

# Mapping on Irregular Migration in Central Asia 2014



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International Organization for Migration (IOM)



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This report is the fruit of a collaborative effort of Government officials, international and national experts and IOM missions from Kazakhstan, Kyrgyzstan and Tajikistan. The findings, interpretations and conclusions expressed herein do not necessarily reflect the views of IOM or its Member States. The designations employed and the presentation of material throughout the work do not imply the expression of any opinion whatsoever on the part of IOM concerning the legal status of any country, territory, city or area, or of its authorities, or concerning its frontiers or boundaries.

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DEVELOPING CAPACITIES IN MIGRATION MANAGEMENT

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## Abbreviations

<b>ACTED</b>	Agence d'Aide à la Coopération Technique et au Développement
<b>ADC</b>	Anti-Discrimination Centre
<b>CA</b>	Central Asia
<b>CARIM</b>	Consortium for Applied Research on International Migration
<b>CC</b>	Criminal Code
<b>CES</b>	Common Economic Space
<b>CIS</b>	Commonwealth of Independent States
<b>COMPAS</b>	Centre On Migration Policy And Society
<b>CSTO</b>	Common Security Treaty Organization
<b>EU</b>	European Union
<b>EUR</b>	Euro (European Monetary Unit)
<b>FIDH</b>	International Federation of Human Rights
<b>GDP</b>	Gross Domestic Product
<b>ILO</b>	International Labour Organization
<b>IOM</b>	International Organization for Migration
<b>ISAF</b>	International Security Assistance Force
<b>ITAR-TASS</b>	Russian News Agency
<b>KRG</b>	Kyrgyzstan
<b>KZ</b>	Kazakhstan
<b>LFS</b>	Labor Force Survey
<b>MFA</b>	Ministry of Foreign Affairs
<b>MIA</b>	Ministry of Internal Affairs
<b>MoL</b>	Ministry of Labour
<b>MRC</b>	Migrant Recourse Centre
<b>NATO</b>	North Atlantic Treaty Organization
<b>NGO</b>	Non-Governmental Organization
<b>OSCE</b>	Organization for Security and Cooperation in Europe
<b>OVIR</b>	Office for Visas and Registration
<b>PRG</b>	Peer Review Group
<b>RAS</b>	Russian Academy of Sciences
<b>RUB</b>	Russian Rouble
<b>SES</b>	Single Economic Space
<b>SOPEMI</b>	Système d'Observation Permanente des Migrations
<b>TJ</b>	Tajikistan
<b>UK</b>	United Kingdom
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNECE</b>	United Nations Economic Commission for Europe
<b>UNFPA</b>	United Nations Population Fund
<b>UNICEF</b>	United Nation Children's Fund
<b>US</b>	United States
<b>USD</b>	United States Dollar



## Foreword

**Dejan Keserovic**, Coordinator for Central Asia

Chief of IOM Missions in Kazakhstan, Kyrgyzstan, Turkmenistan and Uzbekistan

Central Asia is located between the highly populated global South and the far less populated global North, positioning itself in the middle of the South–South Migration Pathway. Within Central Asia there are three main migration corridors but this research focuses on one of them as a response to the request by three IOM Member States: Kazakhstan the Kyrgyz Republic and Tajikistan. The “Mapping on Irregular Migration in Central Asia” is a unique IOM publication as it offers, in a holistic and analytical manner, the possibility for policy makers to better understand the current migration landscape and identify what still needs to be done in Kazakhstan, the Kyrgyz Republic and Tajikistan to convert to the extent possible irregular migration into regular. Migration Governance should be considered as a tool that can assist Central Asian Governments to further develop their economies by mainstreaming migration into development. Since its establishment in Central Asia, IOM has always been working closely with the Governments to regularize inflows of migrants promoting migrants’ and host societies’ wellbeing. The report helps identify the needs of Central Asian countries towards further development in the migration field and guides policy makers how to best use migration for the development of Central Asian countries. IOM remains committed to assisting Central Asian governments in realizing the targets set in the report.

**Tajma Kurt**, Chief of Mission, IOM Tajikistan

It is perhaps obvious, yet worth repeating, that the effective management of an issue as complex as irregular migration in Central Asia requires the hands-on involvement of a large number of diverse actors, some of which may even share competing priorities. Fortunately, there is a growing recognition of the importance of undertaking proactive migration policies and programs in order to protect the rights and dignity of migrants as well as their families and communities. As elaborated much further in this new report, irregular migration of nationals from Tajikistan and other Central Asian states puts migrants at increased risk of trafficking in persons, wage theft, abuse, deportation, loss of economic livelihood and security for family members. Global experiences have shown that responding smartly to address these concerns at the local, national, and regional levels will not only protect individuals at risk, but benefit communities on a larger scale. The cooperative nature demonstrated among the diverse set of government stakeholders during the production of this report should itself renew optimism that coordinated solutions in addressing irregular migration challenges in Central Asia can indeed be developed. IOM looks to build upon the report's findings and follow through on the targeted recommendations in order to find the correct path forward.

## Acknowledgments

The “Mapping on Irregular Migration in Central Asia” report was prepared by a team of international and national experts with the support of the IOM missions in Kazakhstan, Kyrgyzstan and Tajikistan. IOM Kazakhstan had the overall management and coordination of the project. The project is funded by the IOM Development Fund (formerly the 1035 Facility), a unique global resource for eligible IOM Member States, which provides them with essential seed funding for innovative initiatives, as well as empowers Member States to develop migration management capacities. The report was developed by the lead author, Mr. Piotr Kazmierkiewicz, International Consultant, and the authors of the country chapters, Mr. Vadim Nee, Mr. Nurdin Tynaev, and Mrs. Dilbar Turakhanova.

The editors owe a deep gratitude to the many individuals who contributed to making this report possible. First and foremost, we thank the authorities of Kazakhstan, Kyrgyzstan and Tajikistan for their support, which made it possible for this independent research and analysis to be carried out. Throughout the whole process the expert team benefited greatly from the guidance of all participating government representatives as members of the Peer Review Group (PRG). The expert team also had the opportunity to meet and discuss its analysis with officials of the Governments of Kazakhstan, Kyrgyzstan and Tajikistan and benefited from access to documents and to statistical information.

The following Government agencies were consulted and contributed in different stages of the project:

**Republic of Kazakhstan** - Department of Consular Service of the Ministry of Foreign Affairs; Department of the Migration Police of the Ministry of Internal Affairs; Committee of Labor, Social Protection and Migration of the Ministry of Healthcare and Social Development; Committee on Statistics of the Ministry of National Economy; National Security Committee of the Border Service of the Ministry of Defense; Committee on Social and Cultural Development of Majilis; and the Human Rights Commission under the President of the Republic of Kazakhstan.

**Kyrgyz Republic** - Migration Policy Directorate of the Ministry of Labor; Department of Consular Services of the Ministry of Foreign Affairs; Ministry of Interior; State National Security Service; Border Control Directorate of State Border Service; and National Statistics Committee.

**Republic of Tajikistan** - International Department and Consular Service of the Ministry of Foreign Affairs; Migration Service of the Ministry of Labor, Migration and Employment of Population; Ministry of Labor, Migration and Employment of Population and General Department; and Department of Work with Refugees and Citizenship of the Ministry of Internal Affairs.

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We wish to thank the members of the authors team for their outstanding professional work (Mr. Piotr Kazmierkiewicz/Lead Author, Mr. Vadim Nee, Consultant/Kazakhstan, Mr. Nurdin Tynaev, Consultant/Kyrgyzstan, and Mrs. Dilbar Turakhanova, Consultant/Tajikistan). We would like to express our appreciation for the overall coordination of the research and editorial work to Mrs. Tatiana Hadjiemmanuel, Deputy Coordinator for Central Asia, IOM Coordination Office for Central Asia.

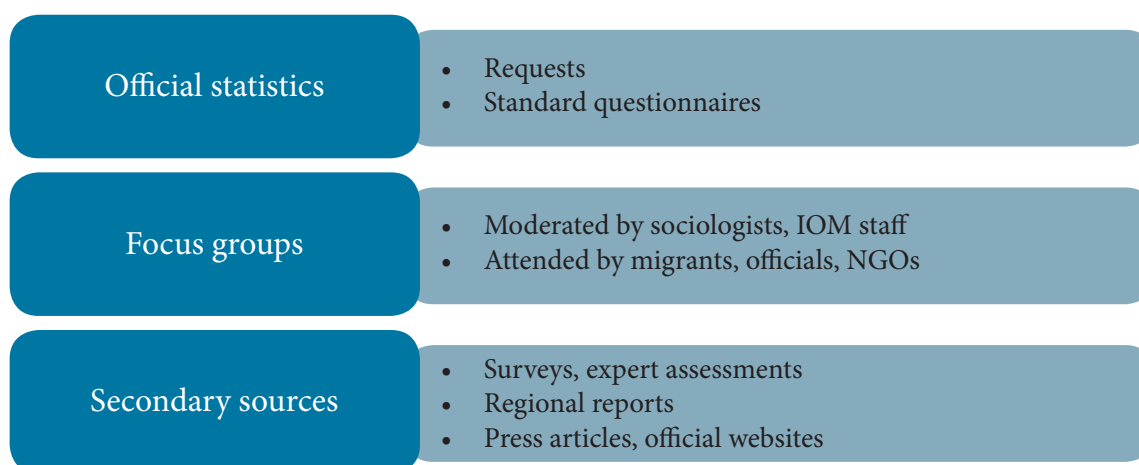
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## Summary

**Objectives and methods** - The report “Mapping on Irregular Migration in Central Asia 2014” is a regional analysis on irregular migration flows (with a focus in Kazakhstan, Kyrgyzstan and Tajikistan) and recommendations on regional cooperation in the fight against irregular migration. The Migration Mapping assessed the measures and actions currently implemented on national and regional level in regard to irregular migration, their compatibility with international standards and good practices, and map out irregular migration trends, in order to: (a) identify perspectives for regional cooperation in the field of combating irregular migration; (b) define and outline thematic priorities, as well as review the extent of institutional coherence of migration policies to better coordinate and facilitate the implementation of future interventions; and (c) specify the factors contributing to or impeding the successful implementation of existing and future migration strategies and action plans.

This report outlines the sources and incidence of irregular migration in Central Asia, concentrating on the experience of three countries of the region: Kazakhstan, Kyrgyzstan and Tajikistan. It also identifies country-specific issues and discusses the measures, taken so far, as well as highlights policy directions for the future, referring to international experience. Statistical data and information on recent policy developments has been collected from government stakeholders as part of the Mapping on Irregular Migration in Central Asia project (see Fig. 1 for the various types of sources, used in preparation of this report). Key challenges in the area of labor and irregular migration have been identified in acknowledgment of views, expressed by government stakeholders, migrants and experts in the area of migration. Attention has also been paid to the results of earlier studies on the subject.

**Fig. 1. Types of sources used in preparation of the report**



The collection of the statistical data has revealed certain barriers, which need to be addressed if a complete and reliable picture of migration flows is to be obtained. Some data could not be collected, as they are not made public. Statistics on border entries are either not collected or processed and are typically not included in official reports, available to the researchers or the public. The data on the number and composition of residence permits have not been shared in Kyrgyzstan and Tajikistan. Estimating irregular migration is hampered by the limited and uneven application of sanctions against offenders: data on all types of sanctions have not been received in Tajikistan and information on persons to whom entry is denied entry is missing in all the countries. Further work is needed on the improvement of national systems of collection and sharing of migration statistics between agencies and among the countries of the region.

The report consistently distinguishes between “regular” and “irregular” migration, adopting the distinction, which is typically not used by the governments in the region. In line with international practice, regular movement takes place when a migrant uses recognized legal channels. In contrast, irregular migration is a broader term than clandestine or illegal movement, as it does not necessarily involve conscious and premeditated breach of rules of entry, residence or employment. In fact, available studies show that many migrants out of and into Central Asia violate migration legislation due to insufficient knowledge of the rules or failure to comply by employers or intermediaries. To respond adequately to the migration flows in the region, policymakers and practitioners are advised to consider migration from a broader perspective.



Migration dynamics in Central Asia are usually approached by governments through a security lens, which limits the sharing of potentially available data with external international counterparts due to country security concerns. Migration is not understood yet as a development factor, which can have a positive impact to the countries prosperity.

**Causes of migration in the Central Asian region** – Across Central Asia, people engage in a variety of movements both with regard to their duration (temporary, long term or permanent), geographical scope (local, regional international) and purpose (family and personal visits, ethnic return, commerce and labor, to mention a few). The primary incentive for migration of working-age nationals of Kyrgyzstan and Tajikistan (as well as Uzbekistan) is the inability to find locally employment matching skills and education and low wage levels. For many migrant workers, search for job opportunities abroad has helped them cope with imbalances on the local labor market and periodic economic downturns. Migration is thus a life strategy to deal with the inability to support financially own family or generate necessary funds for personal investment (e.g. setting up own business). Analysis of official statistics, recent migrant surveys and interviews with migrants, experts and officials conducted as part of this research confirms that the primary “push” factor for labor emigration from Central Asian countries is economic.

In turn, the key “pull” factor is of sociocultural kind. Central Asian workers continue to migrate to the countries with shared cultural background and familiar legal and administrative arrangements. Thus, labor migration (a substantial part of which remains irregular) is facilitated by strong informal migration networks, while the long-term migrants adopt personal strategies to improve their standing in the destination country by seeking to regularize their residence status and changing employers. This cultural factor is even more relevant for non-economic types of migration, such as ethnic return or contacts with family members as well as for the various forms of local cross-border traffic (sometimes of mixed character).

**Impact of regional integration** – Central Asian countries have traditionally been part of the broader migratory area of the Commonwealth of Independent States(CIS). It has been estimated that 24.6 million international migrants have been present in the CIS territory in 2010, which represents 11.5% of the total number of international migrants in the world.<sup>1</sup> Official data in the key countries of destination – Russian Federation and Kazakhstan – show a significant cross-border movement between these states as well as a major presence of migrant workers from Kyrgyzstan, Tajikistan and Uzbekistan. Migrants from Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan in Russia account for 40% of all foreign residents in Russia while the share of Kyrgyz, Tajik and Uzbek migrants among registered non-nationals in Kazakhstan exceeds 73%.<sup>2</sup>

The movement among the CIS countries is eased by the liberal conditions of entry and residence. The visa-free regime and closer integration between some of the countries (Belarus, Kazakhstan and Russia) has brought about further simplification of residence and employment procedures (waiving registration requirement for stays under 30 days and introduction of patents for rendering services to individuals). Nevertheless, analysis of recent studies and focus groups, carried out as part of this research, suggests that the majority of migrant workers within Central Asia and from the region to Russia are likely to remain irregular. Contributing factors include: low awareness of the regulations among migrant workers and unwillingness of some employers to comply with the official work authorization/working visa procedures, which are often viewed as rigid and complicated.

All the three investigated countries have been members of the Collective Security Treaty Organization (CSTO) since its establishment in 2002.<sup>3</sup> Originally a regional military alliance, CSTO expanded its activities in 2008 to combating crime and drug trafficking and other non-military security threats. An important area of cooperation within the CSTO framework is countering irregular migration. A session of the Coordinating Council of competent agencies of the CSTO member states held in Dushanbe in October 2014 was devoted to questions of cooperation among border control and migration services, monitoring and forecasting of migratory flows and detecting routes of irregular migration from third

<sup>1</sup> UN 2013 data, ‘Trends in International Migrant Stock: Migrants by Destination and Origin’, available at: <http://esa.un.org/unmigration/TIMSO2013/migrantstocks2013.htm?msdo>

<sup>2</sup> Data of the Federal Migration Service of Russia for November 2014 and of the Ministry of Internal Affairs of Kazakhstan for December 2013.

<sup>3</sup> Along with Armenia, Russia and Uzbekistan, the three countries were original signatories of the Collective Security Treaty in 1992 (joined by Belarus and Georgia in 1993), which was renewed in 1997 and laid the foundation for CSTO in 2002. Uzbekistan withdrew from CSTO in 2012.

countries. Particular attention was paid to the role of CSTO in strengthening the Tajik-Afghan border to deal with the possible impact of uncontrolled refugee flows in the wake of ISAF reorganization (see section below).<sup>4</sup>

To address the issues of protecting their own nationals, Central Asian countries have concluded several CIS regional and bilateral agreements. Their impact was very limited, which was one of the reasons why Central Asian countries have expressed interest in the much more substantial lowering of barriers to labor migration, expected as part of the Eurasian Economic Union framework. So far, from the Central Asian region only Kazakhstan has joined this initiative while accession talks continue with Kyrgyzstan and Tajikistan.

The opportunities and risks associated with the enlargement of the Customs Union, and its likely impact on the intra-regional labor mobility have not been widely discussed in the countries of Central Asia. This is unfortunate as the available studies suggest that the lowering of barriers for access to the other labor markets within the Union could have a mixed impact, particularly for the countries of origin of large groups of migrant workers, such as Kyrgyzstan and Tajikistan. On the one hand, it is hoped that by removing certain administrative requirements, the facilitated regime may help lower the incidence of irregular employment, especially among first-time migrants. Its effectiveness may be limited with regard to irregular migrants, when some are subject to administrative sanctions, such as re-entry bans into Russia. Moreover, the more liberal regime of employment is going to be limited to the nationals of the Customs Union member states, while the access to employment for citizens of other countries will remain subject to the existing regulations, including national quotas and work permits.

On the other hand, labor market integration has facilitated emigration of the Kazakh workforce, especially university graduates and high-skilled specialists. Lowering mobility barriers may result in even more substantial and permanent losses of valuable workforce and brain drain in Kyrgyzstan, and ultimately in Tajikistan, which could hamper prospects for sustained economic growth. Emerging distortions on domestic labor markets are already generating demand for foreign workers, the phenomenon, which is being reflected in the national strategic documents. A prime example is the Kazakhstan 2050 development strategy, which underlines the need to attract skilled workforce while seeking to make the best use of the country's own labor resources.

**External factors: Russian migration policy and Afghan conflict** - The countries of the region need to adopt comprehensive migration policies, which would take into account the emerging external challenges resulting from the evolution of policy in Russia (the destination of most Central Asian migrant workers) and changing security conditions in Afghanistan, the country of origin of mixed migratory flows. As discussed below, the changes in the Russian legal and administrative regime are likely to influence the migration strategies of the current and prospective Central Asian migrant workers.

Russian migration policy is having a mixed impact on workers from Central Asia. On the one hand, the introduction of work patents has provided some irregular migrants with an opportunity to acquire the legal basis for their employment. On the other hand, however, the more vigorous application of administrative sanctions, including re-entry bans, has resulted in blacklisting of at least 43,000 Kyrgyz and 202,000 Tajik nationals<sup>5</sup> with even larger groups at risk in the near future. As many migrants are unaware of being included in the "black list" of persons denied the right of re-entry, they are at risk of being stranded on the way or falling under further sanctions at attempted return to Russia.

