

## **To the UN Committee on the Protection of All Labour Migrants**

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

#### **Articles 23, 33, 41, 42**

#### **International Convention on the Protection of All Labour Migrants and Members of Their Families**

This report has been prepared by the Civil Partner Platform “Central Asia on the Move” composed of such organizations as Center of Support to International Protection Public Foundation;<sup>1</sup> Human Rights Movement: Bir Duino Kyrgyzstan;<sup>2</sup> Public Association and the Resource Centre for Elderly People Public Association.

The information has been prepared on the basis of monitoring data for 2013 and for 2014 within the framework of the project “Promotion of solutions to the problems of labour migrants” and the report on violations of the rights of women labour migrants from Kyrgyzstan in 2014, and other studies on migration and gender issues.

#### **Introduction**

1. According to the Federal Migration Service of Russia, 546,100 Kyrgyz citizens came to Russia from Kyrgyzstan in 2012, in 2013 this figure was increased by 18% and was equal to 667,902 people. Moreover, the migration balance, i.e. the difference between the number of persons who arrived in Russia from Kyrgyzstan and the number of people who left Russia during the same period of time was also consistently high, in 2012 in particular it was approximately 24%, i.e. 546,100 KR citizens came to Russia in 2012 and 410,321 people left it. In 2013, this figure is slightly lower - about 14% (576,206 people travelled outside of Russia). As of July 2014 there are 552,252 citizens of the Kyrgyz Republic in Russia. 52% of the Kyrgyz Republic citizens are in the Central Federal District, mainly in Moscow and Moscow region. 14% are in Siberian and Far Eastern federal districts. The smallest number of the Kyrgyz Republic citizens are in the Southern Federal District - 1.2%.
2. During 11 months of 2014 13,829 citizens of Kyrgyzstan were temporarily registered at the Migration Police Department of DIA of Astana of the Republic of Kazakhstan. On the territory of the Consulate General of the Kyrgyz Republic in Almaty, according to the estimates the number of citizens of the Kyrgyz Republic is about 35,000 citizens. In Almaty and Almaty province there are 12,500 people, in Zhambyl and South Kazakhstan regions there are about 10,000 people. Most (5-10 thousand depending on the season) citizens of the Kyrgyz Republic perform labour activities in the markets of Almaty, Taraz, Shymkent.

#### **Article 23**

##### **Gaps in the Kyrgyz Republic legislation to protect the rights of labour migrants**

3. A number of gaps in the legislation of the Kyrgyz Republic on the protection of the rights and interests of labour migrants staying outside the country of origin, including the regulation of activities of consular offices should be noted.
4. Law about external labor migration establishes the concept of a labour migrant as a person with a regulated status engaged in employment in the state in which he/she is not a citizen. Thus, using the term “labour migrant”, which excludes the category of illegal migrants with an unregulated status, the Law of the Kyrgyz Republic about External Labor Migration actually takes the category of labour migrants who do not have a regulated status beyond legal remedy.
5. Moreover, the law about external labor migration makes possession of all the rights and obligations provided for by the legislation of the Kyrgyz Republic dependent on the formalization of labor activity outside the country. For example, Article 18 of the law states: “Citizens of the Kyrgyz Republic going abroad in order to perform labour activities under an employment contract, retain the rights and obligations provided for by the legislation of the Kyrgyz Republic”. This provision contradicts both international standards and rules of national law, which stipulates that citizens of a state have the same

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rights, freedoms and duties. These equal rights, freedoms and duties cannot be restricted based on the lack of an employment contract during the period of paid activity in another state.

6. Functions of a consular agency established by the law form a set of relevant public services and consular activities. Consular services and consular activities in the Regulations about Consular Offices of the Kyrgyz Republic in foreign countries have not been established. They are regulated in the Consular charter incompletely which, as mentioned earlier, does not include departments of diplomatic missions in the number of consular offices, respectively, probably does not extend its effect to the consular officials of the Consular Department of the Embassy of the Kyrgyz Republic in Moscow.
7. The KR law about external labor migration determines the duties of diplomatic and consular officials contradicting the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations, ratified by Kyrgyzstan, and national legislation establishing the principle of protection of all citizens of the Kyrgyz Republic outside of Kyrgyzstan.
8. Thus, the Law about external labor migration establishing the concept of a labour migrant as a person with a regulated status engaged in employment in a state in which he/she is not a citizen creates legal prerequisites to restrict access to protection of the rights of labour migrants with an unregulated status by diplomatic and consular offices of the Kyrgyz Republic operating in foreign countries.

