106. work without contracts; taking away passports by the employer; non-payment of wages; wages are lower than those of local workers; working off a debt; lack of compensation in cases of employment injury; long work day (more than 50 hours per week); child labor (in market trade and agriculture).
107. There are a number of human rights organizations actively working with migrants and providing them with legal and social assistance in the studied cities. The most common reason for migrants applying to such organizations is non-payment of wages. They do not apply in case for other issues - a long work day, violation of safety, lack of medical treatment, confiscation of passports or violence .
108. The level of applications by Kyrgyz citizens to protect their labor rights to human rights organizations, compared with migrants from other CIS republics is higher. For example, only the human rights program of the Red Crescent receive 43-45 applications monthly out of 50 from the citizens of Kyrgyzstan. Almost all applications are related to the non-payment of wages. NGOs, HRC IOs, generally conduct “pre-trial or out of court proceedings with the employer, trying to convince him to pay or promising to apply to the police or the media”. According to human rights activists appeal to the court does not allow to claim wages since the provided measure of responsibility for the employer is just a fine.

## **M. Article 9**

### **Access to health services of external migrants from Kyrgyzstan in Russia**

109. Migrants have the following rights in the field of medical care in the territory of Russia:
- The right to free first aid, the right to free emergency medical care;
  - Insured citizens have the right to medical care in the system of mandatory health insurance (MHI). Working foreign nationals are among MHI insured foreigners (except for those temporarily residing in the territory of the Russian Federation);
  - Foreign citizens and persons without citizenship who have a residence permit or a temporary residence permit have the right to a childbirth certificate.
110. Due to changes in legislation starting January 1, 2010 MHI policy can be issued only to those who have a permit for temporary or permanent residence. Given that the majority of labour migrants are staying temporarily, not living, they cannot obtain a MHI policy. Thus, migrants have lost much of access to health services. Any visit of migrants to a doctor is only possible through the purchase of voluntary medical insurance policy (VMI) for a period or through paid visits or private clinics.
111. However, the number of labour migrants acquiring VMI remains low, according to experts, “even 10% of migrants working in Russia do not buy health insurance policies”. Because people are not familiar with the concept of medical insurance, they do not understand it and do not trust it, the majority of migrants are from poor rural areas. There is also small part of labour migrants with low income who are unable to pay for VMI. It should be noted that children of migrants became particularly vulnerable in these conditions whose health is now entirely dependent on education, competence, financial possibilities and decisions to maintain the health of children made by their parents.
112. To date with the assistance of the Kyrgyz Republic Embassy a number of private medical centers have been opened and operate in Moscow, in which migrants from Kyrgyzstan can obtain service at costs lower than in other hospitals of the capital. Medical professionals say that labour migrants usually delay with obtaining medical care to the last moment when it is impossible to longer tolerate and the disease becomes serious. Health for many of them is not a priority.

113. Given the fact that labor migrants are mainly young people, chronic age-related diseases are rare. In general, patients come in cases of injuries; there are many visits to gynecologists and dentists.
114. According to surgeons, among work-related injuries the most common are burns, fractures, falls from height. Because migrants work illegally, they often present work-related injuries as household ones. According to the victims, some employers despite the absence of agreements compensate the cost of treating injuries. At the same time, there are cases when migrants do not get any compensation for work-related injuries - they are simply dismissed from their jobs.
115. Women working of companies providing cleaning services and laundry, often come with inflammation of the skin of hands and allergies because they work with household chemicals without gloves.
116. Health professionals are concerned about reproductive health of labour migrants. In their view, the problem begins with the fact that in Kyrgyzstan migrants do not receive adequate knowledge in the field of reproductive health, contraception, pregnancy and maternal health in the family and school. And abroad, they do not pay any attention to these issues since their sole purpose is making money.
117. Women visit gynecologists of Kyrgyz medical centers after rape. For 7 months of 2013 there were 6 cases of women only in one center who acknowledged they had been raped and doctors suspect one case of gang rape. They visit doctors only in case of severe injury or bleeding. Physicians note low level of awareness among women about the possibility to conduct prevention of STIs and unwanted pregnancy during 72 hours. They are also reluctant to seek protection from the police because in most cases perpetrators are acquaintances or fellow villagers of the victims or for some time after rape they deter women from seeking medical attention fearing consequences for themselves.