The blacklisting and deporting of Central Asian migrants from Russia presents countries of origin and transit (such as Kazakhstan) with the challenge of providing them with current information of their status as well as offering opportunities for effective repatriation and reintegration into the local labor market. Tajikistan as a country of origin of migrant workers, bound primarily for the Russian Federation, has sought to protect the rights of its nationals abroad through conclusion of bilateral agreements. Following two bilateral agreements, concluded in 2013, stays of Tajik nationals of up to 14 days in Russia would require no registration and migrant workers could be employed on the basis of a valid work contract for up to three years. While the effectiveness of these agreements remains to be seen, these solutions address a major issue for migrant workers: ability to plan their careers and secure stable income in the medium to long perspective, potentially reducing incidence of withholding of wages or of prolonged re-entry

4 'CSTO coordinating council of competent agencies to discuss illegal migration', ITAR-TASS, 1 October 2014, available at: <http://itar-tass.com/en/world/752082>

5 See the discussion in the chapter on Kyrgyzstan. For Tajik nationals, data sourced from the Federal Security Service of the Russian Federation as of July 2014.

bans. Nevertheless, it is acknowledged that only the conclusion of readmission agreements first among Central Asian countries and then with Russia is going to provide an effective mechanism for their return in humane conditions.

Another external factor is the unresolved Afghan conflict, taking place directly to the south of the region. As NATO forces are being reorganized in Afghanistan, there are concerns that local conflicts and overall instability could fuel emigration of mixed character, including asylum-seekers, short-term migrants crossing into neighboring regions, populated by members of the same ethnic group to migrant workers of both seasonal and permanent type.

While most analysts believe that the impact for the entire Central Asian region is going to be limited, the countries in the direct neighbourhood (Tajikistan and Uzbekistan) may be exposed to a greater extent.<sup>6</sup> As transportation routes with Afghanistan have been improved, and patterns of local cross-border movement have been established, a rise in both regular and irregular migration is expected across the Tajik-Afghan border, which in case of a larger outflow may reach out further to Kyrgyzstan, Kazakhstan and as transit movement to Russia and Europe. The mixed character of the Afghan flows calls for the more reliable identification of the actual purpose of travel in each individual case, and informing migrants of their rights in various procedures (asylum, assistance to the most vulnerable groups, protection against exploitation).

***Immigration into countries of the region*** - Central Asian countries display significant differences both with regard to the volume and direction of migratory flows and to the policy responses. Kazakhstan was the only one among the three investigated countries to record the positive balance since 2004, which was primarily due to lower rate of registered emigration. Registered migration is currently in balance with relatively low immigration and emigration flows (around 24,000 in each direction in 2013).<sup>7</sup> Kazakhstan hosts over a million of foreign residents, an overwhelming majority of them CIS nationals, with Uzbekistan leading the ranking (500,000), followed by Russia (200,000) and Kyrgyzstan (100,000).

Kyrgyzstan and Tajikistan consistently register negative balance of external migration. Kyrgyzstan exhibits a periodic rise and fall of outflow of population, consistently recording a negative migration balance. For instance, between 2007 and 2009, registered emigration contracted from 54,000 to 33,000 persons. It bounced back to 54,000 and 45,000 in 2010 and 2011 respectively. Although the recorded number of departures from Kyrgyzstan fell from over 54,500 in 2010 to 11,500 in 2013, recorded immigration remains low in the range of 4,000-6,000.<sup>8</sup> Accurate statistics on the migration balance of Tajikistan are not available due to the limited information on the numbers of immigrants to the country, but both the census and survey data confirm that the country remains overwhelmingly a donor of migrant workers, 93% of which are bound for the Russian Federation. In fact, strong growth of population involved in foreign labor activities has been observed over the last decade in Tajikistan.

While immigrants from non-CIS countries still represent a small share of the total influx, they are coming to play an increasingly important role in the economies of the investigated countries. As the Central Asian region is becoming integrated into the global marketplace, it is reasserting its pivotal position as a transit corridor for Chinese goods exported to Europe. China's economic expansion as well as reestablishment of ties with that country's ethnic Kazakh, Kyrgyz, Tajik and Uzbek minorities have fuelled immigration from China. Since 2011 workers from China have led the statistics in work permit recipients in Kazakhstan, accounting in the first nine months of 2014 for nearly 30% of the total permits issued. While estimates on the scale of Chinese immigration to Kyrgyzstan and Tajikistan vary, the workers from China have occupied certain niches (trade and construction respectively), previously occupied by native workforce. It becomes apparent that economic migration from China will need to be regulated in all the three countries so as to reduce possible tensions due to uncontrolled influx.

***Policy responses to external migration*** – As Central Asian countries are gradually turning from exclusively countries of migrants' origin to transit routes and destinations for migrants from other parts of the region and for nationals of third countries, they need to come up with long-term migration policies, which would address their development needs and protect migrants' rights. While some elements of migration management have been put in place (improved border controls, facilitating measures for certain categories of migrants), others are either missing (return and readmission) or limited to specific groups, such as ethnic diaspora members (reintegration).

6 K. Koser, *Transition, Crisis and Mobility in Afghanistan: Rhetoric and Reality*, IOM, Geneva, January 2014.

7 Data provided by the National Statistical Committee of Kazakhstan.

8 Data provided by the National Statistical Committee of the Kyrgyz Republic.



Management of immigration flows on the national and regional level needs to take into account the emergence of stable patterns and routes of migration into and through the region as well as the varying level of regional integration. Central Asian countries are in need of comprehensive migration policies, which would feature a range of objectives: maintenance of ties with ethnic diaspora and recent emigrants as well as incentives for return and reintegration of returnees on the local labor market; facilitation of high-skilled migration and attraction of specialists in high demand; providing pathways to regularization of migrant workers through amnesties, seasonal migration schemes and supplying information on conditions of legalization.

Different regimes are in place for the entry, residence and employment of several major national groups of migrant workers. On the one hand, the Russian nationals enjoy facilitated access to the territory of Kazakhstan (and are expected to do so in Kyrgyzstan with the country's accession to the Customs Union). On the other hand, restrictive systems of work quotas and absence of flexible mechanisms for regularizing local cross-border movement and individual commercial activity at markets have pushed most of the Uzbek and Chinese immigration into the informal sector of economies of Kazakhstan, Kyrgyzstan and Tajikistan.

Recognizing the continued demand for a workforce of high-skilled, low-skilled and seasonal categories, **Kazakhstan** has gradually widened opportunities for legal employment of foreigners. In addition to the long-standing scheme of permits for employers of selected categories of migrant workers (managers, high-skilled specialists and seasonal workers), operating since 2001, under a 2012 scheme, workers in 30 professions in high demand in Kazakhstan could apply for work permits independently.

**Kyrgyzstan** is facing the challenges of regulation of its continuing large-scale emigration and of the emerging shuttle and labor migration, involving primarily the Chinese. Although the economic crisis at home has temporarily slowed down the return of the Kyrgyz migrants, the task of managing the domestic labor market in such a way as to reintegrate the returnees and regularize the growing immigrant labor remains daunting. In this context, the elaboration of the national migration strategy and strengthening of the country's capacity to monitor migratory flows are of vital importance.

**Tajikistan** is facing the most difficult challenge in terms of border management, being exposed to the developments in neighboring Afghanistan and coping with the challenge of integration of refugees and asylum-seekers. Nevertheless, dynamic economic growth has attracted some labor immigration—most notably the Chinese who received 3,861 work permits in 2013 (up from 2,692 the year before), far in excess of its annual quota. Another policy direction is the stimulation of tourism into the country: in January 2014 Tajikistan declared its readiness to unilaterally waive short-term visa requirements to citizens of 80 countries by 2016.

*Significance of Immigration and Border Management for tracing migratory movements* - To respond properly to migratory flows, it is necessary to record all the instances of crossing the frontier, identifying the actual purpose of entry and distinguishing between various types of cross-border movement (including transit, local, circular or seasonal). Analysis of available official data suggests that there are significant gaps in the control of movement across border-crossing points, especially on land frontiers. On some borders entries of CIS nationals are not recorded in all cases—data are particularly scarce with regard to repeated entries of local residents. Improvement of document security (and ultimately introduction of automated checks), coupled with the regulation of local cross-border traffic (open to residents of border regions) are thus crucial tasks for the countries of the region. Proper enforcement of the regimes for crossing the border also depends on the increased staffing of border officers, and training of the border staff in new procedures.

Data collected at border-crossing points are also of limited use when it comes to determining the genuine purpose of travel—very few migrants declare employment or trade during border control and instruments are missing for verifying the actual purpose of visit. Another challenge is the fact that the data on travellers' declarations from local border-crossing points on land frontiers (including the lengthy border between Kazakhstan and Russia) are not centrally processed. In this context, exchange of information between border services may help address the shortcomings of national systems of collecting and analysing cross-border data.

Some recent initiatives on the use of information systems to facilitate border management are of note. All the units of the migration police of Kazakhstan have been granted access to the centralized Berkut database, containing scanned travellers' data, based on their identity documents and migration cards. The database allows for verification of foreigners' entries and exits and automatic detection of irregular residence status. Another scheme, which could over time serve to improve tracking of cross-border movement, is the Personal Identification and Registration System (PIRS), which is under development by IOM in Kyrgyzstan. The system provides real-time information collection, processing and dissemination and may be tailored to the specific needs of the government, which can use it as the basis for data analysis and development of migration intelligence. It provides for fast response in cases of irregular border entry and ensures connection to national and international alert lists.

***Extent and characteristics of irregular migration*** - Volume and composition of irregular migration is hard to estimate and improving the collection of data from all relevant government agencies is an immediate priority. Unlike in Europe or North America, undocumented migration or illegal crossing of frontiers is relatively rare, with the bulk of irregular movement consisting of overstaying or unauthorized employment. Problems related to unregistered employment include inadequate protection of migrant workers' rights due to absence of written work contracts (withholding or delays in payment of wages, unlimited working hours, insecure work conditions). Essential to developing effective mechanisms for regulating various migration flows is the introduction of mechanisms for tracing cross-border movement and establishment of mechanisms for sharing, analysing and using this information for policy purposes.

Kazakhstan as a country of transit and destination has in particular faced the need to tackle the problem of irregular stay and employment of foreigners. Annually around 100,000 cases of breaches of the residence regime are detected, with the citizens of Uzbekistan and Russia leading the statistics (70,000 and 15,000 respectively). Irregular migrants from Central Asia most commonly violated Kazakhstan's migration rules by taking up jobs in construction or child care without declaring employment as the purpose of their stay. By expert estimates, up to 300,000 non-nationals were employed in Kazakhstan without proper authorization every year. While the introduction of patents could help regularize employment in selected fields (household care), other mechanisms are needed to deal with widespread prevalence of informal economic activity in cross-border commerce, construction and seasonal employment in agriculture.

***Building the capacity to deal with irregular migration*** - Central Asian countries have on the whole recognized the importance of supplying prospective migrants with information on the legal opportunities for employment and consequences of non-compliance with regulations. Thanks to support from IOM and government counterparts and in cooperation with non-governmental organizations, centers for migrant advice, hotlines and information campaigns have been established. In parallel, state-run or independent migrant resource centers may improve returning migrants' chances of finding employment or starting business in the home region and thus utilize skills acquired abroad.

Another component in countering irregular movement and employment that needs to be improved is stepping up of intergovernmental cooperation (in particular, between migration and border services of transit and destination countries with their counterparts from countries of migrants' origin) on exchange of data on persons subject to administrative procedures (entry ban, expulsion). Trainings and workshops for border and migration services are needed to identify the various motives of migrants so as to welcome *bona fide* travellers while tracking and detecting irregular migrants.

Another critical issue is the identification of pathways into irregularity and ways of regularizing informal activity. Balance between the protection of domestic labor market and meeting the demand for foreign workforce needs to be sought in the regulation of non-nationals' access to employment. Migrant amnesties may be periodically necessary to offer opportunities for legalization of residence to over-stayers. However, certain permanent solutions are needed to deal with irregular employment and economic activity as well. International experience shows that one of the most effective ways to reduce irregularity is applying a mix of sanctions and incentives for employers hiring foreigners. On the one hand, vigorous application of sanctions for unauthorized employment or violation of workers' rights through regular inspections is recommended. On the other hand, employers are in need of long-term mechanisms that would provide them with incentives for ethical and regular employment of migrants — seasonal and circular migration (Mobility Partnerships between the EU and selected third countries) or local border traffic, authorizing multiple entries and regular stay in the adjacent border areas.



# Chapter 1

## Regional Trends



## General information about the countries

This section identifies the policy responses to regular and irregular migration flows, which the Central Asian countries have undertaken recently through engaging in various regional initiatives as well as by elaborating national strategic documents. Reference is also made to the crucial event, which might call for further action both on the national and regional level: the reorganization of NATO forces in Afghanistan, which is expected to have broader migratory impact in the medium- to long-term.

### Regional context

**Eurasian Economic Union** - Kazakhstan is along with Belarus and Russia one of the founding members of the Customs Union, which came into being on 1 January 2010, and which is to be transformed into the Eurasian Economic Union on 1 January 2015. The agreement established the Single Economic Space (SES) according to which nationals of the three countries get facilitated access to labor markets of the other member states. On 1 January 2012 intergovernmental agreements on the Legal Status of Migrant Workers and Members of Their Families and on Cooperation between the Member States of the Common Economic Space in Preventing Illegal Labor Migration from Third Countries came into effect, laying foundations for the regulation of labor migration within the Single Economic Space. Under these common rules, migrants from the SES member states could enjoy a facilitated procedure of concluding an employment contract (with fewer documents required) as well as longer periods of an uninterrupted period of stay and of a period when residence registration is not necessary. In addition, family members of migrant workers would acquire certain rights, most notably in the social and educational spheres.

In 2011, Kyrgyzstan expressed interest in joining the Union, and a roadmap for entry was approved in late 2013. On 11 August 2014, during a meeting with the Russian President, the Kyrgyz President reaffirmed the country's plan to join the Union by January 2015. Since 2012, Tajikistan has been interested in joining as well, but no clear timeline has been set yet.

The opportunities and risks associated with the enlargement of the Customs Union, and its likely impact on intra-regional labor mobility have not been widely discussed in the countries of Central Asia. This is unfortunate as the available studies suggest that the lowering of barriers for access to the other labor markets within the Union could have a mixed impact, particularly for the countries of origin of large groups of migrant workers, such as Kyrgyzstan and Tajikistan. On the one hand, lowering of barriers to migrants' entry and stay is a strong incentive for Central Asian countries to join. It is in particular hoped that that by removing certain administrative requirements, the facilitated regime may help lower the incidence of irregular employment, especially among first-time migrants. As the Economy minister of Kyrgyzstan put it, the country's accession to the Customs Union is expected to resolve "practically all the issues connected with the legality of migrant workers' presence in the territory of these states".<sup>9</sup>

A 2013 EDB-commissioned projection forecasts that in the long run annual Kyrgyz labor emigration is going to grow by 3.5%, amounting to the annual inflow of 44,000 Kyrgyz migrant workers in Russia.<sup>10</sup> The study projects a 10-15% surge in Tajik migration upon the country's accession to the Customs Union and longer periods of stay. Moreover, Tajik migrants' wages are expected to rise by at least 9% with maximum estimates envisioning a rise of up to 28%.<sup>11</sup>

However, recent official data supplied by the Federal Migration Service of Russia on the extent of registered immigration from Kazakhstan, Kyrgyzstan and Tajikistan show that the inflows are quite stable and actually the numbers are declining. If in October 2013 there were around 1,200,000 Tajik nationals, 600,000 Kazakh and 600,000 Kyrgyz nationals, the numbers dropped slightly to 1,105,500 Tajik, 575,400 Kazakh and 552,014 Kyrgyz citizens in November 2014.

<sup>9</sup> „Kyrgyzstan's joining Customs Union may solve labor migration problems", 25 November 2013, ITAR-TASS.

<sup>10</sup> E. Vinokurov, V. Pereboyev, „Labour Migration and Human Capital in Kyrgyzstan and Tajikistan: Impact of Accession to the SES", *EDB Eurasian Integration Yearbook 2013*, pp. 78-79, available at: [http://www.eabr.org/general/upload/CII%20-%20izdania/YearBook-2013/a\\_n6\\_2013\\_07.pdf](http://www.eabr.org/general/upload/CII%20-%20izdania/YearBook-2013/a_n6_2013_07.pdf)

<sup>11</sup> *Ibid*, p. 84.

The 2012 EDB study claims that regularization of labor immigration from Kyrgyzstan and Tajikistan would in fact be profitable for the Russian Federation's budget as a corresponding increase of tax revenues by 40 billion Russian rubles would offset losses due to irregular migration.<sup>12</sup> In turn, in a 2013 policy brief, analysts of Moscow-based Centre for Economic and Financial Research (CEFIR) claim that by removing barriers to migration and legalizing the labor of irregular Tajik migrants could fuel an increase in remittances from 15% to 25% due to a combination of a rise in real wages and an increase in the scale of migration.<sup>13</sup>

On the other hand, a number of studies warn of the risk to Central Asian countries of further loss of valuable human resources as a result of the "pull" of the stronger economies within the Single Economic Space, especially Russia and Kazakhstan. Tendency towards acceleration of migration of skilled professionals was, for instance, observed in Kazakhstan at the time of introduction of facilitated rules of movement of persons. In a survey, conducted in 2011 in Kazakhstan by human resources company Smart Solutions, one in five respondents among working-age nationals of Kazakhstan were willing to seize an opportunity of moving and taking up employment in Russia once granted the right of free movement within the Customs Union. A follow-up survey, carried out a year later (September 2012) found that only 16% of the respondents had left abroad in search of employment (59% of whom chose Russia and 5% Belarus while another 15% Western and Central Europe) while another 13% were in contact with prospective employers.<sup>14</sup>

**Impact of Russian migration policy** - It remains to be seen to what extent the accession of Kyrgyzstan and Tajikistan to the Customs Union is going to address the issue of blacklisting of irregular migrants, resulting in administrative sanctions and re-entry bans into Russia. Thus, the issue of protecting the rights of their nationals already working in the Customs Union countries is becoming more urgent in view of the changes in the immigration policy of the Russian Federation. The issue of protecting the rights and reintegrating returning migrants has become particularly urgent in Kyrgyzstan and Tajikistan. Migrant workers are being expelled following the introduction of more restrictive measures in the main country of destination, the Russian Federation. A significant share of migrant workers is at risk of expulsion on account of administrative violations of the migration regime. To address the issue, both countries have intensified cooperation with the Federal Migration Service of Russia (FMS).

As a result of amendments to Russian immigration legislation, sanctions were introduced against foreign nationals found in breach of the residence and administrative regime, entering into force on 9 August 2013.<sup>15</sup> Foreigners found overstaying the legal period of their residence, lacking the documents authorizing their stay or failing to report the loss of such documents are liable to an administrative fine in the amount of RUB 2,000 to RUB 5,000 and an administrative deportation from the Russian Federation. If a foreigner subject to these sanctions commits an administrative offence in the period of three years since the entry into force of the decision imposing the sanctions, he or she is banned from re-entry into the Russian Federation. A temporary entry ban is also imposed on persons who failed to pay taxes or administrative fines during their previous stay in Russia. A special category is the liability for working or residing without a permit in the cities of Moscow and St. Petersburg as well as the surrounding regions unlike in the other regions where deportation is not always imposed, foreigners found in these so-called cities of federal significance are subject to obligatory administrative deportation.<sup>16</sup>

<sup>12</sup> „Labour migration...”, *op.cit.*

<sup>13</sup> I. Denslova, A. Malokostov, N. Turdyeva, „Tajikistan Joining the Customs Union of Russia, Belarus and Kazakhstan: Pros and Cons”, CEFIR, 23 December 2013, available at: <http://freepolicybriefs.org/2013/12/23/tajikistan-joining-the-customs-union-of-russia-belarus-and-kazakhstan-pros-and-cons/>

<sup>14</sup> S. Tulegenov, L. Macakova, „The Nature of Changes in Migration in Kazakhstan since Creation of the Customs Union, paper delivered at the 7th International Days of Statistics and Economics in Prague, 19-21 September 2013, available at: <http://msed.vse.cz/files/2013/223-Tulegenov-Spartak-paper.pdf>

<sup>15</sup> Amendments were adopted on 23 July 2013 to the following legal acts of the Russian Federation: the Code of Administrative Offences, the Federal Law No. 114-FZ „On the procedure of exiting and entering the Russian Federation” and the Federal Law No. 115-FZ „On the legal status of foreign citizens in the Russian Federation”.