### **Article 23**

#### **Ensuring the rights of labour migrants by Consular offices of the Kyrgyz Republic in the Russian Federation**

9. Labour migrants from the Kyrgyz Republic staying outside the state of origin encounter a number of challenges in access to consular services. This is an important part of a system of measures to implement guarantees to protect the rights and interests of Kyrgyz citizens in the host country.
10. The vast majority of migrants living and working in Moscow are not included in the consular register (96%). The majority of them have been in Moscow for more than a year. Although registering Kyrgyz citizens at consular offices is maximally simplified and can be performed without personal presence. However, any information about this procedure is not available. People do not know and do not understand this necessity.
11. Comments of respondents expressed in the words “migrants are all by themselves”, “no one cares about us”, etc., indicate that the Embassy in whole and the Consular Department are not perceived by Kyrgyz citizens as a body of their own state, as the state body of their protection. That is why, in our opinion, is a very small percentage of people are registered in consular agencies - 4% from among the respondents. To the question of “why did you not obtain registration in the consulate?” 96% of respondents answered “do not know”, “do not have any information about this”, “why to do that?”, “What is the consulate?”. Meanwhile, the consular registration is not just a service of the Consular Department in a series of services in execution of documents.
12. Only 12% of the respondents are aware about the location of the Embassy of the Kyrgyz Republic, 66.7% of Kyrgyz citizens approximately know about it. However, the fact that people, most of whom have been in Moscow for more than a year, do not know this information speaks of their isolation, limited ability to obtain timely information, qualified assistance and protection. To the question of “Do you know/have a phone number of the KR Embassy in Moscow or the Consular Department of the Embassy?” 88% responded negatively. Meanwhile, the possession of this information, in our opinion, is necessary in the environment where it is the only state agency to which people can apply for the protection of human rights, including emergency situations.
13. The percentage of those applied for the assistance is 4% of Kyrgyz citizens, while the percentage of those who visited the site of the Embassy of the Kyrgyz Republic is 20.7%. This situation on the one hand, speaks about the poor possession of information about the structure under consideration, on the other hand, it speaks about the importance of the Internet resource development. It should be noted that a significant part of today's migrants are users of Internet resources. Thus, more than half of the respondents from among Kyrgyz citizens who came to Moscow to work (53%) indicated that they had access to the Internet.
14. It should be noted that there is the lack of information about the activities and services of the Embassy for service users. During the study of the Consular Department, and during the study of publicly available sources of information of the website of the Embassy of the Kyrgyz Republic and Ministry of Foreign Affairs in Moscow no document or sheet has been found which could provide a comprehensive list of services of the Consular Department intended for service consumers (deadlines, required documents, etc..).

15. Access to well-established, clearly set out information about the services, including in the areas of receiving applicants which will not only alleviate their interaction with an officer, but will also provide control over the procedures to resolve their issues is not provided according to the needs of labour migrants.
16. Labour migrants mention concerns regarding promptness of resolving issues, response of an official to the problem of a service consumer, orientation of an employee and the state structure to the prompt solution of the problem, since 24% of the audience notice:
17. Advisory services related to the execution of documents are not accompanied by individual provision of written information about the requirements for a document or placement of this information on bulletin boards; multi-line phone number and address of the site are not placed in all available sources of information (periodicals, handouts, etc.), which implies non-possession of this information by service consumers; there are problems of interaction between government agencies of the Kyrgyz Republic, which leads to long expectations; information about the services on the site, in the room of the Consular Unit is presented insufficiently.
18. During the survey of labour migrants from Kyrgyzstan living and working in Moscow a language problem mentioned by 14% of respondents has been identified. Difficulties of the category to obtain services at the Consular Department are provided for. In the consular office the staff speaks Kyrgyz language, the opportunity to prepare statements and other documents in the Kyrgyz language is provided. But informing about the services in the Kyrgyz language is limited. Information on the stands of the Consular Department is mainly presented in Russian. The website of the Embassy of the Kyrgyz Republic in Moscow has a version in the Kyrgyz language, but with respect to the Consular Department and its service, the information does not meet the needs of labour migrants.