#### **N. Access to health services of external migrants from Kyrgyzstan in Kazakhstan**

118. In accordance with the legislation of the Republic of Kazakhstan persons with temporary registration are not entitled to obtain a full package of health services. Foreigners and stateless persons in the territory of the Republic of Kazakhstan are eligible for the guaranteed volume of free medical care if they have acute diseases posing danger to others: diphtheria, measles, rubella, whooping cough, scarlet fever, chicken pox, epidemic paratyphoid fever, paratyphoid A, B, C, polio, acute respiratory infections, influenza, meningococcal infection, cholera, typhoid fever, tuberculosis, pulmonary anthrax, plague, viral hemorrhagic fever, hepatitis A and E, malaria, group of acute intestinal infections (Decree of the Government of the Republic of Kazakhstan No.1937 dated November 26, 2009).
119. Medical services not included in the list of guaranteed free medical care are provided on a fee basis, including in the framework of voluntary health insurance or at the employer's expense.
120. Pregnant labour migrants from Kyrgyzstan have no right to have routine preventive care and treatment. Childbirths are considered to be emergency cases and are free of charge. However, in the presence of pathology, the need of surgical intervention or postpartum treatment problems appear - health insurance is required, which women often do not have. In most of such cases treatment is still carried out, but doctors work at their own risk, because when fiscal authorities check medical institutions they have problems.
121. Health departments also conduct additional census of children whose parents do not have citizenship of Kazakhstan. For example, their numbers in Zhetysay district of Almaty is 1,200 of whom 916 are children from the KR, they are registered in clinics and receive vaccinations and prophylactic treatment. In total, in 2012 1,666 citizens of the Kyrgyz Republic, of whom 916 are children applied for medical care in Almaty and received it.
122. According to "The results of studying the situation of labour migrants from Kyrgyzstan in Kazakhstan", the survey of labour migrants confirmed that migrants' social rights are

infringed, in particular the right to the full package of health services. More than 20% of respondents constantly experience problems when applying to health facilities and 60% of them - in some cases.

123. At present, the number of registered HIV-infected persons in Almaty and Almaty region reaches 4 million people, of whom about 30% are foreigners, including a significant number of citizens of Kyrgyzstan. Among HIV-infected citizens of Kyrgyzstan the proportion of female sex services increases. Under the law foreigners who come to Kazakhstan for more than six months or for permanent residence should take mandatory HIV test. However, most Kyrgyz citizens are registered for 3 months, so they do not need to take mandatory HIV test. That is why it is impossible to reveal where infection was caught at home or in Kazakhstan.

124. In case of chronic diseases migrants who register for 3 months are normally advised to go home for treatment, because most of them cannot pay for treatment in clinics of RK.

#### **O. Article 13**

#### **Access to education of children of external labour migrants from Kyrgyzstan in Russian Federation**

125. According to the law, all foreign nationals residing in the territory have the right to education in educational institutions of the Russian Federation, it is not limited by the legal status of a labour migrant. However, there is no reliable statistics about the number and age of children from Kyrgyzstan, who stay with their parents.

126. According to information of public associations in Moscow and Moscow region many school-age children do not attend school, but no further information on the number of children or on specific cases was received.

127. At the same time, according to other participants of the monitoring, the number of children not attending school is little and is more connected with the legal residence of parents. When parents work in the territory of the studied cities in accordance with the law they have no problems with enrollment of their children in schools.

128. According to the report of Memorial ADC, the right to education is not guaranteed for the majority of children of labour migrants from Kyrgyzstan staying in the Russian Federation. January 1, 2014, amendments to the Law about the order of departure from the Russian Federation and Entry into the Russian Federation became effective. Now, according to Paragraph 1 of Article 5 of the law, the period of temporary stay of a foreign citizen in the Russian Federation who arrived in the Russian Federation in a manner not requiring a visa cannot exceed a total of 90 days for the period of 180 days. Labor migrants whose stay depends on the employment contract, students of higher educational institutions, military personnel of the Russian army and some other categories of foreign nationals are in the best situation.

129. Children of foreign citizens, including those who study in Russian schools, have the right to stay in Russia for only 90 days out of 180. Their period of stay has nothing to do with the period of stay of their parents, labour migrants who, having a work permit may stay in Russia without going out for 1 year. This means that having studied at school for 3 months, the child should stop school and leave the territory of the Russian Federation, stay abroad for 3 months and only then he/she can come back to Russia and to start school again. The program, which his /her classmates studied during the previous 3 months will be missed, so the quality of education of a migrant child suffers. A child's right to family life is violated and most children have nowhere to go because their parents are in the Russian Federation, and there is often no family or home in his native country.