<sup>16</sup> See the summary of the regulations in: „New sanctions for non-compliance with immigration legislation”, *EY HR & Tax Alert*, Moscow, 7 August 2013, available at: [http://www.ey.com/Publication/vwLUAssets/EY-HC-Alert-07-August-2013-Eng/\\$FILE/EY-HC-Alert-07-August-2013-Eng.pdf](http://www.ey.com/Publication/vwLUAssets/EY-HC-Alert-07-August-2013-Eng/$FILE/EY-HC-Alert-07-August-2013-Eng.pdf)

The introduction of new regulations is having wide impact on the Central Asian labor migration to Russia, in particular on the Kyrgyz and Tajik migrant workers. In mid-2014 the number of the Kyrgyz nationals subject to the re-entry ban stood at 43,000 while another 60,000 was at risk of being denied entry into Russia.<sup>17</sup> The estimates of the total number of persons subject to re-entry bans from Tajikistan vary, but experts and practitioners agree that the volume is on the rise. Thus, according to the data, received by Tajik authorities from the Federal Security Service of Russia, in July 2014 as many as 202,000 migrants from Tajikistan had been subject to the re-entry ban. The figure is likely to grow as, according to a survey commissioned by IOM in the autumn of 2013, 80% of interviewed Tajik migrants subject to the ban stated that they did not know of their liability to the re-entry ban when they departed from Russia, and many learned of the sanction only when they were denied entry at the airport.<sup>18</sup> Apart from incurring losses due to transportation costs as well as missed job opportunities in Russia, many returning migrants face significant problems finding jobs at home and as many as 30% are unemployed. Two-thirds of the surveyed returnees have not been able to utilize the newly acquired skills or professional experience, gained during emigration, due to shortage of positions matching their qualifications, lower salary levels or unavailability of equipment for performing such work.<sup>19</sup>

The negative impact of blacklisting on the welfare of Central Asian migrants and possibilities for addressing this issue has become subjects of consultations between the countries of migrants' origin and Russia. A good example is the intensive dialog, which is being conducted between representatives of Tajikistan and Russia in various formats. In October 2014 in the framework of the inter-parliamentary Russia-Tajikistan forum and interregional cooperation, a round table on the legal regulation of labor migration between the two countries was held to discuss measures limiting the volume of irregular migration. The meeting also assessed the implementation of measures, which had been introduced to lift the re-entry ban for some categories of Tajik migrants.<sup>20</sup> On 27 October 2014, a cooperation agreement was signed between the two labor ministries. The progress achieved so far is mixed, however: on the one hand, certain categories of Tajik migrants enjoy now a facilitated registration and employment regime; on the other hand, Tajiks and other Central Asian migrants are still targets of large-scale detection actions, such as the most recent "Migrant-2014", which took place in Moscow in autumn 2014.<sup>21</sup>

**Almaty Process.** Irregular migration was acknowledged, as one of the main themes, by Central Asian governments at the Regional Conference on Refugee Protection and International Migration, held in Almaty on 16 March 2011 when a joint declaration was adopted and Almaty Process was launched as a Regional Consultative Process. In the Declaration the Participating States recognized the priority of "addressing the root causes of irregular migration" and the "re-integration of returning migrant workers". With regard to immigration, a link was made between preventing irregular migration and the "creation of legal migration opportunities," which the Participating States would consider.<sup>22</sup> As of June 2013, seven states are members: four in the Central Asian region (Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan) as well as Afghanistan, Azerbaijan and Turkey. Iran and Pakistan hold an observer status. At the second Ministerial Conference in 2013, the Almaty Process was established as a Regional Consultative Process for cooperation on migration issues. In the Communique the Participating States reaffirmed the importance of engaging in regional dialogue and cooperation to "decrease incentives for irregular migration" and "facilitate regular migration".<sup>23</sup>

<sup>17</sup> See the country chapter for details.

<sup>18</sup> A. Maier, *Tajik Migrants with Re-entry Bans to the Russian Federation*, IOM, Dushanbe 2014, p. 2.

<sup>19</sup> *Ibidem*.

<sup>20</sup> *bidem*. Dushanbe 2014, p. 2. y Bans to the Russian Federation *ibidem*. Dushanbe 2014, p. 2. y Banavesta.tj, 24 October 2014, available at: <http://www.avesta.tj/sociaty/28588-glavy-migracionnyh-vedomstv-tadzhikistana-i-rossii-obsudili-problemy-trudovyh-migrantov.html>

<sup>21</sup> "Встречи Сумангул Тагойзода на фоне операции «Мигрант-2014» в Москве", avesta.tj, 27 October 2014, available at: <http://www.avesta.tj/sociaty/28637-vstrechi-sumangul-tagoyzoda-na-fone-operacii-migrant-2014-v-moskve.html>

<sup>22</sup> Almaty Declaration, available at: [http://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/2011\\_Almaty\\_Declaration.pdf](http://www.iom.int/files/live/sites/iom/files/What-We-Do/docs/2011_Almaty_Declaration.pdf)

<sup>23</sup> Ministerial Conference on Refugee Protection and International Migration: The Almaty Process, 5 June 2013, Almaty, Kazakhstan, *Communique*

During the Senior Officials Meeting (SOM) organized by the Government of Kazakhstan, Chair of the Almaty Process (2013-2015) with the assistance of UNHCR and IOM in 21 November 2014, Almaty Process Member States reiterated their interest in cooperating on a regional level in addressing challenges in the following thematic areas: controlling irregular migration, combatting trafficking in persons, humanitarian border management and labor migration, among others.

**IOM regional strategy** – International Organization for Migration seeks to address intra-country and cross-border migration policy and management issues through field presence in countries of the region as well as through close and coordinated cooperation with national governments, international organizations and civil society organizations. IOM's regional strategy seeks to involve the governments in the region "in cooperating, both bilaterally and regionally, to ensure that their migration policies, migration processes, customs procedures and frontier controls do not prevent or delay people or goods from crossing borders for legitimate purposes". Consequently, IOM has identified a number of thematic areas that need to be addressed in cooperation with the government stakeholders: improving migration management (including readmission); strengthening border management, by providing effective links between visa application procedures and entry and exit procedures at external border crossings; improving the effectiveness and increasing transparency of law-enforcement agency activities; strengthening the judiciary; intensifying the fight against corruption, terrorism and organized crime, including money laundering, trafficking in persons and trafficking in drugs; enhancing the legal and social framework to protect migrants, particularly their human rights, in order to prevent abuse and exploitation.

**Afghanistan** – The ongoing conflict in Afghanistan has resulted in massive refugee flight although so far only estimated 10,000 Afghans out of the total of five million fled to Central Asia, and as of mid-2014, no significant increase in refugee inflow was observed. Nevertheless, concerns are particularly strong in Tajikistan and Uzbekistan of the possible migratory impact of further destabilization of its southern neighbor, facilitating the northward movement of ethnic Tajiks and Uzbeks. As NATO troops are planned to reorganize in Afghanistan by the end of 2014 and US presence is to be scaled down, security concerns have been raised in the region. In this context, Central Asian states are coming to recognize the need to ensure the effective management of irregular migration flows, addressing the needs of migrants, asylum-seekers, refugees and stateless persons including as well other vulnerable groups such as youth, unaccompanied minors, women, victims of trafficking, the elderly and others. . An urgent issue is the establishment of border control systems that would be sensitive to the protection of these groups, identifying persons in need of assistance as well as allowing for collection of information on the type and direction of migratory flows from Afghanistan into Tajikistan and in transit to Russia and Europe.

In cooperation with the Tajik and Afghan governments, IOM has recognized the urgency of strengthening the capacity of both state and non-state actors to manage border control and security in light of the reorganization and partial withdrawal of ISAF forces. Thus, it has been resolved to address a complex web of conflicts, converging along the Tajik-Afghan frontier, which stem from the ongoing insurgency in Afghanistan, drug smuggling, trafficking in persons and irregular migration. A two-year-long Humanitarian Border Management project was launched by IOM in 2013 on the Tajik-Afghan border, involving border forces, state institutions and local communities.<sup>24</sup> It aims to strengthen the management of the frontier by raising the technical capacity, improving exchange of information and institutionalized cooperation at strategic and operational levels of the border forces. High-level communication has been facilitated between leaders and officials of Tajik and Afghan border services and trainings have been organized for border guards from the two countries. In addition, the project reaches out to border communities, civil society organizations, media, local governments and parliamentarians for enhanced resolution of cross-border conflicts and more effective crime control – in particular, drug-related trafficking in persons. Working visits and community dialogs have been arranged to facilitate contacts between border services and non-governmental organizations.<sup>25</sup>

<sup>24</sup> Project „Integrated Cooperation Programme on Tajik-Afghan Border Security and Community Stabilization“, supported by FCO/DFID.

<sup>25</sup> Information provided by IOM mission in Tajikistan.



## National strategies on migration

**Kazakhstan** – In December 2012, the President of the Republic of Kazakhstan Nursultan Nazarbayev announced the Strategy of Kazakhstan 2050, which identified seven long-term priority areas for government action.<sup>26</sup> The Strategy's implementation is made conditional on eight cross-cutting principles, the first of which calls for Kazakhstan's openness to the rest of the world through attracting skilled persons, investment, trade, and establishing linkages among firms and individuals.<sup>27</sup> The document considers migration to be both a long-term challenge and a growth opportunity. On the one hand, it points out that the growing demographic imbalance may stimulate migration flows, amplifying social tensions or destabilizing local labor markets. On the other hand, Kazakhstan is also facing increased outflows of its workforce, which is problematic due to its small population size.

The Strategy calls firstly to capitalize in its human potential and secondly, to attract foreigners who will contribute to Kazakhstan's economy.<sup>28</sup>

The need to stem the outflow of working-age population was acknowledged in official strategic documents. Kazakhstan's Comprehensive Plan for 2014-2016 reiterates the long-standing objective of retaining qualified domestic workforce through giving a priority access to the local labor market. The principle is applied through the procedure of the local market test, under which a foreign worker may be employed only if no workforce may be found locally.

At the same time, Kazakhstan has recognized its need for regular labor migration for sustained economic growth and has adjusted its quota system to match the existing demand. Since January 2014 nationals of Russia, Kyrgyzstan and Tajikistan as well as of six other countries (Azerbaijan, Armenia, Georgia, Moldova, Mongolia and Uzbekistan) may work legally, rendering services to households (child and home care, construction and renovation of homes) for a period of up to 12 months on the basis of a special permit. This scheme aims to regularize the segment of foreign employment, which so far had been dominated by informal arrangements while introducing certain elements of protection of the domestic labor market. The scheme parallels the solutions for circular migration, applied by several European states, as on the one hand it provides for a relatively long period of seasonal employment, but on the other hand requires that the foreign worker leave the country for at least a month-long break.<sup>29</sup>

**Kyrgyzstan** - Work continues on an update of the national migration strategy until 2020, which would address crucial issues in the state's capacity to monitor migratory flows and provide assistance to migrants. It is particularly noteworthy that Kyrgyzstan has acknowledged the issue of inadequate collection and analysis of migration-related data. For this purpose, the draft strategy postulates the creation of a unified migration database, which would include border-crossing and residence registration and deregistration data as well as job vacancies that could be of interest to immigrants and Kyrgyz nationals returning from abroad. The document also calls for the adoption of standard definitions and statistical conventions in the area of labor migration, noting the need to disaggregate the data by gender.

**Tajikistan** - As a country with a relatively large emigration outflow, Tajikistan concentrates its efforts on the protection of rights of its citizens working abroad as well as regularization of the migration outflow. The National Strategy of Labor Migration of Tajik Nationals Abroad for 2011-2015 recognizes that the mass labor migration has a significant direct impact on the welfare of families, communities and regions of the country. Attention is paid to the support to migrants and their families and incentives are sought for regularizing the flow and curtailing abuses of migrant rights.

<sup>26</sup> The seven areas concern: regional and global integration; building strong institutional capacities; sustainable management of energy resources; achieving green economy; building a modernized knowledge economy; building balanced and efficient urban and regional economies; and human development, which is the foundation for all other areas.

<sup>27</sup> Aktoty Aitghanova, Shigeo Katsu, Johannes F. Linn and Vladislav Yezhov, *Kazakhstan 2050: Toward a Modern Society for all*. New Delhi: Oxford University Press 2014.

<sup>28</sup> N.A. Nazarbayev (2012, December 14) Address by the President of the Republic of Kazakhstan, Leader of the Nation, N. Nazarbayev "Strategy Kazakhstan-2050": new political course of the established state [online speech], available at: [http://www.akorda.kz/en/page/page\\_poslanie-prezidenta-respubliki-kazakhstan-lidera-natsii-nursultana-nazarbaeva-narodu-kazakhstana](http://www.akorda.kz/en/page/page_poslanie-prezidenta-respubliki-kazakhstan-lidera-natsii-nursultana-nazarbaeva-narodu-kazakhstana)

<sup>29</sup> For more details on the current legal framework for foreign employment in Kazakhstan, see the chapter on Kazakhstan.

The Strategy seeks to operationalize some of the objectives, highlighted in the Concept on Labor Migration of Tajik Nationals of 2001.<sup>30</sup>

Unfortunately, as the country chapter highlights, the effectiveness of the implementation of the Concept was limited, and the Strategy acknowledges the need to revise some of the assumptions of the earlier document. For instance, although the Tajik government identified the priority of cooperating with the receiving countries on reducing the incidence of irregular migration, an agreement with the Russian Federation on the regulation of recruiting migrant workforce was not signed. Recent sanctions applied toward Tajik workers in Russia, resulting in the rise of expulsions have underlined the urgency of working out optimal solutions for regularizing the flow of migrant workers from Central Asia into Russia.

## Emigration from Central Asian countries

Volume, determinants and characteristics of emigration, both regular and irregular, from the region, are discussed in this section. It draws on a rich body of recent surveys and expert assessments, in particular focusing on the two major countries of origin of migrant workers in the region: Kyrgyzstan and Tajikistan. The discussion of the factors influencing emigration is based on a set of comparable international indicators, underscoring differences between the countries of the region. Review of recent studies concentrates on the current analyses of the composition of migration flows, factors stimulating continuing migration and the threats to migrants' well being. Conclusions from previous research are confronted with the results of focus groups, carried out as part of this project.

### Volume and composition

#### *Regular and irregular movement from the region*

Migration is a permanent feature in the region.<sup>31</sup> The movement among the CIS countries is facilitated by the visa-free regime, and closer integration between some of the countries (Belarus, Kazakhstan and Russia) has brought about further simplification of formalities (waiving registration requirement for stays under 30 days). Estimation of the flow of migrants from the countries of the region is further complicated by limited controls while crossing the interstate frontiers, limited application of deregistration from the place of residence and a significant number of Central Asian nationals acquiring citizenship of the country of destination (most notably, the Russian Federation).

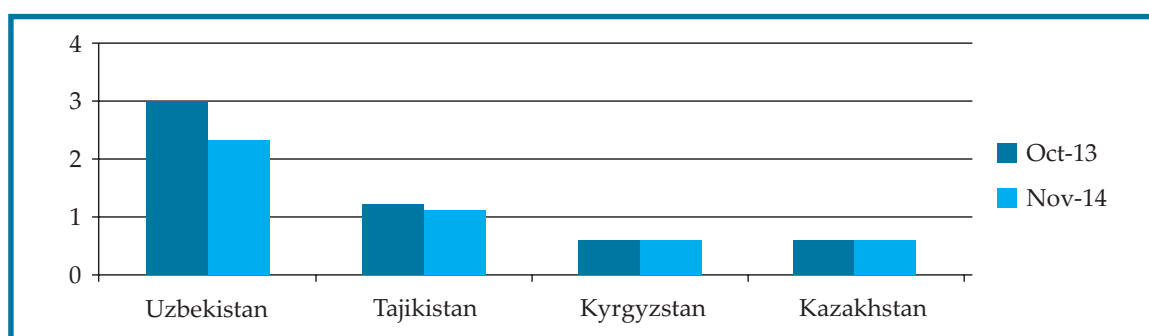
Currently, Russia is the main country of destination for Central Asian migrant workers. Nationals of Uzbekistan, Tajikistan, Kyrgyzstan and Kazakhstan accounted for over 47% of all registered foreign residents of the Russian Federation in October 2013 (5.4 million out of the total of 11.3 million); the share dropped to 40% in November 2014 (4.6 million out of 11.5 million).<sup>32</sup> Despite a 23% decline between 2013 and 2014, Uzbeks make up the largest national group among registered foreigners in Russia (2.3 million). Registered migration from the three investigated countries into Russia remains on a high level: in November 2014, as many as 1,105,500 Tajik, 575,400 Kazakh and 552,014 Kyrgyz citizens were registered as residents in the Russian Federation (see Fig. 2).

<sup>30</sup> Concept on Labor Migration of Tajik Nationals, Resolution of the Government of Tajikistan No. 242 of 9 June 2001.

<sup>31</sup> Summary of the factors stimulating migration from and within the Central Asian region is provided in: E. Marat, *Labor Migration in Central Asia: Implications of the Global Economic Crisis*, Silk Road Paper, May 2009, Central Asia-Caucasus Institute, Silk Road Studies Program, Johns Hopkins University.

<sup>32</sup> Statistics of the Federal Migration Service, available at: <http://www.fms.gov.ru/about/statistics/data/>

Fig. 2. Registered migrants (millions) from Central Asian countries in Russia (2013-2014)



Source: Federal Migration Service of Russia

Residence registration is the most accurate figure for the stock of Central Asian migrants in the Russian Federation. It largely coincides with the expert estimates of labor migration from the countries of the region to Russia. According to some studies, labor outflow from Tajikistan to Russia ranges from 600,000 to 1,000,000 persons a year while conservative estimates place the number of Kyrgyz workers in Russia at 320,000 persons.<sup>33</sup>

However, only a minority of foreign residents complies with employment regulations in Russia, as a large discrepancy exists between the numbers of persons who are regularly resident and of those who obtain authorization for work. According to Federal Migration Services of Russia, in 2011 over only 131,000 Kyrgyz citizens and 373,000 Tajik citizens were regularly employed in Russia (either obtaining work permits or working for private individuals under a patent scheme).<sup>34</sup> Prior to the introduction of facilitating measures (establishment of the Customs Union and introduction of patents), only a fraction of migrant workers from Central Asia obtained work permits in Russia (Table 1).

**Table 1. Recipients of regular work permits in Russia by citizenship (2007-2011), thousands of persons**

	2007	2008	2009	2010	2011
<b>Kazakhstan</b>	4.9	6.1	5.6	4.2	5.1
<b>Kyrgyzstan</b>	90.1	105.5	71.8	58.5	82.7
<b>Tajikistan</b>	196.1	213	171.2	134.6	199.6
<b>Uzbekistan</b>	281	390.3	320.7	289.7	472.3

Source: SOPEMI International Migration Report 2012

Nationals of the three Central Asian countries represented 18% of temporary residents and 10% of permanent residents in Russia in 2011. Citizens of Tajikistan are the largest group: in 2011, Federal Migration Service recorded nearly 54,000 temporary residents and over 10,000 permanent residents. Particularly striking was the rise in the number of permanent residents originating from Tajikistan—up from 1,400 in 2010 to 10,600 in 2011.<sup>35</sup> Official statistics on the volume and composition of emigration from the countries of origin are therefore to be taken cautiously. The discrepancy between the registered labor migration and estimates of the actual flows reveals a significant share of migrants who are employed without proper authorization.