### **Article 33**

19. Labour migrants face problems because they have no information and were not sufficiently prepared before leaving for migration. Low awareness and overall ignorance in matters related to migration to Russia and Kazakhstan are the problems which are raised by all interviewed experts, including consular staff. And most of them point out that no appropriate measures for the dissemination of the information during pre-migration period are taken.
20. Labour migrants objectively assess the lack of information obtained before departure to Moscow. Answering the question of "What did you consider before going to the Russian Federation, and what could alleviate the problems here in Russia?" many respondents did not answer (23.3%) and answered that they had considered everything (36.7%), others focus on the study of the Russian language (14%), the need to find a job before leaving (9.3%), the most significant percentage is represented by those who expressed the need of possession of information (29.3%).  
Generalization of views of surveyed specialists allows to highlight the following positions regarding the studied issue:
21. Awareness of Kyrgyzstan citizens about all the issues related to the stay in Russia is very low; not knowing the information, legal illiteracy makes them more vulnerable and deprived of rights; representatives of the Russian authorities using low awareness of the Kyrgyz Republic citizens mislead them, use it during detention, initiate administrative cases, in criminal proceedings; low-informed labour migrants become victims of not honest employers, are often subjected to humiliation and abuse, there are facts about forced labor and slavery, such employers often refuse to sign labor contract Not being aware of the information about the services and legal aid from the government agencies of the Kyrgyz Republic operating in Russia Kyrgyz labour migrants turn to intermediary companies and often become victims of fraud; lack of awareness leads to problems of health, education, pensions, and does not contribute to the processes of integration and adaptation. Labour migrants without an unregulated status who are victims of forced labor cannot go to the police for fear of deportation; there are cases of complicity between the police and employers<sup>3</sup>.

### **Article 33**

#### **Access to legal aid**

22. Most migrant workers do not have information about the protection of their rights and legitimate interests, and are not aware of the opportunity to apply for assistance to consular offices. Crimes and

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<sup>3</sup> Building Migration Partnership Mission (BMP), «Kyrgyzstan: Expanded Migration Profile», 2010, p. 52

- offenses committed by labour migrants in host countries are often associated with not knowing the laws and rules of conduct. Accordingly, migrants should be adequately provided with information and training by the State of origin whose citizens they are.
23. By the end of 2013, 82,413 foreigners were expelled and deported from Russia. Comparing the statistics for the first half of 2014 and the same period in 2013 shows a significant increase in the use of such harsh measures of administrative responsibility: in 2013, 18,548 foreigners were expelled and deported, in 2014 – 62,542 foreigners. Approximately 70% of offenders to which these sanctions were applied were the citizens of Uzbekistan, Tajikistan, Kyrgyzstan.
  24. According to the OPA DIA of Almaty region of Kazakhstan 277 Kyrgyz citizens were prosecuted for violations of administrative law, two of them were expelled in 2013, 10 citizens of Kyrgyzstan were expelled for violations in 2014.
  25. There are criminal offences committed by migrants. In 2014, 17 criminal offenses were committed. In Zhambyl region of Kazakhstan 426 citizens of the Kyrgyz Republic had administrative liability, there were cases of prosecuting citizens of the Kyrgyz Republic for deliberate crossing of the state border (Paragraph 330 Part 1- of CC RK-)<sup>4</sup>.
  26. The highest percentage of applications of the Kyrgyz Republic citizens for help is related to non-payment of wages. Results of the survey of labour migrants from Kyrgyzstan show that today the vast majority of labour migrants from Kyrgyzstan work without signing an employment contract. The figure is 75.3% of the respondents.
  27. In Almaty, Kazakhstan only 33 Kyrgyz citizens of approximately 10,000 employees have official work permits<sup>5</sup>. An unregulated status of the majority of labour migrants leads to difficult working conditions. In Yekaterinburg<sup>6</sup> every fifth survey respondent (148 respondents out of 700<sup>7</sup>) experienced problems with delayed wages, and every eighth (85 out of 700) had cases of not paid salary for their work. 18.4% of women had delays in payment wages in 2014 and 9.2% encountered cases of non-payment of wages for performed work.
  28. According to the monitoring, nonpayment of wages is often associated with physical violence against migrants insisting on its payment. Labour migrant hardly ever go to law enforcement agencies because of beatings and are not willing to do anything to restore their violated rights. On the one hand, they do not believe that they will be defended, on the other hand, they are afraid to go to the police because they 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”. Information about cases of forced keeping migrants at work by taking away their documents under the pretext of registration was voiced by a number of survey participants. According to them, most of these enterprises are in the country and it is possible to get there only through the security service. However, the investigation against large employers is always limited to formal checks and reference to the absence of employment contracts<sup>8</sup>.
  29. Also according to the lawyer of the Consular Department, he received 48 applications in 2014 about the absence of people who are in Russia according to the relatives, but communication with them was stopped and their location is not known. In 16 of these 48 cases, the location of people was identified, the efficiency of this work is very high. However, over time the number of such applications is growing.

### **Article 33**

#### **Access to health services**

30. A very serious problem with which labour migrants live, according to the survey, is limited access to health services. And, according to experts, the problem of the spread of diseases among labour migrants is one of the most important ones. Most labour migrants arrive in the State of employment without prior medical examination and without health insurance, which could provide unimpeded access to medical care. The right to health protection should be ensured in the state of origin during pre-migration period

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<sup>4</sup> The results of studying the position of labour migrants from KR in RK, Almaty, December 2014.