130. Since a large number of labour migrants come to Russia with children, we can speak with confidence about the violation of the right to education of thousands, perhaps tens of thousands of school-age children. Thereby the guarantee of equal access to education is violated which is fixed



by the Convention on the Rights of the Child, international obligations and national legislation of the Russian Federation.<sup>20</sup>

#### **P. Access to education of external migrants from Kyrgyzstan in Kazakhstan**

131. In Kazakhstan, children of foreigners have equal rights as the citizens of the republic in the field of education. Legislation allows them to receive free pre-school, primary, secondary education by children if at least one parent has a residence permit.
132. According to the new changes every pupil has his/her own identification number (IN) in the electronic database, without which it is not possible to enter educational institution. The children of labour migrants residing temporarily do not have the IN, since it is issued only to citizens of the Republic of Kazakhstan. Upon submission of the documents a child of labour migrants is marked as a non-resident in an electronic database.
133. At the same time, national legislation does not impose direct restrictions on access to institutions of pre-school education and secondary schools for children of labour migrants residing temporarily and provide some opportunities for them. For example, in the case of enrollment of children in the first grade the parents are required to provide only a document confirming the place of residence (registration).
134. The number of children of labour migrants from Kyrgyzstan in Almaty is 906 students, 193 of whom are enrolled in secondary schools. Quite often labour migrants involve their children in work, so that attendance and academic performance of children worsen. Access of migrants' children to preschool education is more complicated. However, Kazakh citizens encounter the same problems, since the system of preschool education in Astana and Almaty is able to cover only half of those wishing to be enrolled in kindergartens. To avoid corruption in enrollment at pre-school institutions a system of electronic line is operating in the Republic of Kazakhstan, which is not accessible for temporarily staying labour migrants.

#### **Q. Article 11**

##### **The right to adequate housing for external labour migrants from Kyrgyzstan in Russia**

135. Payment for housing is one of the most expensive items for migrant workers. Only a small part of them can afford to rent separate housing with conveniences. Most migrants come together and rent an apartment or a room for a few people. Most often 5-6 people live in a one-room apartment, and up to 18-20 in a three-room apartment. They can be relatives, friends, fellow villagers or countrymen. Payment for such an apartment in Moscow by one person is about 5 thousand rubles per month. In communal apartments the payment is lower, for example, in St. Petersburg a room in a communal apartment for 5 people costs 12,000 rubles per month, i.e. 2 400 rubles per person.
136. In some sectors (utilities, construction, trade and others) housing is provided by the employer. Many builders live on site in trailers, vegetable and newspapers sellers in kiosks and stalls. Hotel maids and cleaners often obtain housing in the workplace.
137. Search for housing is a big problem - often urban residents do not want to rent their apartments to migrants, the situation is complicated by the fact Russian citizens have negative stereotypes of migrants from Central Asia.
138. Most often migrants rent accommodation in communal and old apartments located in low-cost areas. Most homeowners refuse to provide migrants with migration registration at the place of actual residence, so in the case of checks they may have problems with the police. In general, working 12 hours a day people cannot fully relax and in order to take hygiene procedures, wash, or have a cup of tea, they need to wait for their line to the bathroom and kitchen. Of course, life in these conditions leads to increased psychological tension, there are many domestic conflicts which

---

<sup>20</sup> <http://adcmemorial.org/www/9461.html/>

are ended with fights, rape, and often stabbing. Living in such conditions is also associated with high levels of stress and the risk of catching infectious diseases.

## **R. The right to adequate housing of external labour migrants from Kyrgyzstan to Kazakhstan**

139. In the Republic of Kazakhstan, some migrants rent housing, prices range from \$ 200 per room up to 600 for a two- or three-room apartment. Mostly migrants try to rent housing closer to the workplace, but the main criterion for selection is the cost of housing. Usually 3-4 migrants live in one room. Some live at their relatives and friends. At the same time, many live right at the workplace: traders - in containers in market or in vegetable stalls, car washers - in car washing stations, builders - in trailers, etc. Typically, these premises are not intended for human habitation, but for migrants it is important that they are available to them free of charge.