### National statistics on emigration

**Kazakhstan** - The most reliable data on the volume of outward movement can be obtained in Kazakhstan, which consistently records exits of its nationals across border-crossing points. According to the data, provided by the border service, in 2012 and 2013 the number of total exits of the citizens of Kazakhstan remained stable at 10.6 and 10.4 million respectively.

<sup>33</sup> SOPEMI International Migration Report 2012, Moscow 2013, p. 22.

<sup>34</sup> Speaker of the Kyrgyz Parliament O. Tekebaev, cited in *ibid.*, p. 25.

<sup>35</sup> *Ibid.*, p. 26.

Unfortunately, the statistics on the purpose of a trip is of limited use as it is based on the collected data at border checkpoints. Over 80% of the trips were declared as personal visits while only 0.01% (1,609 cases in 2012 and 1,171 in 2013) of persons leaving Kazakhstan declared employment as the purpose. Clearly, it must be assumed that a significant part of the overall outflow has labor as its purpose. In view of the administrative consequences, the statistics on the departures for permanent residence abroad are more reliable. In 2012 the number of permanent departures stood at 14,698 only to rise by 28% in 2013 (18,844 cases).

**Kyrgyzstan** - Data collected by the National Statistical Committee of the Kyrgyz Republic<sup>36</sup> capture part of the outflow, limited to registered departures. From 2007 to 2009 the recorded volume of exits dropped from 54,608 to 33,031 only to bounce back to 54,222 in 2010 and drop again to 45,505 in 2011. The departures are almost exclusively concentrated to the CIS; only 1% was directed to non-CIS destinations. Nine in ten Kyrgyz nationals head to the Russian Federation while Kazakhstan attracts the overwhelming majority of the rest of the migrants from Kyrgyzstan. Tajikistan and Uzbekistan are named infrequently as countries of destination for Kyrgyz nationals, but are among the main countries of origin of immigrants to Kyrgyzstan. Comparison of the structure of exits and arrivals suggests that the flows between Tajikistan, Uzbekistan and Kyrgyzstan are part of seasonal/circular migratory patterns.

The registration data for 2013, published by the National Statistical Committee, show a decline in the scale of permanent movement with the number of departures (11,552) nearly tripling that of arrivals (4,349).<sup>37</sup> Russia and Kazakhstan continue to be the destinations for the overwhelming majority of Kyrgyz migrants—only 407 persons (3.5% of the total) reported other countries of emigration. Nevertheless, as a result of the continued decline of exits for Russia (down to only 8,307 persons), Kazakhstan emerges as an important destination—if in 2011, Kyrgyz citizens were 10 times more likely to select Russia rather than Kazakhstan as a permanent destination, two years later, nearly a quarter of permanent emigrants from Kyrgyzstan (2,838 persons) choose Kazakhstan.

**Tajikistan** - According to the data supplied by the Migration Service, over 740,000 Tajik citizens were employed abroad in 2011, the first year when such data were collected.<sup>38</sup> The volume of outward labor migration picked up in 2012, reaching a peak of 877,000 and dropping to around 800,000 in 2013.<sup>39</sup> Labor emigration is expected to continue on a similar level in 2014. Over 310,000 persons were recorded as working abroad in the first four months of the year.

The volume of Tajik labor emigration is most vulnerable to the conditions of entry and stay in the Russian Federation, which in 2012 represented the destination for over 92% of all the migrants. As the number of expulsions from Russia doubled that year (8,144 cases compared to 4010 in 2011) and rose further to 12,588 in 2013, the scale of labor emigration to that country contracted by as much as 42% between 2012 and 2013 (down from 808,000 to 472,000).

## Factors influencing emigration

Labor migration in and from the region of Central Asia is a consequence of several fundamental factors: high population increase in southern part of the area (Tajikistan), inability of local economies to absorb the labor surplus (Kyrgyzstan, Tajikistan), dynamic economic growth, translating into continued demand for both highly-qualified and seasonal workforce (Kazakhstan).<sup>40</sup>

**Demographics** - A long-term factor stimulating the international migration across the region is the widening gap between demographic patterns in the southern rim of Central Asia on the one hand and Kazakhstan and Russia on the other (see Fig. 3). The most apparent contrast emerges between Tajikistan, consistently recording annual population growth in excess of 2.3% and accelerating over time to 2.5% in 2012-2013 and the Russian Federation, which continues to experience population shrinking (growth of only 0.2%).

<sup>36</sup> *Extended Migration Profile of the Kyrgyz Republic*, IOM 2013, Table 6, pp. 79-80.

<sup>37</sup> National Statistical Committee of the Kyrgyz Republic, *Kyrgyzstan in Figures (in Russian)*, Bishkek 2014, p. 52.

<sup>38</sup> The data cover 11 countries: Russia, Kazakhstan, Ukraine, Kyrgyzstan, Uzbekistan, Afghanistan, Iran, Turkey, China, Germany and UAE. See Table 17 in the country chapter on Tajikistan for details.

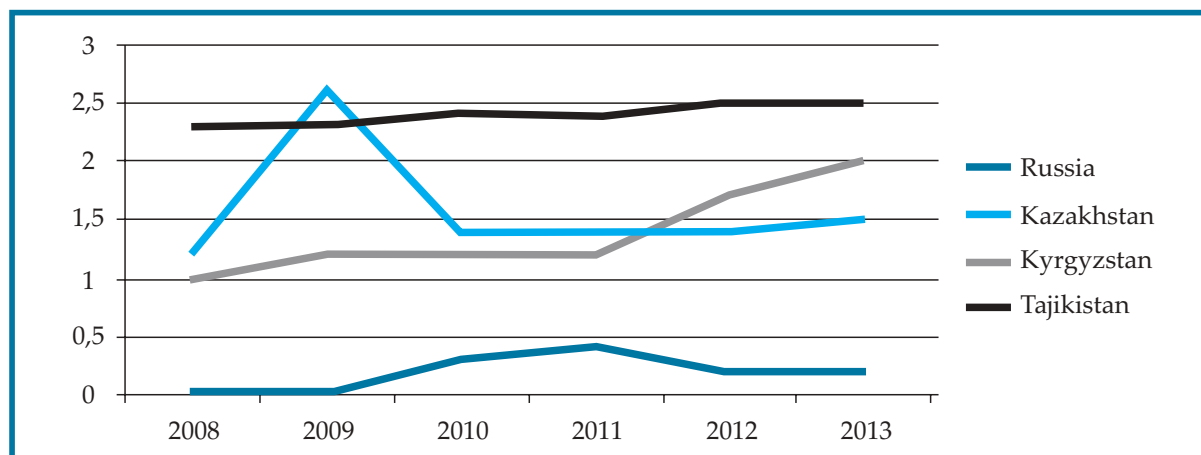
<sup>39</sup> Data for 2013 provided by the Migration Service of Tajikistan.

<sup>40</sup> See also: L. Delovarova, O. Shkapyak, F. Kukeyeva, „Migration Processes in Central Asia: Main Directions and Key Issues of Regional System”, *Middle-East Journal of Scientific Research*, 15 (11), 2013, pp. 1505-1510.



Kazakhstan and Kyrgyzstan are falling between these two scenarios—while growth in Kazakhstan dropped below replacement level in 2010 and continues at 1.5%, the Kyrgyz growth has recently accelerated, reaching 2% in 2013.

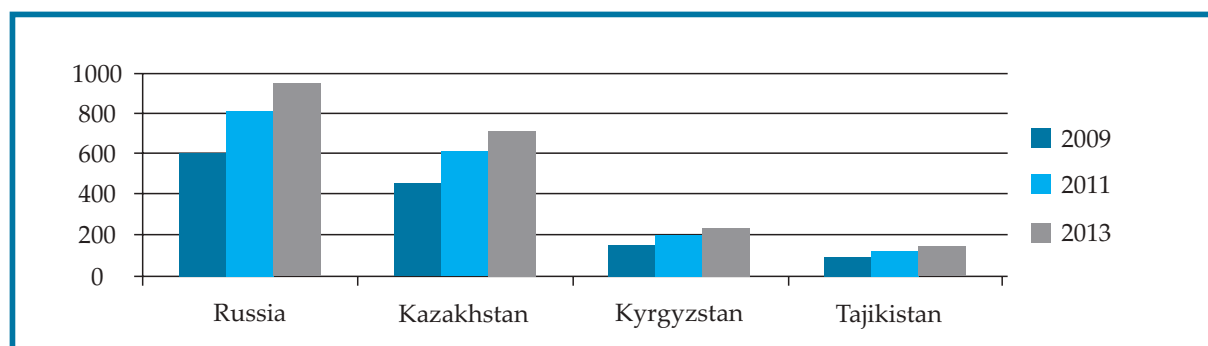
**Fig. 3. Population growth in Central Asia and Russia, annual % (2008-2013)**



Source: UNECE statistical database

**Wage gap** - Although between 2009 and 2013 nominal wages more than doubled in Tajikistan and rose by over 60% in Kyrgyzstan, they still represent a fraction of the rates in Russia (see Fig. 4). According to UNECE data, in 2013, the average monthly wage in Russia was equal to 943 USD compared to 236 USD in Kyrgyzstan and 152 USD in Tajikistan. Even when the difference in purchasing power is taken into account, the wage gap is likely to remain the most potent pull factor for migrant workers from Kyrgyzstan and Tajikistan to Russia. This factor does not feature in the case of Kazakhstan where the nominal wage is at the level of around 707 USD (i.e. 75% of those in Russia).

**Fig. 4. Gross average monthly wages, USD at current exchange rates (2009-2013)**

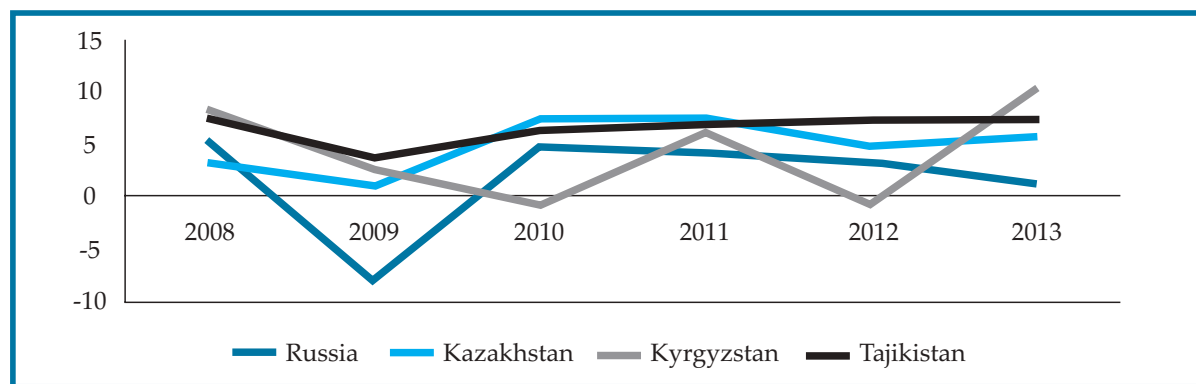


Source: UNECE statistical database

**Economic growth** - Re-routing of economic migrants from Russia, as a destination country, can only take place if the Central Asian economies grow at a significantly higher rate than the Russian Federation. Unlike Russia, which recorded a significant contraction of its economy in 2009, Kazakhstan managed to avoid recession, and since 2010 it consistently grows at a much higher rate than Russia (see Fig. 5). When its GDP is calculated per employee, Kazakhstan managed to surpass Russia: in purchasing-power parity with 1990 as a baseline, by 2009 Kazakhstan recorded over 22,000 USD relative to 17,500 for Russia. Due to its faster growth, the gap between the two countries continues to grow: in 2012 Russian GDP was at 19,656 USD per employee, far below 25,447 USD for Kazakhstan.<sup>41</sup>

<sup>41</sup> ILO/World Bank data

Fig. 5. GDP growth (annual %), Central Asian countries and Russia (2008-2013)



Source: World Bank

The growth of the Tajik economy has also been impressive, but starting from a very low level, it can only yield substantial gains in the standard of living over a long period of time. Nonetheless, it is notable that thanks to the accelerated growth since 2011, exceeding 7% of the GDP per employee of Tajikistan came close to that of Kyrgyzstan. The uneven GDP growth of Kyrgyzstan (falling into recession in 2010 and 2012) makes prospects of bridging the gap with its northern neighbour and with Russia dim in the foreseeable future, providing ample incentive for continued labor emigration to Kazakhstan and Russia.

**Unemployment** - Emigration is also fuelled by the continued unemployment in Kyrgyzstan and Tajikistan, contrasting with the fast reduction of joblessness in Kazakhstan and Russia (Table 2). At the peak of the economic crisis in Russia in 2009, the jobless rate in Kyrgyzstan was roughly equal to that in Russia and the figure for Tajikistan dropped slightly compared to the previous year (down from 11.8 to 11.6%). However, since 2010 little progress in fighting joblessness was observed in the two southern countries while the rate dropped to 5.5% in Russia and 5.3% in Kazakhstan.

Table 2. Unemployment among youth (15-24 years old) by gender (%), (2008-2012)

	2008		2010		2012	
	Men	Women	Men	Women	Men	Women
Kazakhstan	6.8	8.2	5.5	6.5	3.3	4.7
Kyrgyzstan	14.1	17.4	14.4	20.1	13.1	19.1
Tajikistan	20.0	23.0	19.9	22.9	20.0	23.0

Source: ILO Labor Market database

A major factor, which suggests a long-term tendency to migrate, is the rate of unemployment among young people (between 15 and 24 years of age) (Table 2). Considering that the share of young population is particularly high in Tajikistan, the fact that 20% of young men and 23% of young women in this country are officially unemployed is a major warning sign. Youth unemployment also clearly distinguishes countries in the region: in 2008, the rate of unemployment among young Kazakh men was less than 7% relative to over 14% in Kyrgyzstan and 20% in Tajikistan. By 2012, the unemployment rate of young men in Kazakhstan came down to 3.3%, a moderate decline was observed in Kyrgyzstan (down to 13.1%) while no progress was noted in Tajikistan.

## Irregularity of migration: causes and consequences

### Recent studies: volume and characteristics

**Kyrgyz emigration** - Causes of labor migration from Kyrgyzstan and effects of the changing legal and economic environment on the Kyrgyz migrant workers in Russia were considered in a survey of 1200 households in southern Kyrgyzstan, carried out in 2009.<sup>42</sup>

<sup>42</sup> I. Lukashova, I. Makenbaeva, *Impact of the Global Financial Crisis on Labour Migration from Kyrgyzstan to Russia: Qualitative overview and quantitative survey*, ILO/ACTED/European Commission: Bishkek, 2009.

The survey revealed that in over a quarter of the households more than one family member migrated (with the average family consisting of seven members).<sup>43</sup> Around 60% of the respondents in the Osh and Batken *oblasts* and nearly 80% of those in the Jalal-Abad region named “insufficient material resources” as the reason for seeking employment abroad.<sup>44</sup> Those migrants who were unemployed at home were most strongly attracted to migration: all the respondents who reported having been unemployed declared their intention to continue to work in Russia.<sup>45</sup> The study found that those migrants who had stayed in Russia for over four years were able to resist the negative impact of the economic crisis: their salary levels dropped only slightly while the newcomers (staying for less than two years) saw cuts in their salaries of up to a quarter.<sup>46</sup> The long-term migrants tended to raise their professional skills and to integrate with the host society. As their position on the labor market became more established, they were more willing to change jobs: 54% of those working for over four years changed jobs at least once while only 37% of those working for less than two years did so.<sup>47</sup>

Determinants and characteristics of the Kyrgyz labor migration were presented in a study by the Centre for Integration Studies of the Eurasian Development Bank (EDB), published in April 2013.<sup>48</sup> According to the study, the wage gap is a major factor contributing to labor migration from Kyrgyzstan to Kazakhstan and Russia and the tendency to migrate is strongest among the poorer, more vulnerable to unemployment yet better educated young members of the society—as many as 43% of Kyrgyz respondents among migrants to Russia and 44% among migrants to Kazakhstan reported education above the secondary level. Notwithstanding migrants’ high level of education, 40% of migrants to Russia and 31% of migrants to Kazakhstan worked in unskilled or semi-skilled positions while only 4% and 6% respectively worked as white-collar or office employees. The survey also revealed that the social networks: friends, family and compatriots represent the most reliable source of support for Kyrgyz migrant workers in Russia (81% of answers) and Kazakhstan (63%), serving as mechanisms for searching for employment or accommodation, providing legal guidance and “moral support”. In contrast, very few migrants turned to state structures of either the country of origin or destination and none of them relied on the civil society support.

The 2013 Eurasian Development Bank study reports that among the Kyrgyz migrant workers, 17% of those in Russia and 24% in Kazakhstan named “problems with the migration police” as a concern. Significantly, the short period during which residence registration had to be completed was also cited as a problem. Alleviation of these administrative issues in case of Kyrgyzstan joining the Customs Union could therefore be seen as an important factor in predicting the willingness to engage in migration. In fact, the EDB study notes an interest in continued long-term emigration of the Kyrgyz nationals to the countries of the Customs Union: as many as 33% expressed willingness to work in Kazakhstan for a period of a year or longer, and 44% would like to engage in long-term labor emigration to Russia. Only 19% of the respondents engaged in work in Kazakhstan and 18% among those working in Russia were not planning to travel there for work purposes any more.<sup>49</sup>

**Tajik emigration** - A survey of 1000 Tajik migrant workers who returned home between 2003 and 2007, conducted by the Sharq Research Centre in 2010, indicated that nearly all the surveyed migrants had returned from the Russian Federation (94.9%), half of which had worked in the Moscow urban area, mainly in construction and to a smaller extent in trade and services.<sup>50</sup> Migration has a long-term character: only 9.3% worked less than a year, nearly half spent from 2 to 4 years abroad and a third of the respondents indicated the period from 5 to 10 years.<sup>51</sup> Key motivation for migrating was unemployment (40.3%) or low salary level in Tajikistan (31.1%).

<sup>43</sup> *Ibid.*, p. 61.

<sup>44</sup> *Ibid.*, p. 66.

<sup>45</sup> *Ibid.*, p. 89.

<sup>46</sup> *Ibid.*, p. 74.

<sup>47</sup> *Ibid.*, p. 75.

<sup>48</sup> *Labour Migration and Human Capital of Kyrgyzstan: Impact of the Customs Union: Analytical Summary*, EDB Centre for Integration Studies, St. Petersburg 2013, available at: [http://www.eabr.org/general/upload/CII%20-%20izdania/Proekti%20i%20dokladi/Kyrgyzstan%20-%20CU/EDB\\_Centre\\_Report\\_13\\_Analytical%20Resume\\_Eng\\_1.pdf](http://www.eabr.org/general/upload/CII%20-%20izdania/Proekti%20i%20dokladi/Kyrgyzstan%20-%20CU/EDB_Centre_Report_13_Analytical%20Resume_Eng_1.pdf)

<sup>49</sup> *Labour Migration and Human Capital of Kyrgyzstan: Impact of the Customs Union*, op. cit.