<sup>5</sup> Kyrgyzstan NGO Migration Platform, Information from civil society organizations, 2013. Available at the OHCHR site: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCMW%2fNGO%2fKGZ%2f15335&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCMW%2fNGO%2fKGZ%2f15335&Lang=en), p. 56

<sup>6</sup> G. Ibraeva, A. Niyazova, M. Ablezova, A. Moldosheva, 2014. Report on the results of the survey “Gender and Migration”, order from ICCO Cooperation

<sup>7</sup> The total number of respondents is 800 people, 100 of whom are self-employed.

<sup>8</sup> Official site of Memorial antidiscrimination centre. Available at the link: <http://adcmemorial.org/>

through information about the opportunities, risks and consequences. Moreover, employers of labour migrants who do not have a regulated status, do not make payments for mandatory health insurance in accordance with the Federal Law of the Russian Federation. Consequently, these labour migrants cannot receive medical services in the volume provided by MHI<sup>9</sup>.

31. Labour migrants seek medical help in extreme necessity. Among labour migrants there is a high degree of spread of infectious diseases, sexually transmitted diseases - such conclusion is made by doctors of Moscow clinics providing medical care to labour migrants. Moreover, the situation is complicated by discrimination against labour migrants, segregating approach to providing health care to labour migrants<sup>10</sup>.
32. During monitoring, information was received that cases of tuberculosis, sexually transmitted infections and HIV were detected in migrants from Kyrgyzstan at the health centers of the Russian Federation. 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 service suppliers increases. The infected persons were recommended to ask all their friends with whom they had contacts to undergo examination, treatment was prescribed and recommendations for treatment and return to their homeland were given. However, most often after receiving the diagnosis patients completely disappeared from the sight doctors. Of course, such a situation is extremely unfavorable, since it poses a threat to the spread of disease both in Russia and Kyrgyzstan, since migration has a pendulum character.  
***March 2013, the incidence among migrants in St. Petersburg is very high***
33. St. Petersburg, March 24 (Nicolas Muneshuli). Last year, 405 cases of tuberculosis were detected among labour migrants in St. Petersburg as reported by the chief physician of the City TB Dispensary Vladimir Zhemkov. According to him, the incidence of tuberculosis among migrants is several times higher than among dwellers of St. Petersburg with Russian citizenship. "If to count the number of legal migrants, this level is about over 300 for 100 thousand migrants. The inhabitants of St. Petersburg have the incidence of tuberculosis of around 30. That is 10 times less than the incidence among migrants. For us it is epidemiologically dangerous group of people", said Zhemkov.
34. According to Art. 19 of the Federal Law about the fundamentals of public health protection in the Russian Federation and the Russian Federation Government Resolution dated September 1, 2005 No. 546 the rules of medical assistance to foreign nationals were approved, according to which the emergency medical care is provided free of charge and without delay, planned medical assistance to foreign citizens is provided on a paid basis.
35. According to experts, unfortunately, seeking paid medical care is not an indicator of a high level of welfare of labour migrants, but it is the indicator of low material support and low awareness and literacy of labour migrants in the field of health insurance, the unwillingness to accept insurance as one of the essential realities of modern life.

### **Article 33**

#### **Women's rights**

36. According to experts, since 2000 the percentage of women migrants has steadily increased - so, as of July 2014 there were 552,252 citizens of the Kyrgyz Republic in Russia. Of them, 340,922 are men (61.7%) and 211,330 are women (38.3%). There are no signs restricting access of women to consular services, but the staff of consular agencies does not have female representatives. On the one hand, it does not meet the requirements of the 1979 Convention about Elimination of All Forms of Discrimination against Women, which involves representation of men and women at all levels of decision-making, including the executive branch. On the other hand, it creates practical difficulties and may be a factor hindering application of female citizens to the Kyrgyz Republic consular agencies in certain situations. This psychological barrier can occur when women seek assistance as a result of violence, the need to provide information about their private life, information degrading the honor and dignity of women, etc.

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<sup>9</sup> International conference "Advanced experience in protection of the labour migrants' rights and the prospects of its application in Kyrgyzstan": Report and recommendations, Bishkek, 2013

<sup>10</sup> So in Yekaterinburg there are two separate outpatient departments for labour migrants and a separate not front entrance into these facilities. In Moscow it is planned to open an outpatient department for migrants from Tajikistan.