## **S. Recommendations**

### **140. To the Parliament of the Kyrgyz Republic**

- Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights for individual citizens to apply to the Committee regarding violations.
- Reform labor laws in accordance with the principles of the ILO

### **141. The Government of the Kyrgyz Republic should:**

- Create a separate and stably operating administrative body in the Kyrgyz Republic dealing with migration of the population and focused on the processes of external labor migration from Kyrgyzstan. Annual reorganization of the migration authority leads to the “washout” a thin layer of professionals and forces them to go into other areas.
- Creation of state programs for pre-departure preparation of labor migrants, consisting of components such as:
  - Advising labour migrants on employment and implementation of labour activities, pensions, health insurance and health care, as well as providing basic information about the host country;
  - Medical examination of labour migrants before they leave the country to assess their own opportunities and risks;
  - Creating conditions to learn working specialties. Here it is possible to use the system of vocational schools with the qualification requirements of the Russian Federation, Kazakhstan and the needs of the labor market.
- To recommend to the host countries ratification of the International Conventions on the Protection of the Rights of Labour Migrants and Members of their Families and implement these international norms into national law.
- The Government of the Kyrgyz Republic and the competent authorities in the field of migration should:
  - Take effective measures to create favorable conditions for migrants to be involved into labor markets of other countries, except for the Russian Federation and the Republic of Kazakhstan, thereby achieving certain regulation of external labor migration process and protection of labour migrants' rights in accordance with international obligations of the Kyrgyz Republic;
  - Contribute to the development of a competitive market of employment services abroad. At the same time increase the effectiveness of measures to stop the activities of firms offering intermediary services illegally;
  - Initiate the adoption of the law of the Kyrgyz Republic on private employment agencies corresponding to international legal instruments in the field of labor migration;
  - To take measures to establish the best mode of stay of labour migrants in host countries, in particular, to extend the period of stay of the Kyrgyz Republic citizens without registration in the host countries;
  - To consider the issue of providing affordable health care to citizens of the Kyrgyz Republic in the host countries. For this purpose to provide for the establishment of specialized medical rooms at the diplomatic missions of the Kyrgyz Republic, or by the conclusion of appropriate agreements with public and private health facilities in host countries;
  - Bring to the public discussion the government decree No.222 for the presence of effective safeguards of the rights to pensions of labour migrants, citizens of the Kyrgyz Republic;

- Take measures for stage-by-stage introduction of mandatory health insurance into practice in order to obtain possibly a standard package of health services in host countries;
- To develop mechanisms on creation of conditions for the acquisition of affordable health insurance policies by the citizens of the Kyrgyz Republic in host countries;
- To prepare and to submit timely a situational report on labor migration to the UN Committee with the purpose of its timely consideration in 2014;
- Increase the participation of NGOs in consultative bodies of the Kyrgyz Republic;
- Take measures to improve technical equipment of diplomatic missions in the Russian Federation and the Republic of Kazakhstan.

**142. Recommendations for the health sector:**

- establish a system of recording and statistical reporting about incidence of labour migrants in host countries by applying to health facilities of the host countries on obtaining statistics of incidence of the Kyrgyz Republic citizens to include the data into national reporting for appropriate actions;
- conduct awareness raising activities among the public about the need for annual X-ray examination of the entire population;
- support medical institutions in the host countries in provision with information posters, booklets and leaflets on reproductive health, sexually transmitted infections, HIV, safe motherhood in Kyrgyz and Russian languages;
- apply to the international and donor organizations with a suggestion to consider providing medical centers/public associations which provide services to labour migrants from KR with free means of contraception.

**143. Ministry of Foreign Affairs of the Kyrgyz Republic together with the Kyrgyz Republic Embassy in Russia and Kazakhstan:**

- continue the practice of expanding diplomatic missions, including the use of honorary consuls institutions;
- pay attention to the possibility of using the resources of the Kyrgyz diaspora, particularly in the Russian Federation. Embassy of the Kyrgyz Republic should become a body consolidating associations of compatriots and coordinating their activities.

**144. Diplomatic services of the Kyrgyz Republic in the countries hosting citizens of the Kyrgyz Republic should:**

- strengthen the work on interaction with local authorities in the protection of the rights and legitimate interests of the Kyrgyz Republic citizens, monitoring and timely response to violations;
- focus on the efficient provision of rights stipulated by a host country and international agreements; monitor criminal cases and court decisions regarding the citizens of the Kyrgyz Republic for the effective representation of their rights and legitimate interests in the authorized state bodies, including prisons and judiciary bodies;
- introduce monitoring court decisions on cases of labour migrants available in the websites of regional and higher courts into the practice of consular services.