<sup>50</sup> ILO, *Migration and Development in Tajikistan – Emigration, Return and Diaspora*, Moscow 2010, p. 15, available at: [http://www.ilo.org/public/english/region/eurpro/moscow/info/publ/migration\\_development\\_report\\_taj.pdf](http://www.ilo.org/public/english/region/eurpro/moscow/info/publ/migration_development_report_taj.pdf)

<sup>51</sup> *Ibid.*, p. 13.

Other reasons also were related to the economic conditions in the country: inability to secure funds for major expenses (15.4%) or closing down or downsizing of enterprises (6.3%).<sup>52</sup>

Compared to the study of Tajik migrants, carried out in 2005-2006, the survey of returnees to Tajikistan shows a greater inclination to legalize the stay and employment in the country of destination. Three-quarters of the respondents in 2010 stated that they had registered their stay with the local OVIR office while 12.8% revealed that they had stayed without proper residence registration while another 12.9% reported that they had registered their stay only “occasionally”. When asked for reasons for failure to officially register their stay, respondents indicated a high cost of the registration or corruption by local police for tolerating their stay, which in their view obviated the need for formal registration. An even higher number of migrants (32%) reported having only a “verbal agreement” for employment.<sup>53</sup>

The 2014 EUI study<sup>54</sup> distinguishes two categories of Tajik migrant workers in Russia, both of which are negatively affected by the irregularity of their employment status yet in different ways. The first category is that of seasonal labor, which fills the sectors of agriculture and construction while the second group consists of Tajik migrants who have been employed in Russia for years in construction, housing and services but have over time either lost or never acquired legal status. The latter group is facing a dilemma of returning home or acquiring Russian citizenship as it seeks to regularize its residence status.

**Impact of the Afghan conflict** - The most recent challenge, addressed in literature, is the possible impact of the internal conflict in Afghanistan on the scale of irregular migration into and through Central Asia. Adopting a comprehensive security perspective, K. Koser argues in a 2014 IOM study that although so far migratory fallout from the turmoil in Afghanistan affected Central Asia to a limited extent, the realignment of migration routes might put greater pressure on the southern rim of Central Asia.<sup>55</sup> In particular, it is suggested that in the case of Iran closing its borders to refugees, part of the outflow (in particular, ethnic Tajiks from northern Afghanistan) might become “trapped” and head for Tajikistan, as it was the case in 2001-2002. Some observers do not exclude the possibility that the outflow would in fact reach Kyrgyzstan as some Afghans might want to use Central Asian countries as a transit route to Europe where a significant rise in asylum applications had been observed since 2010.<sup>56</sup>

### *Recent studies: problems facing migrants*

The 2014 survey among Tajik migrants with entry bans, assisted by IOM, presents a typical scenario in which the migrants fall into irregularity (see Fig. 6).<sup>57</sup> Tajik migrants enjoy a visa-free entry into the Russian Federation yet fail to take the necessary measures to extend their legal stay beyond the period of 90 days. The report concludes that the lack of awareness of the regulations in force is the main factor for breaching the rules of residence—two-thirds of the surveyed migrants were convinced that they were in full compliance of the residence requirements. Another factor stimulating irregular character of Tajik immigration to Russia is, according to the report, “highly complicated and rigid migration law”.<sup>58</sup> Although the introduction of work patents aimed to regularize the stay and work of many of the Central Asian migrants, the report notes that the restriction of the patents to work for private individuals is frequently ignored by migrants who use the patents for work for legal persons, thus again risking violation of the law.<sup>59</sup>

<sup>52</sup> *Ibid.*, p. 10.

<sup>53</sup> *Ibid.*, pp. 15-16.

<sup>54</sup> A. Di Bartolomeo, S. Makaryan, A. Weinart, *Regional Migration Report: Russia and Central Asia*, European University Institute, San Domenico di Fiesole, 2014.

<sup>55</sup> K. Koser, *Transition, Crisis and Mobility in Afghanistan: Rhetoric and Reality*, IOM, Geneva, January 2014.

<sup>56</sup> *Ibid.*, pp. 18-19.

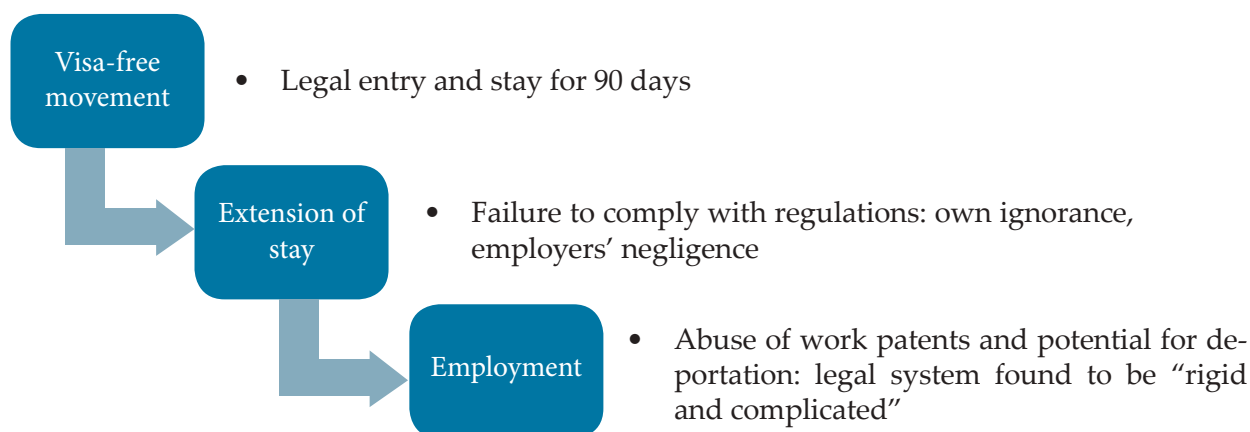
<sup>57</sup> A. Maier, *Tajik Migrants with Re-entry Bans to the Russian Federation*, IOM, Dushanbe 2014.

<sup>58</sup> *Ibid.*, p. 17.

<sup>59</sup> *Ibid.*, p. 18.



Fig. 6. Irregularity of Central Asian emigration: a typical scenario



Source: Developed on the basis of: A. Maier, *Tajik Migrants with Re-entry Bans to the Russian Federation*, IOM, Dushanbe 2014

Evidence collected by the Anti-Discrimination Centre Memorial in St. Petersburg reveals that the irregular status of Tajik migrant workers in Russia makes them vulnerable to abuses of their rights in a range of areas.<sup>60</sup> Firstly, migrants are exposed to fraud on the part of intermediary agencies facilitating application for work and residence permits, which at times supply false documentation, putting the applicants at risk of prosecution and eventually expulsion.<sup>61</sup> Secondly, absence of written contracts and the use of intermediary employment agencies make it difficult to prove in the court of law the widespread cases of non-payment or withholding in part of salaries on the part of Russian employers (employment-related problems constituting 90% of all complaints, reported to the "Tajikistan Fund" Moscow-based NGO). Other socio-economic problems include inadequate housing with the majority of construction workers living on the sites or in non-residential buildings, lacking basic amenities (running water or gas).<sup>62</sup> These substandard living conditions in turn contribute to health hazards, especially respiratory illnesses, including tuberculosis. Finally, regular police raids, involving fabricated claims against migrants, prejudice and even brutality, are regularly reported by Tajik migrants in Russia. A survey of 350 migrants, conducted in 2010 by the Sharq Research Centre showed that the relations with the police and irregular status were named most frequently as the key concerns expressed by the migrants.<sup>63</sup>

The 2014 European University Institute (EUI) study cites the results of a survey carried out in 2005-2006 by the Centre of Demography and Economic Sociology of the RAS Institute of Socio-Political Research among 166 Tajik migrant workers in Russia. The survey revealed a very high extent of irregular employment: only a quarter of respondents stated that they had been employed on the basis of written contracts or had acquired necessary work permits. The survey is in line with other studies, indicating that a substantial part of the Tajik migrants in Russia is not planning to return home. Of the surveyed migrants as many as 48% declared interest in staying in Russia permanently.<sup>64</sup>

### Focus groups

As part of the research, focus group discussions were carried out, involving Tajik and Kyrgyz migrants working in Kazakhstan and Russia as well as representatives of embassies, experts, and NGO activists.<sup>65</sup>

<sup>60</sup> FIDH/ADC Memorial, *Tajikistan: Exporting the Workforce – At What Price? Tajik Migrant Workers Need Increased Protection*, September 2011.

<sup>61</sup> *Ibid.*, p. 12.

<sup>62</sup> *Ibid.*, p. 13.

<sup>63</sup> *Ibid.*, p. 16.

<sup>64</sup> A. Di Bartolomeo, S. Makaryan, A. Weinart, *op. cit.*, p. 23.

<sup>65</sup> Focus groups were organized by IOM missions in: Astana, Kazakhstan (12 June 2014, moderated by K. Dzhamangulov, attended by migrants, a lawyer, representative of the Kyrgyz embassy); Kyzyl-Kia, Kyrgyzstan and Jalalabad, Kyrgyzstan (conducted in July 2014 by the „Welfare” (*Blagodat’*) NGO from Osh, involving 8 and 7 migrants respectively), Osh, Kyrgyzstan (survey completed by „Ayalzat” NGO) and Dushanbe, Tajikistan (4 July 2014, moderated by M. Bahovadinova, attended by four migrants, working in Russia, officials of the Migration Service and IOM Staff).

Participants were asked to identify the main factors stimulating emigration, forecast the volume of labor migration and discuss the key challenges facing migrants in the destination country, Special attention was paid to the paths into irregularity and particular problems associated with migrants' irregular status.

Main push factors that were named are of economic nature: low wages and high level of unemployment in the country of origin, difficulties in doing business at home.<sup>66</sup> However, the choice of Kazakhstan or Russia as destination countries was not motivated only by greater economic opportunities although wage gap with the countries of origin was named as a strong incentive. Cultural affinity, proficiency in Russian, "good-neighborly relations" and territorial proximity were cited as determining factors for choosing CIS locations over the more distant destinations in the West.<sup>67</sup>

In Kyrgyz and Tajik migrants' view, regular migration to Kazakhstan is facilitated by visa-free regimes as well as relative ease of acquiring residence rights and low administrative barriers. In turn, a lawyer assisting migrants in Kazakhstan stressed, migrant workers who originally took up irregular employment in Kazakhstan tended to acquire legal permanent residence and eventually bring along their family members who would become legal residents as well.

Focus group participants agreed that the overwhelming majority of their compatriots took up employment without proper authorization. According to some of the interviewed migrants, networks of family members and friends play a decisive role in facilitating irregular employment. However, Tajik migrants working in Russia noted that at least some workers fell into irregularity involuntarily — either due to failure to register the migrant by the employer or as a result of administrative sanctions.

The volume of irregular labor migration is believed by focus group participants to remain stable or come down in the next couple of years. The rate at which the scale of irregular employment could be reduced depends, in their opinion, on several factors: the creation of opportunities for regular employment, the willingness of employers to register their foreign workers as well as the level of awareness of rights among migrants themselves. Some of the interviewed migrants from Kyrgyzstan and Tajikistan took notice of the liberalization of the employment regime in Kazakhstan, believing that as the migrants become conscious of the opportunities for legal work, the volume of irregular employment could come down.

In contrast, the application of sanctions by the Russian authorities, especially with regard to Tajik nationals, was seen as arbitrary and leading to corrupt practices. The indiscriminate use of re-entry bans has had significant impact on migrants' strategies: apart from lowering the generated income (and consequently reducing remittances), it increasingly forces migrants to make use of expensive intermediary agencies for arranging their residence and employment formalities.

## Immigration to Central Asian countries

As the emerging phenomenon of immigration to Central Asian countries has not been reflected adequately in either regional or country studies, primary reference has been made to the official statistics, collected from the national authorities. Apart from the overview of the volume and composition of the cross-border movements and long-term immigration in the three countries, focus has been made on the non-CIS immigration with particular attention paid to selected national groups: the Afghans, the Chinese and CIS immigration of Uzbeks. Results of studies on enforcement of migrants' rights and attitudes towards immigration, carried out in Kazakhstan in 2010 are also presented.

<sup>66</sup> Focus groups in Kyrgyzstan.

<sup>67</sup> Focus group in Jalalabad.

## Immigration from CIS and non-CIS countries

### *Conditions of entry and residence*

In principle, foreign nationals may enter Kazakhstan, Kyrgyzstan or Tajikistan on the basis of a valid passport and a visa, which can as a rule be obtained at consular offices abroad.<sup>68</sup> Entry may be denied on the grounds, stipulated in migration legislation. It is worth noting that apart from the generic grounds of a threat to national security and public order, in certain cases more specific provisions have been introduced. For example, Kazakhstan applies a re-entry ban of five years to persons who were deported from its territory.

Bilateral agreements with other post-Soviet states provide for facilitated conditions of entry and residence in the countries under study for nationals of CIS countries.<sup>69</sup> This includes, first of all, visa-free movement for short periods and for nationals of selected neighboring countries also the possibility to enter on the basis of an internal identity document. The latter facilitated arrangement is open to nationals of Russia and Kyrgyzstan entering Kazakhstan.

Some recent changes in visa regimes in the countries of the region have been made with a view to attracting tourism and investment from major economies in Asia and from Western countries. Kazakhstan lifted the visa requirement for nationals of 10 countries for twelve months starting from 15 July 2014, announcing that in case it proves successful, it will be continued.<sup>70</sup> Nationals of the European Union and of 20 other countries are moreover exempt from the requirement to demonstrate visa support and obtain invitation letters for most types of single-entry visas.<sup>71</sup> In turn, Kyrgyzstan provides visa-free entry for unlimited period to citizens of Japan, for up to 60 days of stay for the nationals of the European Union and of 16 other states, and for up to 30 days to the nationals of Turkey and Malaysia.<sup>72</sup> In January 2014, Tajikistan announced its intention to unilaterally waive short-term visa requirements to citizens of 80 countries by 2016, hoping that such a move would facilitate tourism in the country.<sup>73</sup>

### *Selected migratory flows into and through Central Asian region*

While intra-regional mobility involves mainly CIS nationals, many of whom are likely to be covered by the facilitated rules for access to labor markets as part of the Single Economic Space arrangements, the influx of non-CIS migrants is going to fuel irregular movement in the region. Two groups of migrants represent well the mixed character of non-CIS migration with the Afghan flows in which forced displacement and economic factors play a role while the Chinese immigration ranging from refugee inflows through cross-border trade to long-term labor movement. They complement the existing labor immigration flows, of which the movement from Uzbekistan is the largest, and ethnic repatriation (*Oralmans* to Kazakhstan and *Kairylmans* to Kyrgyzstan)—the latter phenomenon is discussed in the section on Return and readmission further below.

**Afghans** - The flows from Afghanistan to Tajikistan (as well as Uzbekistan and Turkmenistan) are on a much smaller scale than migration into Iran and Pakistan, which next to the Gulf countries are the main destinations of the Afghan economic migration. However, the post-civil war stabilization of the internal situation in Tajikistan, as well as improvement of transportation infrastructure across the border, facilitates the reestablishment of social ties and an increase in cross-border movement.

<sup>68</sup> Visas may still be applied for at international airports in Bishkek (Kyrgyzstan) and Dushanbe (Tajikistan). This option is generally no longer available in either Almaty or Astana.

<sup>69</sup> In particular, please note two agreements to which the three investigated countries and the Russian Federation are all members: Agreement of the Eurasian Economic Community of 2000 between Belarus, Kazakhstan, Kyrgyzstan, Russian Federation and Tajikistan and the Agreement on Visa-Free Movement of Citizens of the CIS Countries on the Territory of the Member States of 9 October 1992.

<sup>70</sup> The scheme is open to nationals of the United States, United Kingdom, France, Germany, Italy, Netherlands, Japan, South Korea as well as Malaysia and United Arab Emirates. See the announcement „Kazakhstan sets a visa-free regime for citizens of 10 countries” on the website of the Embassy of the Republic of Kazakhstan in the United States at: <http://www.kazakhembus.com/page/visa-and-consular>

<sup>71</sup> Website of the Ministry of Foreign Affairs of the Republic of Kazakhstan.

<sup>72</sup> See country chapter on Kyrgyzstan for details.

<sup>73</sup> Vice-president of the Committee for Youth, Sports and Tourism, of the Republic of Tajikistan, quoted on 19 January 2014 by Sinhua news agency. See „Таджикистан планирует к 2016 году отменить визы с 80 странами”, 20 January 2014, available at: <http://gorchakovfund.ru/news/9837/>



Tajikistan is thus emerging both as a destination country (as the local small-scale trade flourishes) and a transit route for migrants bound for Russia and Europe.<sup>74</sup> The possible withdrawal and restructuring of the NATO forces from Afghanistan in 2014-2015 raises uncertainty as to the stability of the country with likely fallout for the neighboring countries, including its Central Asian neighbors. Forecasting the volume and direction of the flows out of Afghanistan is made difficult by the complex nature of the ongoing conflict, in which according to a recent study “de-population and re-population will likely occur simultaneously” in various regions of the country.<sup>75</sup> In effect, it is not possible to predict accurately the extent to which Tajikistan and other Central Asian countries would be subjected to a rise in Afghan migration. The initial alarmist forecasts made in 2012 when NATO withdrawal was announced over time gave way to more balanced diagnoses. IOM 2014 report stresses that most of the displacement is expected to be internal, “while massive new refugee flows or cross-border migration are not generally envisaged”.<sup>76</sup>

However, observers still warn that in case of uncontrolled movement, bound for Central Asia, Tajikistan’s borders would not represent as strong a barrier to migration as those of Afghanistan’s other neighbours in Central Asia. The STATT 2013 study concludes that “greater Afghan – primarily ethnic Tajik – migration into Tajikistan” is expected “over the next few years”, but its scale is likely to be much smaller than for the flows into Pakistan. A part of the flow is expected to fuel “increased transit flows of Afghans going to Russia (and a small number to Europe)”.<sup>77</sup> IOM study concurs, noting that the movement into Tajikistan “cannot be excluded” in case ethnic Tajiks from Afghanistan are not able to cross into Iran and that such a flow would most likely have a mixed profile, including both migration and asylum elements.<sup>78</sup>

**Chinese** - Although Central Asia has drawn a tiny fraction of the estimated 35-million-strong Chinese diaspora, Chinese migrant workers have come to play an increasingly important role in the economies of the investigated countries. This development may be viewed on the one hand as a re-establishment of historical ties along the Silk Road and on the other hand as a reflection of the pivotal geographical position of Central Asian states as a transit corridor for Chinese goods exported to Europe. Cultural and ethnic affinities also play a role, as the ethnic Kazakhs, Kyrgyz, Tajiks and Uzbeks are important minorities in the neighboring Xinjiang province of China.<sup>79</sup>

Economic expansion of China has therefore stimulated Chinese migration to Central Asia. A 2012 report notes that apart from serving as markets for Chinese goods and as transit routes for China’s trade with Europe, Central Asian countries have recently become destinations for Chinese investments, in particular in the energy sector and in transportation infrastructure.<sup>80</sup> Accordingly, it observes “rapid increases in the number of migrants” from China to Kazakhstan since 2000, identifying three major flows: shuttle migration, involving petty traders in the border areas; labor migration and entrepreneurial migration.<sup>81</sup> Ethnic composition of the various flows differs: while the Han Chinese dominate among both regular and irregular migrant workers and entrepreneurs, ethnic Kazakhs (*oralmans*) are represented among students and are the major group among permanent residents while the Uyghurs are found among asylum-seekers.