37. So, according to some studies, the right to personal immunity is violated by sexual assault against women migrants, there are cases of sexual slavery<sup>11</sup> and trafficking for sexual exploitation. The form of violation of human rights and discrimination in the workplace is sexual harassment. So, 4% of women admitted that they had experienced sexual harassment by co-workers, 1% - by the employer, and 1.6% of those surveyed - from customers<sup>12</sup>.
38. Moreover, guarantees of access to justice are not ensured by the authorized government agencies. Thus, 55% of women labour migrants indicated that they suffer most oppression from the city police, 37.5% - from local residents, 28% - from the staff of FMS, and 21% of women labour migrants - from employers (in this case, the vast majority of migrants do not know where to complain against ill-treatment)<sup>13</sup>.
39. In case women migrants have diseases they delay treatment<sup>14</sup> until the time of return to Kyrgyzstan<sup>14</sup>, exceptions are acute illnesses, childbirth and examination of newborn babies<sup>15</sup>. The situation in Kazakhstan is similar<sup>16</sup>, where medical care during childbirth is free, but pregnant female labour migrants from Kyrgyzstan have no right to routine preventive care and treatment. Childbirth is considered to be an emergency situation and therefore is free of charge. Thus, in case of pathologies, the need of surgical intervention or post-natal treatment a medical insurance is required which women often do not have<sup>17</sup>.
40. *From the speech of the Ala-Too PA representative at the round table "The social status of labour migrants in Russia" July 22, 2013.* The topic of reproductive health of migrants is a very topical issue, we raise it, but it has been poorly resolved so far. For 6 months of 2013 (in Moscow and the Moscow region), there are 6 deaths of women from complications after childbirth, cesarean section and abortion. We know two cases when women did not have insurance and could not pay for their stay in the maternity hospital, and they sold their children. We helped one of them to return the child and the Consulate of the Embassy of the Kyrgyz Republic helped in discharging from the hospital.
41. Representatives of health centers believe that many women, especially young women, having paid for abortion and missed several days of work are not able to buy birth control pills which are prescribed to them. Therefore, there is a need to provide means of contraception for women by the Ministry of Health of the Kyrgyz Republic

### **Article 33**

#### **Integration problems**

42. The Kyrgyz Republic has to provide effective mechanisms for migration preparation to protect rights and legitimate interests of migrant workers through the provision of information resources about conditions, rights and duties in host countries. The level of awareness of KR citizens about the legislation of the Russian Federation is extremely low, the majority of respondents have no idea of where and which organizations they can apply to in case of their violated rights or to obtain legal advice. Migrants do not have phone numbers of the Embassy of the Kyrgyz Republic, the Consular Departments or Honorary Consul in Russia. Migrants are also not aware that they have the right to appeal to the Ombudsman, and believe that this structure is only concerned with the rights of the Russian Federation citizens.
43. Integration problems are also among the most pressing problems of migrant workers which are complicated by the insurmountable fact - external nonidentity with the local population in the Russian Federation and surmountable factors - low awareness of the majority of migrants and low education

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<sup>11</sup> Larisa Ilebezova, Akzhol Abdukerimov, (2013). Report on the service monitoring results provided by diplomatic missions, and consular agencies of the Kyrgyz Republic in the Russian Federation and the Republic of Kazakhstan: situation analysis of the rights of labour migrants from the Kyrgyz Republic working in the Russian Federation and the Republic of Kazakhstan, p. 55

<sup>12</sup> The same document

<sup>13</sup> G. Ibraeva, A. Niyazova, M. Ablezova, A. Moldosheva, 2014. Report on the results of the survey "Gender and Migration", order from ICCO Cooperation

<sup>14</sup> International Organization for Migration, 2012. "Access of migrant workers from Kyrgyzstan and Tajikistan to social services in Kazakhstan: Results of the sociological study"

<sup>15</sup> G. Ibraeva, A. Niyazova, M. Ablezova, A. Moldosheva, 2014. Report on the results of the survey "Gender and Migration", order from ICCO Cooperation

<sup>16</sup> International Federation for Human Rights, 2009. "Kazakhstan/Kyrgyzstan: Exploitation of migrant workers, protection denied to asylum seekers and refugees", p. 32

<sup>17</sup> Report on the violation of rights of female labour migrants from Kyrgyzstan. Resource Centre for Elderly People PA, Bishkek, 2014

level of some migrants about the culture of host countries, ethical behavior norms, rights and responsibilities of migrants in Russia. Most migrants are residents of rural areas, they learn the rules of urban life in Russia, that is why very often they behave at the household level in a way that causes negative attitudes to them, and sometimes fear and misunderstanding.

44. Members of public associations, representatives of consular departments, NGOs and migrants themselves spoke about many cases when the Kyrgyz Republic citizens violate generally accepted standards of Russian society, for example, “they slaughter sheep in the yards of apartment buildings and markets”, “dry skins of sheep in balconies”, “clog drains with sheep’s stomach contents”, “talk loudly in public places or metro, behave provocatively”, “walk in robes and plastic flip-flops in the city”, “do not maintain cleanliness in apartment buildings”, “throw away garbage in streets”, “drink alcohol and fight”.
45. 13.3% of respondents indicated that problem of relations with the local population is the most important for them. Moreover, 10.7% speak about bad attitude in general to Asians. 2.7% faced humiliation and insults from the local population. The survey did not reveal the facts of attacks, crimes motivated by ethnic intolerance, however, according to some experts, the number of such crimes increases.

#### **Article 41**

##### **Voting rights**

46. In general, with respect to the coexistence of two regulations of the same legal force (Regulations on the consular office of the Kyrgyz Republic in foreign countries and Consular Charter), the presence of obvious duplication of legal norms should be noted, and at the same time gaps in regulation of consular actions, i.e. absence of legal regulations for legal cases.  
The Consular charter has no mention about the actions to assist the citizens of the Kyrgyz Republic in the implementation of their voting rights during election in the Kyrgyz Republic or referendum.
47. The lack of clear legal regulation of consular services and activities does not promote unified effective implementation of tasks and functions assigned to the consular offices, and in particular to the Consular Department of the Embassy of the Kyrgyz Republic in Moscow. Example of this is the situation of not allowing voting by the Kyrgyz citizens staying in Russia who are not registered with consulates, which is a serious violation of the election principle on the basis of universal, equal and direct voting right by secret ballot recorded in the KR Constitution and the Election Code of the Kyrgyz Republic. The absence of a citizen's registration with the consular office and as a consequence the absence of his data in the main list of voters cannot be a legitimate reason to limit the right to vote.

#### **Article 42**

48. It should be noted that the Kyrgyz Republic has taken a lot of efforts to fulfill their commitments to implement the provisions of international documents into national legislation and practice.  
Diplomatic missions of the Kyrgyz Republic in the Russian Federation are represented by the Embassy of the Kyrgyz Republic in the Russian Federation and consular offices. Consular Department of the Embassy in Moscow, the Consulate General of the Kyrgyz Republic in Yekaterinburg, vice-consulate in Novosibirsk, Honorary Consulate in St. Petersburg, Honorary Consulate in Moscow region, Honorary Consulate in Krasnodar and Krasnodar region are functioning.
49. In the Republic of Kazakhstan diplomatic missions of the Kyrgyz Republic are represented by the Embassy of the Kyrgyz Republic in the Republic of Kazakhstan in Astana and the Consulate General in Almaty. The Embassy and the Consulate General in Almaty perform the same functions as the consular offices in the Russian Federation, only on a smaller scale due to the smaller number of migrants.
50. In its activities the Consular Department is guided by the Vienna Convention on Consular Relations of 1963, the international treaties of the Kyrgyz Republic, the Constitution and the laws of the Kyrgyz Republic, statements of the President and the Government of the Kyrgyz Republic, decrees of the Kyrgyz Republic Parliament, orders, instructions and directions of the MFA, international customs.
51. Kyrgyz Embassy in Moscow is open to dialogue with civil society organizations, and often initiates it.  
The following regulations on the protection of the rights and legitimate interests of citizens in labor migration have been adopted in the Kyrgyz Republic.
52. *The program of social security and pension provision for migrant workers* - citizens of the Kyrgyz Republic working in the Russian Federation. Approved by the Government of the Kyrgyz Republic on April 30, 2013 No. 222