According to recent statistical data, registered migration flows from China to Kazakhstan declined from 154,220 in 2008 to 108,630 in 2010 and returned to the pre-crisis level in 2012 when 154,226 entries were recorded.<sup>82</sup>

<sup>74</sup> „Afghan migration in flux”, *Synapse*, No. 10, January 2013, STATT, Hongkong, p. 4.

<sup>75</sup> *Ibid.*, p. 9.

<sup>76</sup> K. Koser, *op. cit.*, p. 7.

<sup>77</sup> „Afghan migration in flux”, *op. cit.*, p. 15.

<sup>78</sup> Koser, *op. cit.*, p. 7.

<sup>79</sup> N. Steiner, *Chinese Migration to Central Asia: Contrasting Experiences between Kazakhstan and Kyrgyzstan*, Master’s thesis, University of Washington 2013, p. 2, available at: <https://digital.lib.washington.edu/researchworks/handle/1773/23547>

<sup>80</sup> Y. Sadovskaya, *Chinese labour migration to Kazakhstan at the beginning of the 21st century*, Norwegian Institute of International Affairs 2012. See also: K. Syroezhkin, „Chinese Presence in Kazakhstan: Myths and Reality”, *Central Asia and the Caucasus*, vol. 12, no. 1 (2011), pp. 101-114.

<sup>81</sup> *Ibid.*, p. 5. For the discussion of the long-term causes and impact of the Chinese labor migration to Kazakhstan, see: Y. Sadovskaya, „Chinese Migration to Kazakhstan: a Silk Road for Cooperation or a Thorny Road of Prejudice?”, *China and Eurasia Forum Quarterly*, vol. 5, no. 4 (2007), pp. 147-170.

<sup>82</sup> *Tourism in Kazakhstan. 2008-2012. Statistical Yearbook*, Statistical Agency, Astana 2013.

At the same time, the Chinese migrants are increasingly interested in temporary residence in Kazakhstan: the number of temporary permits issued to this national group rose between 2010 and 2013 by 72% (up from 41,092 in 2010 to 70,851 in 2013).<sup>83</sup> Since 2011 migrant workers from China have been the largest national group of work permit recipients in Kazakhstan, accounting for 29.5% of the total (7,235 permits) in January-September 2014, which represents a 13% rise over the data for all of 2013 (6,380 permits).<sup>84</sup> In 2014 the main regions of destination for Chinese regular migrant workers were the capital city of Astana, the gas- and oil-rich Atyrau region as well as Southern Kazakhstan and Aktobe regions. According to expert, analysis of the statistics on registered temporary stays, irregular labor migration can exceed regular labor migration up to fivefold but standing at fewer than 40,000 persons per year, the group remains a relatively small part of the overall migrant population in Kazakhstan.<sup>85</sup>

Kyrgyzstan hosts mainly Chinese traders at two large markets, where Chinese goods are reported to account for three-quarters of turnover.<sup>86</sup> The majority of Chinese migrants are employed in shuttle trade, as the Chinese imports are frequently re-exported. Due to their activity in the informal sector, the number of Chinese migrants to Kyrgyzstan cannot be easily ascertained. A 2011 estimate in the local media places the number of the Chinese resident in Kyrgyzstan at 100,000.<sup>87</sup> According to Laruelle and Peyrouse, the major ethnic groups among the migrants from China to Kyrgyzstan are the Dungans (approximately 70,000) and Uyghurs (46,000).<sup>88</sup>

Chinese labor migration to Tajikistan has raised concerns about the possible negative impact on the opportunities for employment for returning Tajik migrants. While the official quota for Chinese employment is small (2,500), in 2013 the number of work permits issued to this group of immigrants was significantly higher (3,861).<sup>89</sup> However, experts suggest that the vast majority of Chinese migrants work without authorization: in 2011 the total number of the Chinese migrant workers in Tajikistan was estimated at 80,000.<sup>90</sup> Additional problem is the fact that the Chinese workers are employed in the fields where Tajik migrants have necessary competence, such as in construction. However, China as a major investor in Tajikistan's economy is reported to tie its investments to hiring own labor, and Beijing has called for removal of barriers to employment of its nationals in Tajikistan as well as other Central Asian countries within the framework of the Shanghai Co-operation Organization.<sup>91</sup>

Although migrant workers from China have become prominent on the labor markets of all three investigated countries, no dedicated policies on either attracting or controlling this group of migrants have been put in place. Estimates on the volume of Chinese immigration and the extent of its irregularity vary and in-depth studies are needed to provide a comprehensive picture of this migrant group, which is necessary for elaborating long-term national policies.

**Uzbeks** – Uzbekistan, the most populous country in Central Asia, is the place of origin of migrant workers, bound for Russia as well as Kazakhstan and Kyrgyzstan. This represents a major shift compared to the Soviet period and the first half of the 1990s when the country served as a destination first of migrant workers from the Russian Federation and then of refugees from Afghanistan and Tajikistan escaping from civil wars there.

<sup>83</sup> Data of the Ministry of Internal Affairs of Kazakhstan

<sup>84</sup> Data of the Ministry of Labor and Social Protection of the Population of Kazakhstan (currently Ministry of Health and Social Development)

<sup>85</sup> Analysis of V. Ni.

<sup>86</sup> Historical overview of the Chinese labor migration to Kyrgyzstan is provided in: A. Zhaparov, „The Issue of Chinese Migrants in Kyrgyzstan”, *China and Eurasia Forum Quarterly*, vol. 7, no. 1 (2008), pp. 79-91.

<sup>87</sup> P. Goble, „Kyrgyzstan: Influx of Ethnic Chinese Causing Concern – Analysis”, *Eurasia Review*, 27 March 2011, available at: <http://www.eurasiareview.com/27032011-kyrgyzstan-influx-of-ethnic-chinese-causing-concern-analysis/>

<sup>88</sup> M. Laruelle, S. Peyrouse, *The Chinese Question in Central Asia: Domestic Order, Social Change and the Chinese Factor*, Columbia University Press: New York, cited in: Steiner, *op. cit.*, p. 30.

<sup>89</sup> See section of the country chapter on Tajikistan.

<sup>90</sup> „Tajiks to monitor illegal Chinese immigrants”, *Central Asia Online*, 11 November 2011, available at: [http://centralasiaonline.com/en\\_GB/articles/caii/newsbriefs/2011/11/11/newsbrief-12](http://centralasiaonline.com/en_GB/articles/caii/newsbriefs/2011/11/11/newsbrief-12)

<sup>91</sup> D. Nabiyeva, „Tajikistan considers measures to prevent illegal migration from China”, *Central Asia Online*, 9 December 2011, available at: [http://centralasiaonline.com/en\\_GB/articles/caii/features/main/2011/12/09/feature-01](http://centralasiaonline.com/en_GB/articles/caii/features/main/2011/12/09/feature-01)

According to a 2006 report, the steady decline in living standards combined with the continued visa-free regime with the other post-Soviet states and the knowledge of the Russian language contributed in the late 1990s and onwards to an outflow of the Uzbek labor force to Russia and the other Central Asian states, in particular Kazakhstan and Kyrgyzstan.<sup>92</sup>

The issue of large-scale emigration has until recently not been addressed by the government; only in 2013 did President of Uzbekistan refer to the conditions in which Uzbek migrants find themselves in Russia in a public statement. Thus, official statistics on the volume and directions of emigration have not been published in Uzbekistan, and no recent surveys or other qualitative studies specifically treating this migrant group have been made available. Thus, reference can only be made to official statistics and reports from the destination countries, which yield an incomplete picture, or to estimates made by Uzbek NGOs, which are already dated and are contested by the Uzbek authorities.<sup>93</sup>

As already mentioned, Uzbekistan has become a major source of regular immigrants to Russia and Kazakhstan. According to FMS data, there were 3 million registered Uzbek citizens in Russia in October 2013. A year later, the total number of Uzbek residents was 2,335,960 persons. While the figures of migrants to Kazakhstan are much lower, the enlargement of the Customs Union as well as fast economic growth have contributed to a fast increase in the inflows—up from 351,882 temporary residents from Uzbekistan in 2009 to 404,468 in 2011 and 495,167 in 2013. However, only a fraction of the immigrants register in Kazakhstan with economic activity (employment or business) declared—the number stood at 12,234 in 2013. Experts note that the majority of Uzbeks residing in Kazakhstan are indeed engaged in commerce at markets and labor migration without seeking authorization.

### *Enforcement of immigrants' rights*

The growing number of immigrants to Kazakhstan has put the issue of the enforcement of their rights on the public agenda of the country. The policy significance of this issue is reflected in the fact that the Human Rights Commission under the President of the Republic of Kazakhstan released special reports on situation with migrants' rights in 2012 and 2013. The most recent report, coordinated with IOM Kazakhstan and published with the support from the OSCE mission in Astana, discusses a range of barriers limiting immigrant workers' rights in the workplace as well as problems in access to housing, social security, health care and education.<sup>94</sup> It concludes that migrants from other Central Asian countries are most vulnerable to violations of their rights when employed without registration documents and/or conclusion of agreement or contract. The report notes the disadvantaged position in which migrant workers find themselves, being "dependent on the employer who can pay less or not pay at all", intimidating them with "absence of registration and work permit".<sup>95</sup>

Other violations of labor rights include long and uninterrupted working hours (up to 12 hours a day and more with the weekly average of 75.4 hours among surveyed migrants), unannounced layoffs and absence of social guarantees (e.g. lack of compensation for sick leaves or maternity leaves). Citing the results of a 2008 ILO-commissioned survey of Tajik and Kyrgyz migrants in southern Kazakhstan, it finds that the majority of them lived in overcrowded premises: 17.4% of the respondents reported sharing a room with seven or more people and another 64.4% declared sharing a room with three to six other people.<sup>96</sup> The report finds insufficient knowledge of the rules of employment and of own rights a major factor, making "exploitation and infringement on the migrants' rights" possible.<sup>97</sup>

<sup>92</sup> A. Ilkhamov, *Geographic Mobility of Uzbeks: the Emergence of Cross-National Communities vs. Nation-State Control*, conference paper, 2 March 2006, Washington, D.C. Available at: [http://www.nbr.org/Downloads/pdfs/PSA/Uzk\\_Conf06\\_Ilkhamov.pdf](http://www.nbr.org/Downloads/pdfs/PSA/Uzk_Conf06_Ilkhamov.pdf)

<sup>93</sup> For instance, independent expert, V. Chupik, estimated the total volume of Uzbek migrant workers abroad in 2004 at 1,350,000, with 64% of the migrants going to Russia and 28.1% to Kazakhstan. See A. Ilkhamov, *op.cit.*

<sup>94</sup> K. Sultanov, T. Abishev, *Human Rights Commission under the President of the Republic of Kazakhstan Special report „On situation with migrants' rights in the Republic of Kazakhstan”*, IOM/OSCE, Astana, 2014.

<sup>95</sup> *Ibid.*, p. 75.

<sup>96</sup> *Ibid.*, p. 79.

<sup>97</sup> *Ibid.*, p. 101.



### Perception of immigration

As Kazakhstan is the only investigated country with sizable immigration, public attitudes towards immigrants have only been studied in this country. In a survey of 2,227 households in four cities of Kazakhstan undertaken in 2010 by the Almaty-based Center of Study of Public Opinion, several questions were asked, to gauge the perception of immigration to Kazakhstan.<sup>98</sup> The questions follow those of the standard “Euro-barometer” survey.

When asked what the desirable level of immigration into Kazakhstan should be, the largest group (39.4%) would like to see it reduced while only 10.1% believe it should be increased. A significant part of the respondents (37.1%) would like to keep the number of immigrants at the current level. It is significant that the willingness to increase the level of immigration is higher among those respondents who had been mobile than among those who never migrated. The authors of the study also note that the support for reducing immigration is strongest among those with lower education.

**Table 3. Attitudes towards immigrants in Kazakhstan (% respondents)**

Statement	Agree	Neither agree nor disagree	Disagree
“Immigrants take jobs away from citizens in Kazakhstan”	51.9	13.5	30.6
“Immigrants increase crime rates”	49.5	17.2	24.0
“Immigrants improve Kazakhstan’s society bringing new ideas and cultures”	24.7	20.3	45.9

Source: B. Dietz, K. Gatskova, A. Schmillen, “Migration and remittances in Kazakhstan: First evidence from a household survey”, pp. 37-39.

A significant part of the Kazakh population is concerned about the economic and security impact of immigration—51.9% of the respondents believe that immigrants “take jobs away” from the local workers. Again, educational attainment plays a role; only 45% of persons with higher education are concerned of competition over jobs (compared to 61% of those with lower education). Nearly half are preoccupied with the perceived increase in crime rates—but only 38% of those with higher education are. Still only a quarter of the Kazakh respondents acknowledge a positive cultural impact of immigration; however, the proportion is higher among the ethnic Kazakhs and persons who recently were involved in migration themselves.<sup>99</sup>

### National data: cross-border movement and residence

This section reviews the available official statistics on immigration into the three Central Asian countries. It opens with a short overview of the problem of unavailability and limited validity of the statistics from border-crossing points, which affects all the investigated countries to some extent. The problem indicates the urgent need to link data collection and analysis with improved immigration and border management and to shift from perceiving migration as predominantly a security concern to adopting a more comprehensive view, in which cross-border movement contributes to sociocultural and economic development.

**Significance of Immigration and Border Management for tracing migratory movements** - To respond properly to migratory flows, it is necessary to record all the instances of crossing the frontier, identifying the actual purpose of entry and distinguishing between various types of cross-border movement (including transit, local, circular or seasonal). Analysis of available official data suggests that there are significant gaps in the control of movement across border-crossing points, especially on land frontiers.

<sup>98</sup> B. Dietz, K. Gatskova, A. Schmillen, “Migration and remittances in Kazakhstan: First evidence from a household survey”, *Arbeiten aus dem Ost-Europa Institut Regensburg, Arbeitsbereich Wirtschaft, Migration and Integration*, No. 304, 2011.

<sup>99</sup> *Ibid.*, pp. 37-39.

On some borders entries of CIS nationals are not recorded in all cases—data are particularly scarce with regard to repeated entries of local residents. Improvement of document security (and ultimately introduction of automated checks), coupled with the regulation of local cross-border traffic (open to residents of border regions) are thus crucial tasks for the countries of the region. Proper enforcement of the regimes for crossing the border also depends on the increased staffing of border officers, and training of the border staff in new procedures.

Data collected at border-crossing points are also of limited use when it comes to determining the genuine purpose of travel—very few migrants declare employment or trade during border control and instruments are missing for verifying the actual purpose of visit. Another challenge is the fact that the data on travelers' declarations from local border-crossing points on land frontiers (including the lengthy border between Kazakhstan and Russia) are not centrally processed. In this context, exchange of information between border services may help address the shortcomings of national systems of collecting and analyzing cross-border data.

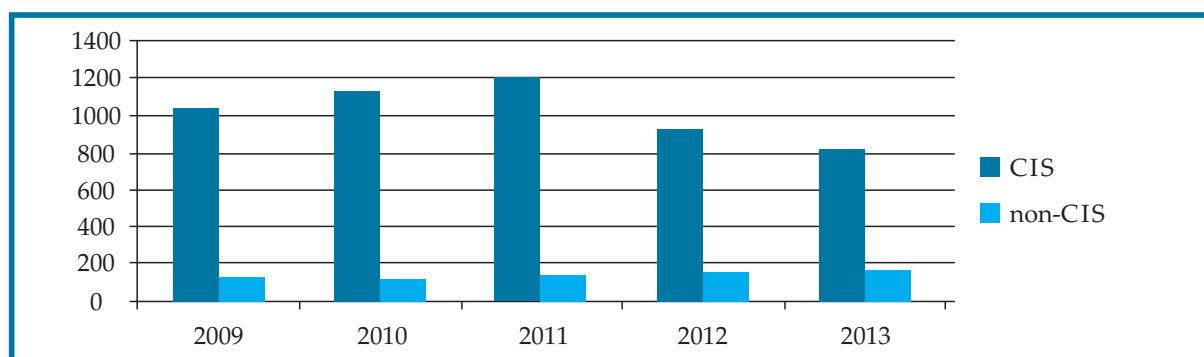
One initiative, which addresses this issue, is the unified Berkut database, which was implemented both in Kazakhstan and Russia. Personal data of foreigners crossing the borders of Kazakhstan (found in migration cards and identity documents) are scanned and entered into the database, maintained by the migration police of the Committee of National Security of the Republic of Kazakhstan. All the units of the migration police of Kazakhstan have direct access to the system, which enables them to verify travelers' date and place of entry or exit from the country. Work continues on integrating this database with the information systems of other agencies.

Another border management information system, which is currently under development, was proposed by IOM to the government of Kyrgyzstan. Personal Identification and Registration System (PIRS) allows a better monitoring of entry and exit movements and contributes to the enforcement of reactive border and migration management policies. PIRS enables to collect, process and store travelers' information, including bio-data at entry and exit border posts, for the purpose of identification, authentication, data collection and analysis. It is entirely customizable according to the priorities of the requesting government.

## Kazakhstan

**Temporary immigration: volume and composition** - Kazakhstan hosts the largest number of foreign residents among the three investigated countries with CIS nationals representing an overwhelming majority of the migrant stock. Overall, registered temporary immigration into Kazakhstan rose until 2011 when 1,353,000 permits were issued to foreigners. By 2013 the scale of immigration dropped below one million registered temporary residents. The decline is primarily due to rapid contraction (by one-third) of immigration from other CIS states. In contrast, the immigration from non-CIS countries continues to rise, accounting for an ever-greater share of all the inflow. If in 2010, only one in ten temporary residents came from outside the CIS, the share rose to nearly 17% in 2013 (see Fig. 7).

**Fig. 7. Dynamics of temporary migration to Kazakhstan, CIS and non-CIS nationals, thousands of persons (2009-2013)**



Source: Ministry of Internal Affairs of the Republic of Kazakhstan

The decline of registered regular migration from the CIS area is primarily due to the sharp contraction in immigration from Russia—down from 657,000 in 2011 to nearly 160,000 two years later (Table 4). This steep decline does not correspond to actual decrease in the migratory inflow from the Russian Federation but rather indicates that the majority of Russian immigrants have taken advantage of the freedom of movement within the Customs Union.

In turn, the regular immigration from Uzbekistan shows a steady growth (over 40% between 2009 and 2013). Thus, a clear shift can be observed in the temporary migration of CIS nationals into Kazakhstan: if until 2011, the nationals of Russia dominated (accounting for half of all the foreign temporary residents in 2011), their inflows were cut in half in 2012, so that by 2013 the nationals of Uzbekistan account for over 60% of legal foreign residents. In terms of dynamics of legal migration, Kyrgyzstan shows the highest rise (over 300% between 2009 and 2012 with stabilization onwards) and Ukraine the steepest decline (from 15,331 down to 1,595).

**Table 4. Registered temporary residence of foreigners in Kazakhstan by citizenship, CIS countries (2009-2013)**

Country of origin	2009	2010	2011	2012	2013
Uzbekistan	351 882	359 923	404 468	431 919	495 167
Russia	588 398	624 935	657 427	328 845	159 814
Kyrgyzstan	28 846	72 645	93 848	103 001	93 127
Azerbaijan	16 779	20 291	19 219	20 438	24 671
Tajikistan	10 965	15 397	10 915	10 193	12 917
Armenia	5 596	6 993	7 557	9 706	10 232
Turkmenistan	6 140	5 936	6 845	7 043	6 451
Belarus	4 805	4 875	5 552	5 649	6 221
Georgia	4 854	4 103	4 748	5 602	5 735
Moldova	2 888	2 554	2 864	3 784	4 380
Ukraine	15 331	12 240	2 772	1 960	1 595
<b>TOTAL</b>	<b>1 036 484</b>	<b>1 129 892</b>	<b>1 216 215</b>	<b>928 140</b>	<b>820 310</b>

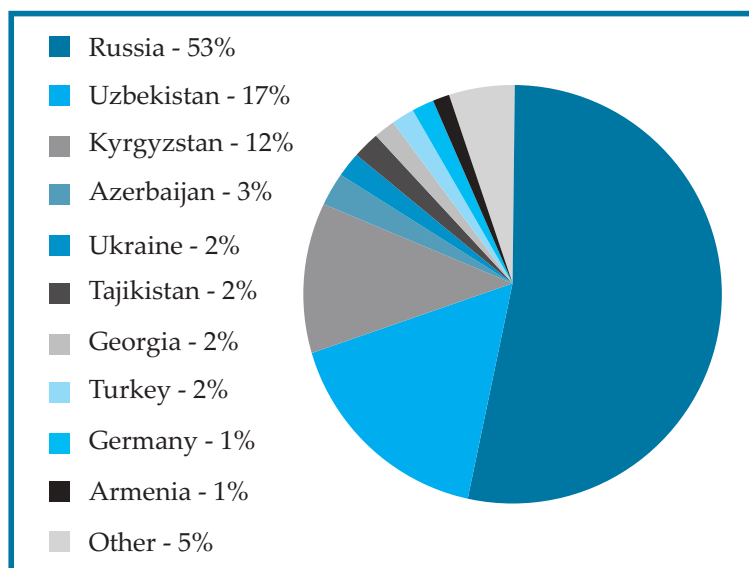
Source: Ministry of Internal Affairs of the Republic of Kazakhstan

Non-CIS temporary immigration to Kazakhstan is traditionally represented by nationals of two countries, China and Turkey, which constitute the majority of all the immigration from outside the CIS. Over time these two national groups are more and more prominently represented: if in 2009, the combined share of these two groups in the entire non-CIS immigration stood at 60%, it exceeded 70% in 2013. Other prominent national groups are Mongolia and India (each accounting for around 5% of the total non-CIS resident stock), followed by immigrants from major West European countries (Germany, UK and Italy).

**Permanent immigration** - In contrast to the relatively volatile scale of temporary immigration, permanent immigration residence remains at a stable level. From 2011 to 2013, the number of foreign permanent residents rose slightly from 116,686 to 125,152 persons. Russia continues to be the leading country of origin, supplying over half of all the permanent immigrants (see Fig. 8). The number of permanent residents in Kazakhstan from Russia has been stable at 66,000-67,000 persons a year. Most of the growth in permanent immigration is attributed to steady rise of permanent residents from Uzbekistan and Kyrgyzstan (with the latter country recording a nearly 20% growth between 2011 and 2013). Few foreigners from outside the CIS settle in Kazakhstan although a dynamic increase in Turkish immigration could be observed recently (up from 1,832 in 2011 to 2,416 in 2013).



Fig. 8. Permanent residents in Kazakhstan by citizenship (2013)



Source: Ministry of Internal Affairs of the Republic of Kazakhstan

## Kyrgyzstan

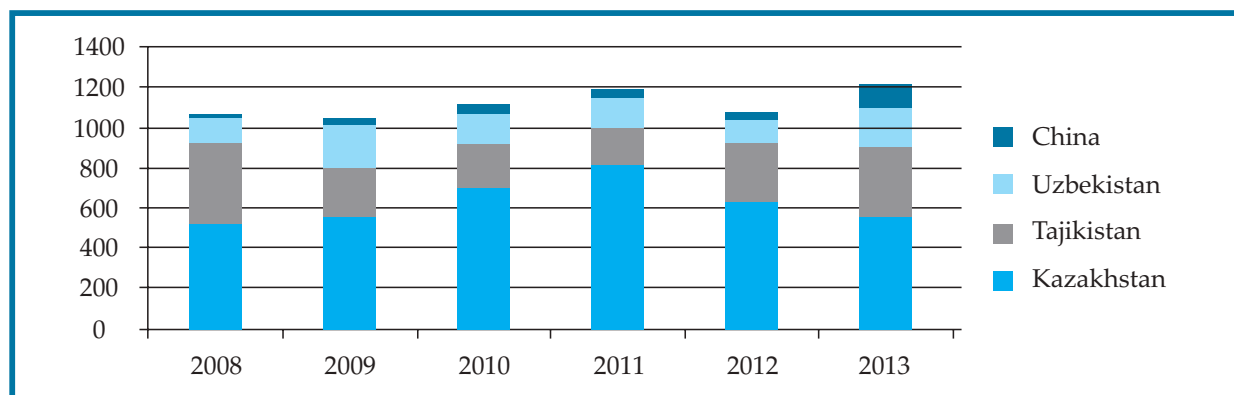
**Cross-border movement** - Kyrgyzstan records very low flows on its frontiers, which may indicate that a substantial portion of entries and exits, in particular, of short-term or local character, is not reflected and thus is not presented in these statistics. However, analysis of the change in the scale of the recorded flow across various sections of the frontier may suggest certain general patterns of migratory flows into and out of the country. For this reason, data for 2010 (when the country recorded the highest outflow) and for 2013 (when the negative migratory balance was significantly reduced) will be compared.

In 2010, out of the total of 54,531 registered departures out of the country, only 5,931 (11%) were made by land.<sup>100</sup> It may be assumed that the vast majority of departures by air were bound for the Russian Federation. In 95% of the cases, persons leaving the country did so across the frontier with Kazakhstan, which confirms the general northward direction of labor emigration, bound for Kazakhstan and ultimately Russia. Following restrictions in access to the Russian labor market, the total of recorded departures from the country dropped to 11,552 in 2013. Significantly, the departures by land did not drop as significantly as by air as 2,977 cases were noted in 2013 (accounting for a quarter of all the departures). As in 2010, 95% of all the registered departures in 2013 were made to the territory of Kazakhstan.

In turn, the analysis of entries into the country across various sections of the frontier yields some relevant results (see Fig. 9). In 2008, nearly half of the entries into Kyrgyzstan were made across the frontier with Kazakhstan, while another 40% at the border with Tajikistan. The number of entries from Kazakhstan rose steadily until 2011 when this section of the frontier accounted for two-thirds of all arrivals. In contrast, the numbers of persons arriving from Tajikistan were halved between 2008 and 2009, and remained on a low level until 2011. In turn, in 2012-2013 the inflows from Tajikistan and Uzbekistan rebounded so that Tajikistan accounts for 29% and Uzbekistan for 15% of all recorded entries by land, second only to Kazakhstan (45%). The number of entries from China tripled in 2013, reaching 126 cases.

<sup>100</sup> Data provided by the National Statistical Office of the Kyrgyz Republic.

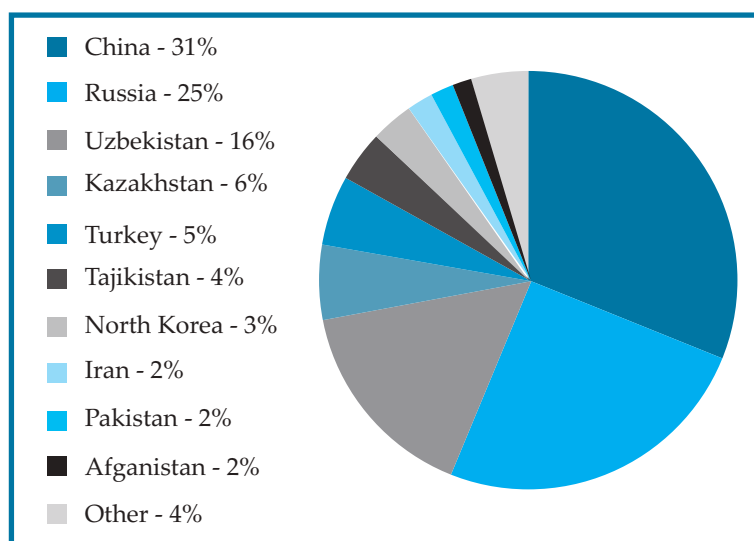
Fig. 9. Persons legally entering Kyrgyzstan by land from the neighboring states (2008-2013)



Source: National Statistical Office of the Kyrgyz Republic

Statistics on crossings of Kyrgyzstan's frontiers also seriously underestimate the scale of immigration. For the total of 27,500 of entries into the country over the period of 2008-2013, mere 1,330 entries were recorded for foreigners (see Fig. 10). The national structure of the foreign inflow at entry points in 2013 is reflected in the figure below: top countries of origin are China, Russia and Uzbekistan.

Fig. 10. Entries of non-nationals at Kyrgyzstan's borders by citizenship (2013)



Source: National Statistical Office of the Kyrgyz Republic

**Registered residence** - Relatively few foreigners are registered in Kyrgyzstan although the number has climbed recently. Following a steep decline in 2009 the registered foreign population decreased by one-seventh to 66,754 persons and stood at around 65,000 in 2010. The number rose again to nearly 75,000 in 2011.<sup>101</sup> The figure does not cover for the most part nationals of CIS states who are not obliged to register.

As the majority of visitors to Kyrgyzstan are exempt from the requirement to obtain Kyrgyz visas, the analysis of the volume and structure of issued visas is of limited value in estimating the foreign influx. It should also be noted that the following statistics covers various categories, according to purpose of stay: business, labor, training and private. In 2011, the total of 31,539 visas were granted to foreigners visiting Kyrgyzstan. Half of all the visas were issued to nationals of China (16,516), followed by Turkey (3,295), Pakistan (2,560), Uzbekistan (2,176), South Korea (1,037) and Tajikistan (749).<sup>102</sup> A very small number of foreigners reside in Kyrgyzstan on the basis of residence permits: 532 in 2010 and 447 in 2011.<sup>103</sup>

<sup>101</sup> Data of the State Registration Service of the Kyrgyz Republic, cited in: *Extended Migration Profile of the Kyrgyz Republic*, p. 14.

<sup>102</sup> *Extended Migration Profile of the Kyrgyz Republic*, p. 14.

<sup>103</sup> *Ibid.*, p. 15.

## Tajikistan

Official recent statistics on the volume of immigration to Tajikistan have not been made available so the census data remain the only source so far. According to the census data for 2010, the number of foreign residents remains very small, amounting to 12,855 persons, which represents a mere 0.16% of the population. Out of this figure, the majority (9,635) resided permanently and only 3,220 persons were temporary residents. Around half of the permanent residents originated from CIS countries. One in seven permanent residents is a stateless person, which reflects the problem of continued outflow of asylum-seekers from the neighboring Afghanistan.

## Labor activity of foreigners in Central Asian countries

In this section attention is paid to the conditions, scale and patterns of employment of foreigners in Kazakhstan, Kyrgyzstan and Tajikistan. Brief analysis of the state of regulation of access to employment is provided through references to bilateral agreements on labor migration, concluded by Central Asian countries and Russia (Table 5) and to the national quotas on foreign employment in the three investigated countries (Table 6). Detailed discussion of the available statistics on labor immigration in Kazakhstan and Tajikistan is offered as well with the analysis of their dynamics, national composition and sectorial distribution (where such data have been made available).

### Regulation of labor activity of foreigners: regional aspects

Regional cooperation schemes have been elaborated to regulate the legal conditions and procedures governing movement of workers among Kazakhstan, Kyrgyzstan and Tajikistan. Attempts at removing some of the barriers, which emerged since the breakup of the Soviet Union were first made within the framework of the CIS. Between 1992 and 1994 several agreements were concluded, regulating issues of recognition of qualifications and of retirement benefits, hiring procedures and occupational health and safety.<sup>104</sup> In addition, Central Asian countries concluded bilateral agreements with some other CIS member states, regulating labor migration (Table 5).

**Table 5. Bilateral agreements on labor migration concluded by Central Asian countries and Russia**

Country	Agreement with Kazakhstan	Agreement with Kyrgyzstan	Agreement with Russia	Agreement with Tajikistan	Agreement with Uzbekistan	Agreements —other CIS countries
Kazakhstan		V		V	V	Azerbaijan, Belarus
Kyrgyzstan	V		V	V		
Russia		V		V	V	Armenia, Belarus, Moldova, Ukraine
Tajikistan	V	V	V			
Uzbekistan	V	V	V			

Source: Bartolomeo, *op. cit.*, p. 46.

Bilateral agreements have been of limited use with regard to actual regulation of terms of access to labor market and conditions of employment. Firstly, no agreements were concluded between some countries, e.g. Kyrgyzstan and Uzbekistan or Tajikistan and Uzbekistan. Secondly, the implementation of the existing agreements is not only subject to the application of national administrative rules but also to discretionary decisions of local authorities.

<sup>104</sup> Agreement on Guarantees of Rights of Citizens of CIS Member States in the Field of Retirement Benefits (1992); Agreement on Cooperation in the Field of Workforce Migration and Social Protection of Migrant Workers (1994) and the Agreement on Investigative Procedure for Occupational Injury Sustained by Workers outside their Country of Residence (1994). It is worth noting that the last of these agreements never entered into force in Turkmenistan.



The latter problem was noted in the case of the agreement between Tajikistan and Russia of 2004.<sup>105</sup>

The actual impact of CIS regional and bilateral agreements was very limited, which was one of the reasons why Central Asian countries have expressed interest in the much more substantial lowering of barriers to labor migration, expected as part of the Eurasian Economic Union framework. Two basic agreements in the area of labor migration are envisioned as part of the creation of the Single Economic Space, one of which (Agreement on the Legal Status of Migrant Workers and Their Family Members) removes certain barriers to regular employment of non-nationals, while the other (Agreement on Cooperation among Member States on Counteracting Illegal Labor Migration from Third Countries) concerns control of irregular movement. The first agreement abolishes work permits and licenses and grants access to health care, education and social assistance.<sup>106</sup> So far, however, only Kazakhstan has joined that initiative and the impact of accession of Kyrgyzstan and at a later date also of Tajikistan, on the intra-regional labor mobility remains to be seen.

As part of the implementation of the long-term strategy of cooperation among CIS states in the area of labor migration, in July 2014 a draft agreement was elaborated on the introduction of an electronic labor migrant card.<sup>107</sup> The scheme envisions setting up of national labor migrant databases and issuing of electronic cards, containing migrants' personal data as well as confirming their residence and employment status, health insurance coverage and educational records. Labor migrant card could become an important instrument of migration control, providing border and migration services with current information on the right of entry and details of employment contract. In particular, the card would be tied to the databases on persons who are not authorized to enter and reside on the territory of a participating state.<sup>108</sup>

Currently, despite introducing certain facilitating measures (e.g. in Kazakhstan), the labor movement in the region is subject to national regulations through systems of quotas and work permits. Work quotas in Central Asian countries serve to limit the volume of foreign employment through fixing this level at a specific relatively low rate. In their current form, quotas cover only a small share of the actual immigrant workforce and as a consequence do not in fact reduce the scale of irregular employment. In the course of consultations with experts and government stakeholders, carried out during this research, discussions were held on the ways in which the quota systems could be made more effective in this regard. Some proposals include: the greater flexibility in dividing the overall quota among countries of origin so as to react to the changes in the national composition of immigrant workforce; inclusion of the professions and sectors, in which the demand for migrant workers is highest; and gradual increase of the total quota, based on monitoring of the impact of this move on the domestic labor market.

**Table 6. Labor quotas in Central Asian countries (2009-2014)**

	2009	2010	2011	2012	2013	2014	2009-14
<b>Kazakhstan</b>	59 630	45 737	48 092	48 903	37 480	63 290	303 132
<b>Kyrgyzstan</b>	11 395	10 286	10 650	12 864	12 990	12 990	64 175
<b>Tajikistan</b>	6 000	7 000	5 050	4 800	4 350	4 800	32 000
<b>TOTAL</b>	77 025	63 023	63 792	66 567	54 820	81 080	399 307

*Source: Ministries of Labor*

<sup>105</sup> Agreement between the Government of the Russian Federation and Government of the Republic of Tajikistan on Labor Activities and Protection of Rights of the Russian Federation Citizens in the Republic of Tajikistan and Republic of Tajikistan Citizens in the Russian Federation. The Agreement failed to identify clearly the reasons for which a foreign national's work permit could be extended, leaving the decision in the hands of the migration service. Its provisions were also not harmonized with the Russian civil code and other national laws, as a result of which some of the requirements placed on Tajik employees in Russia were higher than those for workers from other countries (as in case of medical certificates) or could not be met at all (as with certificates of the period of employment and salary, which are not required from physical persons who are employers).. See: S. Ryazantsev, O. Korneev, "Russia and Kazakhstan in Eurasian Migration System: Development Trends, Socio-Economic Consequences of Migration and Approaches to Regulation" in: A. Di Bartolomeo, S. Makaryan, A. Weinar, *op. cit.*, p. 48.

<sup>106</sup> E. Vinokurov, V. Pereboyev, *op.cit.*, p. 78.

<sup>107</sup> Protocol of the session of an expert working group on elaboration and adoption of a draft Agreement on cooperation for the introduction of an electronic labor migrant card on the territory of CIS participating states, Minsk, 10-11 July 2014 [in Russian]

<sup>108</sup> Art. 5 of the draft Agreement.

From 2009 to 2014, the national quotas in Kazakhstan, Kyrgyzstan and Tajikistan put the limit at foreign employment at the total of nearly 400,000 jobs (or between 50,000-80,000 a year) (Table 6).<sup>109</sup> Each year Kazakhstan accounted for around three-fourths of the entire pool of jobs within the quotas (except 2013 when its share dropped below 70%). The total number of posts within national quotas to be filled by foreign workers in the three Central Asian countries dropped in 2010 by 18% and remained relatively constant in 2010-2012 at 63,000-66,000. In 2013-2014 the quotas for Kyrgyzstan and Tajikistan remained basically on the same level while the Kazakh quota was reduced by 23% in 2013 and then was expanded by nearly 69% in 2014.

## Volume and composition

### Kazakhstan

The most comprehensive picture of regular foreign employment is available for Kazakhstan. As noted above, Kazakhstan regulates access of non-nationals to its labor market through the use of work quotas. In 2013, the quota was set at 1.2% of the economically active population. According to the data of the Ministry of Labor and Social Protection of Population, 55% of the foreigners applying for work permits within the quota worked in three regions of the country: the center of oil- and gas-extracting and processing industries—the Atyrau region (9,378 persons) and the commercial centers of Almaty (9,315 persons) and Astana (6,275 persons).<sup>110</sup>

Recognizing the continued demand for workforce of high-skilled, low-skilled and seasonal categories, Kazakhstan gradually widened opportunities for legal employment of foreigners. In addition to the long-standing scheme of permits for employers of selected categories of migrant workers (managers, high-skilled specialists and seasonal workers), operating since 2001, under a 2012 scheme, workers in 30 professions in high demand in Kazakhstan could apply for work permits independently. However, annual quotas were not utilized fully and remedial measures were taken in response. In January 2014, a procedure legalizing employment of a major category of migrants—persons offering services to households—was launched. Moreover, in an effort to combat corruption and to reduce the burden on the applicant, a standard fee was introduced for the permit, and the applicants could pay only for the duration of actual planned employment. This liberalization of Kazakhstan's labor market to match the demand for certain categories of workers, so far remaining largely irregular, has led to a substantial increase in the overall quota in Kazakhstan (up from 37,480 to 63,290 positions).