- The main goal of this Programme is to implement a mechanism of ensuring the rights of migrant workers to receive full social package, including pension under the legislation of the state of residence and the state of employment of migrant workers, improving the conditions of their employment.
53. *Regulations on the order of interaction of state bodies and other organizations in the system of “single window”* for the purpose of legal employment, social security and pension provision for migrant workers - citizens of the Kyrgyz Republic in the Russian Federation. Approved by the Resolution of the Government of the Kyrgyz Republic on October 2, 2013 No. 550
  54. The authorized state body in the sphere of labour, migration and youth of the Kyrgyz Republic: - on the basis of coordination of activities interacts with the state authorities in the field of health, education, social security and private pension funds in order to address issues related to employment, social security and pension provision for the Kyrgyz citizens traveling to the Russian Federation.
  55. *Resolution of the Kyrgyz Republic Government, Bishkek, April 30, 2013 No. 222 about the Program of social security and pension for labour migrants - Kyrgyz citizens working in the Russian Federation Decree of the Ministry of Education and Science of the Kyrgyz Republic, Bishkek, on August 17, 2012 No. 545/1 about the approval of the action plan to test the knowledge of the Russian language, legal fundamentals and the history of the Russian Federation for KR migrant workers going to the Russian Federation.*
  56. The issues of employment legalization, issues related to health care, voting rights, social security and pensions, and many others are still difficult. In this respect, the task of strengthening public policy in Kyrgyzstan aimed at taking measures to ensure the rights and interests of migrant workers, elimination of legal prerequisites for the infringement of their social and legal protection, improving the efficiency of state agencies involved in the provision of services and implementation of legal remedies for migrant workers become particularly important.
  57. Working under the conditions of the host countries, or having an unregulated status, migrant workers rarely make payments to the Social Fund of Kyrgyzstan, therefore, upon return, they are deprived of pensions and other social benefits<sup>18</sup>. One of the difficulties in obtaining pensions are differences in the organization of pension systems in the countries of origin and destination. There are no common cross-country mechanisms to ensure the pensions of migrants. Migrant workers working in Russia are obliged to pay the premiums including into the Pension Fund along with the citizens of the Russian Federation, however there are no mutual settlements between Kyrgyzstan and Russia, and if a migrant worker returns to Kyrgyzstan before retirement age his/her insurance payments will remain in the Pension Fund of the Russian Federation. In Kazakhstan, foreign nationals are not obliged to pay for mandatory social insurance. Working outside of Kyrgyzstan, migrant workers are discriminated for entire period of their work abroad, they lose their pension savings<sup>19</sup>. In Kazakhstan, none of the surveyed migrants had agreements with the pension fund, despite the fact that 16% had a residence permit which allows to obtain a taxpayer registration number and signing an agreement with the pension fund<sup>20</sup>.
  58. The problems are a low level of awareness as well as imperfection of migration legislation leading to the fact that the majority of labour migrants are focused on illegal segment which involves: increased incidence among migrants themselves; increased risks of growth of infectious and other diseases in host and sending countries; strengthening stereotypes about migrant workers as a source of diseases which prevent social integration of migrants.
  59. The problem, according to experts, should be addressed both at the external political level, and by wide public awareness of Kyrgyzstani population about the issues related to health faced by migrants. Inter-agency cooperation on preventive medicine should be strengthened.
  60. It is important to note that the Ministry of Labour, Migration and Youth of the Kyrgyz Republic (MLMY) performs the functions on the development of strategies and directions, issuing permits for activities related to the employment of Kyrgyz citizens abroad, provide advice to departing migrants, consider complaints, make analysis of migration processes. But the activities of MLMY to protect the legitimate rights and interests of Kyrgyz citizens abroad and to prepare migrants during the pre-migration period are not fully implemented, or the results of their activities are not effective. It should

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<sup>18</sup> Kyrgyzstan NGO Migration Platform, Information from civil society organizations, 2013. Available at the OHCHR web-site: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCMW%2fNGO%2fKGZ%2f15335&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=INT%2fCMW%2fNGO%2fKGZ%2f15335&Lang=en)

<sup>19</sup> The program of social security and pension provision for labour migrants – citizens of the KR working in the RF.

<sup>20</sup> International Organization for Migration, 2012. “Access of migrant workers from Kyrgyzstan and Tajikistan to social services in Kazakhstan: Results of the sociological study”



be noted that currently the Parliament of the Kyrgyz Parliament raises the issue of disbandment of the Ministry delegating its functions to other government agencies.

61. Fragmentation and instability of migration policy; lack of institutional and organizational instruments; lack of mechanisms for the collection and exchange of migration data and other information; ignoring the gender approach to the development of policy and legislation are considered to be systemic obstacles in the implementation of the rights of migrant workers guaranteed by international and national commitments<sup>21</sup>.

### **Recommendations**

62. In accordance with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, whose participant Kyrgyzstan has been since 2003, to implement the rights of migrant workers and the obligations of the Kyrgyz Republic as the country of origin (departure) and the state of employment (State of hiring for work) in the Law about external labor migration;
63. To amend the definitive norm of the Law about external labor migration which establishes the term “migrant worker”. In accordance with the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families “migrant worker” is a person who is engaged, will be engaged or has been engaged in a remunerated activity in a state in which he/she is not a citizen;
64. Minimize the timeframe of consular services provision to recipients associated with obtaining services (the need to visit, repeated visits to the consular department in obtaining one service, untimely receipt of results) through proper information about the services, expanding opportunities for virtual (distant) application, development of Internet services, strengthening interaction with government agencies of the Kyrgyz Republic;
65. Consider the possibility of minimizing the number of steps, documents required from the recipient of a state service through the analysis of existing requirements to the package of documents for each service, and appropriateness and the need to provide them (for example, residence place certificate of the migrant in Russia);
66. Create a separate and stably operating administrative authority in the Kyrgyz Republic, dealing with issues of population’s migration, focused on the processes of external labor migration from Kyrgyzstan. Annual reorganization of the migration authority leads to the “washout” of a thin layer of professionals and forces them to work in other areas.
67. Creation of state programs on pre-departure preparation of migrant workers, consisting of such components such as:
  - a. - Advising migrant workers on employment and implementation of employment, pensions, health insurance and health care, as well as providing basic information about a host country;
  - b. - Medical examination of migrant workers before leaving the country to assess their own opportunities and risks;
68. Enhance information activities, interagency cooperation on preventive medicine, health promotion; provide for the introduction into practice of mandatory health insurance for the standard package of health services in host countries before migrant workers leave.
69. Develop a national strategy for migration policy and human resource management to ensure optimal planning of employment, first of all in Kyrgyzstan, provide for jobs at the local labor market as an alternative, desirable strategy to overcome economic and social problems.
70. Develop and introduce into forms of national statistical reporting a list of indicators for migration able to provide gender-disaggregated data on the life, work, and situation of women and men - migrant workers.
71. Develop a legislative basis for the implementation of special programs to ensure access of women migrant workers and their families to social services (access to health services, assistance in cases of domestic violence against women migrant workers, and other members of the family, access to psychological and rehabilitation assistance of migrants and their families).

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<sup>21</sup> Report about violations of the rights of female labour migrants from Kyrgyzstan. Resource Centre for the Elderly People PA, Bishkek, 2014

72. Take measures and recommend the host countries to ratify the International Conventions on the Protection of the Rights of Migrant Workers and Members of Their Families and implemented these international norms into national law.
73. Improve the effectiveness of measures to stop the activities of companies engaged in intermediary services illegally;
74. 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;
75. Take measures to establish the best mode of stay for migrant workers in host countries, in particular, to extend the period of stay of the Kyrgyz Republic citizens without registration in the host countries;
76. Develop mechanisms which create conditions for the acquisition of affordable health insurance policies in host countries by the Kyrgyz Republic citizens;
77. Increase the participation of NGOs in consultative bodies of the Kyrgyz Republic;
78. Take measures to improve technical equipment of diplomatic missions in the Russian Federation and the Republic of Kazakhstan.
79. Take measures to use the resources of the Kyrgyz diaspora, particularly in the Russian Federation. Embassy of the Kyrgyz Republic shall become a body consolidating compatriots' association and coordinating their activities.
80. Increase the accessibility of consular services and legal assistance for Kyrgyz citizens living in areas geographically distant from Moscow and other cities, where there are consular offices and honorary consuls, to strengthen the practice of expanding consular missions in Russia;
81. Develop a system of measures to introduce gender equality principles into the personnel policy and increase the representation of women in diplomatic missions and consular offices, including lawyers; ensure the staff of the Consular Department of the Embassy of the Kyrgyz Republic in Moscow has female staff;
82. Strengthen measures on relations and legal assistance to persons in detention, in accordance with the Vienna Convention on Consular Relations and Consular Convention between Russia and Kyrgyzstan;
83. Provide the citizens whose entry to Russia is prohibited with the opportunity to obtain information about the prohibition of entry, about the order of appeal and ensure access to appropriate skilled assistance;
84. Strengthen measures to provide legal assistance and protection of the violated rights of migrant workers who are discriminated against in the workplace, violations of their labor rights through appropriate staffing and logistical support to the Consular Department;
85. Strengthen the monitoring of situations of forced labor and keeping migrant workers from Kyrgyzstan in slavery, as well as measures to prevent and obtain legal support through appropriate staffing and logistical support of the Consular Department, as well as the inclusion of relevant issues / topics into the advanced training program;
86. Ensure complete and high quality information to citizens of the Kyrgyz Republic in Kyrgyz and Russian languages, about the services and legal assistance, the timeframe of their provision by the Consular Department of the Embassy of the Kyrgyz Republic in Moscow through increasing and enhancing qualitative content of the information stands in the place of service, corresponding informative content of the web-site, spread of information through other sources;
87. Strengthen all forms and methods of informing the citizens of the Kyrgyz Republic - migrant workers in all aspects of working and staying in Russia, about the risks and opportunities to reduce them by the Kyrgyz Embassy in Moscow, relevant government bodies of the Kyrgyz Republic, non-governmental organizations operating in Kyrgyzstan and Russia;
88. Strengthen cooperation with the local authorities in protection of the rights and legitimate interests of the Kyrgyz Republic citizens, monitoring and timely response to such violations;
89. Focus attention on efficient provision of rights stipulated by the host country legislation 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;
90. Introduce monitoring court decisions on cases of labour migrants available in the websites of regional and higher courts into the practice of consular services;
91. Improve cooperation with the media in host countries in order to reduce stigmatization of migrant workers and to promote a tolerant attitude of the local population to migrant workers.