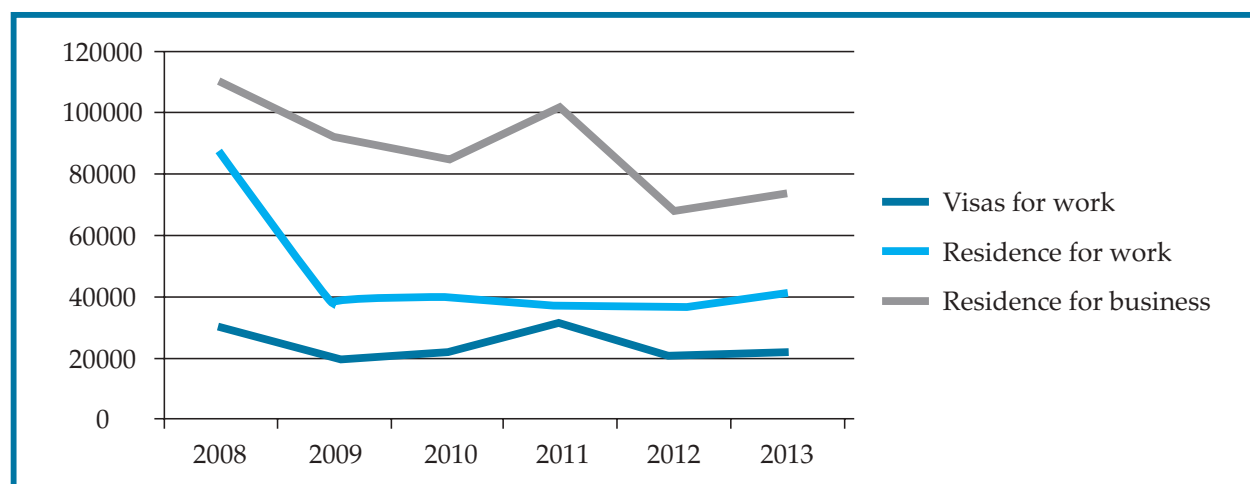
The overall volume of regular economic migrants into the country can be ascertained by adding up two sets of data: work visas, issued by Kazakhstani consulates and residence registrations, performed by regional migration offices for purposes of employment and official business. The latter statistics are particularly useful as unlike visas, registration statistics include those among CIS nationals, who enjoy a visa-free entry and yet are most represented on the labor market (Russians and Uzbeks).

As foreigners use various paths to regular economic activity in Kazakhstan, changes in the composition of labor inflows can be assessed only approximately. Work visas are obtained at Kazakhstani consulates only by some of the regular economic migrants into the country. In 2009-2010 and 2012-2013, the number of work visas ranged from 20,000 to 23,000 and slightly exceeded 30,000 in the peak years (2008 and 2011) (see Fig. 11). In comparison, the number of migrants registering their residence with purpose of employment varied from around 38,000 to 41,000 persons in 2009-2013. Twice as many migrants registered their residence for purpose of “official business”. It may be assumed that at least a part of this group undertook economic activity, including labor.

<sup>109</sup> The figures for Kazakhstan are actual numbers as allocated among the country's regions. These are significantly lower than original forecasts, presented by the Ministry of Labor—73,000 for 2011, 90,000 for 2012 and 108,000 for 2013.

<sup>110</sup> *Country Fact Sheet April 2014*, IOM, Astana 2014, p. 54.

**Fig. 11. Visas for work and residence registration for work and official business purposes, Kazakhstan (2008-2013)**



*Source: Author's calculations, based on data from the Ministry of Foreign Affairs (visas) and Ministry of Internal Affairs of the Republic of Kazakhstan (residence registration)*

Relatively little insight can be gained from analyzing the geographical structure of visas issued with the purpose of work, which reveals a sharp variation in the numbers of visas, issued by various consulates over time. Only three locations: China, Turkey and Italy were consistently listed in the ranking of top 10 countries, in which such visas were issued between 2008 and 2013. The two leading countries of application, Turkey and China, exhibited very diverging dynamics: while following a surge of interest in 2008 (over 10,000 applications), consulates in Istanbul and Ankara issued the total of 6,657 work visas over the next three years and the demand in Turkey dwindled to 541 in 2012 and 753 in 2013. The interest in Kazakhstani work visas in China peaked in 2009 (3,187 visas) and stabilized between approximately 2,000 and 3,000 in the following years.

Other countries of application were featured intermittently, demonstrating temporary upturns and downturns of interest in Kazakhstani work visas. Thus, for instance, interest in work visas dwindled in 2011 in Azerbaijan and in 2013 in India, following a consistent demand in both these countries at over 1,000 visas a year in each country. Return of interest was in turn observed in the UK, where demand grew to 1261 visas in 2013 after a two-year slump. Finally, in some new locations interest in work visas to Kazakhstan peaked rapidly. As many as 2,762 Kazakhstani work visas were issued in Switzerland in 2011 and the total of 3,442 in 2012-2013 in Kyrgyzstan.

A much more reliable indicator is the statistics of residence registration, collected from regional migration offices (OVIR). For purposes of estimating the total number of persons who are regularly employed, the numbers of registrations for employment and official business are added up. Unlike the visa figures, which provide a very fragmentary picture, registration data may serve as a proxy for the stock of migrant workers, covering significantly also a portion of the labor influx from the CIS. It must be noted here, however, that registration data certainly underestimate the extent of economic immigration from CIS countries, which becomes apparent when these relatively low figures are compared to the total figures of legal residents from CIS countries, in particular from Russia and Uzbekistan.

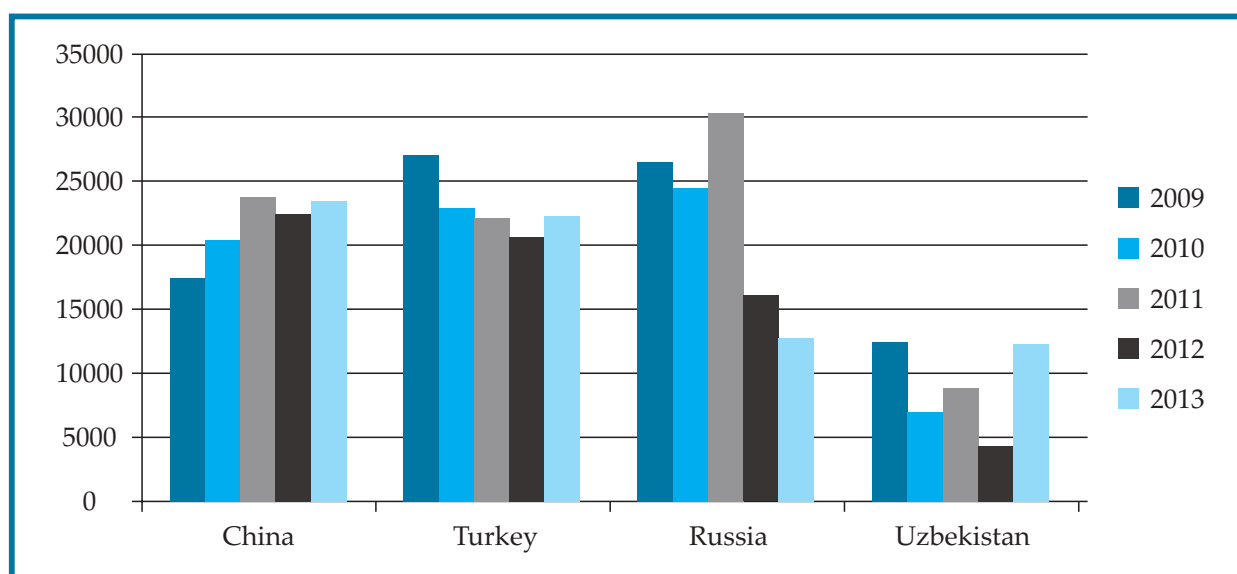
In total, the combined inflow of regular economic migrants (registering either for employment or official business purposes) declined recently. The first sharp decline was observed in 2009 when 131,366 persons were registered relative to 197,055 the year before. Further decline of the stock of economic migrants was registered in 2012, which marked the lowest figure (105,815) of registered persons, down by a quarter from the figure for 2011 (139,479). After a slight rebound, the total number of arrivals for employment or official business purposes exceeded 115,000 in 2013.

Labor migration dynamics into Kazakhstan shows also significant fluctuation with regard to the structure by country of origin. Recently a shift in the balance between migrant workers from CIS and non-CIS countries could be observed.

The figures for CIS inflows were nearly halved in 2012 while registered arrivals on economic grounds from outside the CIS have remained stable.

As a result, in 2013, non-CIS inflows accounted for two-thirds of all the registered economic immigration. As with the general inflows, the nationals of Russia continued to dominate in this category until 2011 only to see sharp decline in the following years (down from 30 to less than 13,000 between 2011 and 2013). In 2012 citizens of Russia fell to the third position among registered economic migrants, conceding the top positions to the citizens of China and Turkey, which, combined, accounted for the overwhelming majority of all non-CIS arrivals (see Fig. 12). It is worth noting that among the non-CIS labor and business immigrants both the nationals of highly developed and developing states are represented. This indicates a growing diversification of the place of migrants in the country's economy as they increasingly fill not only posts in low- and medium-skill occupations but also occupy a stable niche in highly skilled occupations (managerial and expert positions).

**Fig. 12. Top countries of origin of foreigners registered in Kazakhstan for work and official business purposes (2009-2013)**



Source: Ministry of Internal Affairs of the Republic of Kazakhstan

Uzbekistan is the only Central Asian country of origin significantly represented on the regular labor market in Kazakhstan, and following a sharp decline in work and business registrations in 2012, the number of Uzbek nationals nearly equaled that of the Russian nationals undertaking regular labor and business activity in 2013. In comparison, relatively few migrants from other Central Asian countries register for work or business in Kazakhstan. With the exception of 2011 when 9,497 Kyrgyz nationals were registered, citizens of Kyrgyzstan occupy the 7<sup>th</sup> position among all registered foreigners while Tajikistan holds the 15<sup>th</sup> rank with the total of only 4,478 work and business registrations from 2009 to 2013.

### Kyrgyzstan

Current official statistics on the regular employment of foreigners in Kyrgyzstan are not available. Recent reports provide only cursory references to individual indicators other than the annual quotas. The most pertinent example is the *Extended Migration Profile of the Kyrgyz Republic* of 2013, which gives statistics of interdepartmental permits, decided upon by the Government of the Kyrgyz Republic. As of 1 September 2012, the government reviewed 786 applications (relative to 919 application for the entire 2011). 751 applications were granted. Over 3,000 foreigners were subjected to medical examination in 2011 in compliance with the work permit requirement.<sup>111</sup>

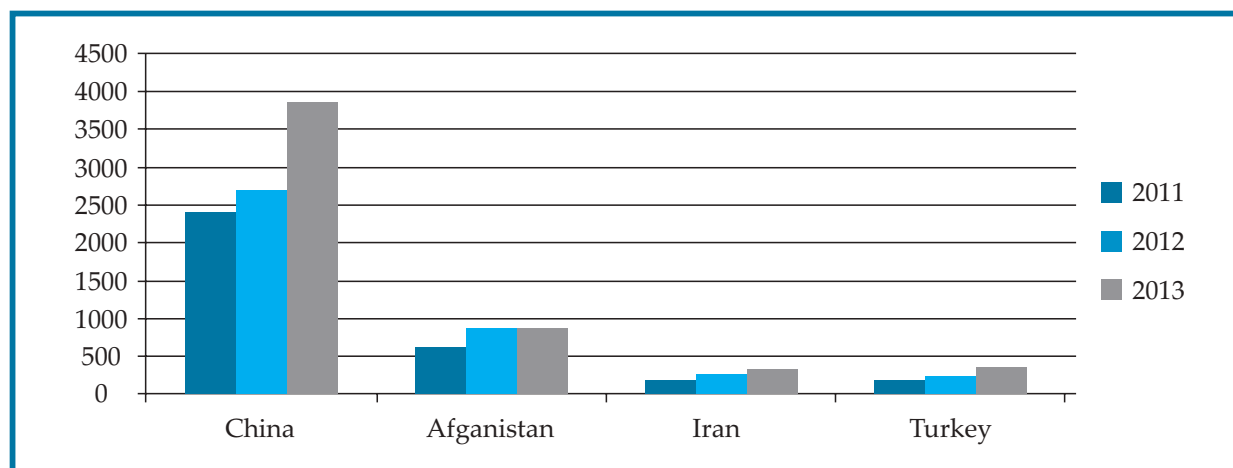
<sup>111</sup> *Extended Migration Profile of the Kyrgyz Republic*, IOM, Bishkek 2013, p. 15.



## Tajikistan

Every year the number of work permits issued in Tajikistan is rising. In 2013 more than 6,000 permits were issued, which represented a 50% increase compared to two years earlier. This pace is likely to be maintained in 2014 as by the end of April, 1,674 permits were granted.<sup>112</sup>

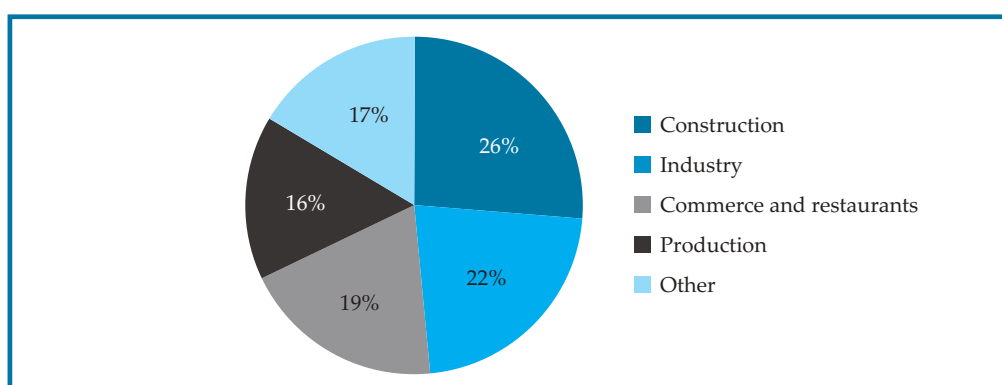
**Fig. 13. Top countries of origin of work permit recipients in Tajikistan (2011-2013)**



Source: Migration Service of the Ministry of Labor, Migration and Employment of the Republic of Tajikistan

Around two-thirds of the permits are granted to citizens of China—significantly in 2013 the number of issued permits exceeded the allocated quota by 50% (see Fig. 13).<sup>113</sup> The second largest group of recipients comes from Afghanistan: the national quota for this category was only filled by 40% in 2011, but was exceeded the following year, and the interest in regular employment continued to rise in 2013 and 2014. Between January 2013 and April 2014, 1,055 permits were issued to nationals of Afghanistan out of the total quota of 1,200 for the two-year period. Thus, there are solid grounds for believing that with the continued increase in issued permits by the end of 2014 the quota for Afghanistan will be significantly exceeded.

**Fig. 14. Work permits issued in Tajikistan by sector (January 2013-April 2014)**



Source: Migration Service of the Republic of Tajikistan

Analysis of the permits issued in the period between January 2013 and April 2014 suggests that foreigners are concentrated in four sectors (see Fig. 14): 38% of all the permits were granted for employment in industry and production. The largest share of permits (26%) was awarded to construction workers while 19% went into commerce and restaurants. It is notable that out of the total of 8,089 permits issued in that period, only 178 (2%) were awarded in agriculture, which is known to employ a large share of total employment in the national economy. This discrepancy may suggest that foreign employment in this sector remains largely informal.

<sup>112</sup> Data provided by the Migration Service of the Ministry of Labor, Migration and Employment.

<sup>113</sup> See Table 21 in the chapter on Tajikistan.

## Irregular immigration and transit migration

The most glaring gap in recent research on migration in Central Asia is that of the volume, characteristics and forecasts of irregular migration *into* and *through* the region. An exception is the more narrow area of illegal phenomena such as trafficking in persons and smuggling, which have in particular been subject to studies, commissioned by IOM.

The following sections cover the closely related issues of:

- the definition of irregular migration and its scope relative to illegal movement,
- analysis of irregular movements by reference to official statistics on violations of border and residence regimes,
- quantitative and qualitative assessments of trafficking in persons and smuggling on the basis of recent studies,
- IOM assistance statistics and national detection and prosecution statistics, and
- the overview of readmission agreements in Central Asia and recent issues related to the return of irregular migrants from Russia.

### Terminology

As acknowledged in the IOM glossary of terms, “there is no clear or universally accepted definition of irregular migration”. Regular migration is defined as occurring “through recognized, legal channels” and is contrasted with both irregular and clandestine movement. The crucial criterion is the legal status of a migrant in a transit or host country. Thus, the term *irregular migration* “applies to migrants who infringe a country’s admission rules” or who are otherwise “not authorized to remain in the host country.”<sup>114</sup> However, it is also recognized that the application of the term is clearly broader than “illegal migration”, which, as noted in the glossary, tends to be restricted to “cases of smuggling of migrants and trafficking in persons”. It is also wider than the term *clandestine migration*, which is restricted to cases of “secret or concealed migration in breach of immigration requirements”. At the same time, it should be noted that irregularity may arise at various stages of migration: from failure to comply with the administrative requirements for departure from the home country through absence of documents or financial resources required for crossing the border to taking up residence or employment without proper authorization.

Volume and composition of irregular migration is hard to estimate and improving the collection of data from all relevant government agencies is an immediate priority. Unlike in Europe or North America, undocumented migration or illegal crossing of frontiers is relatively rare, with the bulk of irregular movement consisting of overstaying or unauthorized employment. Problems related to unregistered employment include inadequate protection of migrant workers’ rights due to absence of written work contracts (withholding or delays in payment of wages, unlimited working hours, insecure work conditions).

Legislations of the investigated countries apply in majority of cases administrative sanctions. It is worth noting that various forms of irregular migration have been grouped into a separate chapter of the Code of Administrative Offences of Kazakhstan.<sup>115</sup> Articles 389-392, 394-396 and 398 provide for administrative expulsion from Kazakhstan for a number of violations. Other sanctions may be imposed, ranging in severity from a warning through a fine to detention up to 45 days. Persons expelled from Kazakhstan and Tajikistan are subject to a five-year-long ban on re-entry.

<sup>114</sup> IOM, *Glossary on Migration*, Geneva 2011, p. 34, available at: [http://publications.iom.int/bookstore/free/IML\\_1\\_EN.pdf](http://publications.iom.int/bookstore/free/IML_1_EN.pdf)

<sup>115</sup> These include violations of the regime for crossing the border and entering the border zone as well as breaching the residence regime and unauthorized employment of foreigners.

Administrative sanctions also apply in cases of violations of the regime for foreign employment in Kyrgyzstan. Under Article 75 of the Code of Administrative Liability<sup>116</sup> fines may be imposed on both the foreign employee (in the amount of 10 to 20 average monthly wages) and, in a much more severe manner, on the employer (up to 50 monthly wages in case of a physical person, and up to 300 wages with regard to a company). Significantly, Article 76 of the Code imposes fines (up to 50 wages) on responsible officials violating the regime of issuing work permits.

Criminal liability is restricted in Kazakhstan and Kyrgyzstan to a catalogue of more severe violations of the migration regime, in particular organizing illegal entry and transit. This in particular includes trafficking in persons, which involves “abduction of people for the purpose of exploitation” (Art. 125 of the Criminal Code of Kazakhstan). This crime is punishable for up to fifteen years of imprisonment in Kazakhstan and for up to eight years in Kyrgyzstan. Another category is arranging illegal entry and transit migration, which is subject to prosecution in Tajikistan under Article 335 of the Criminal Code.

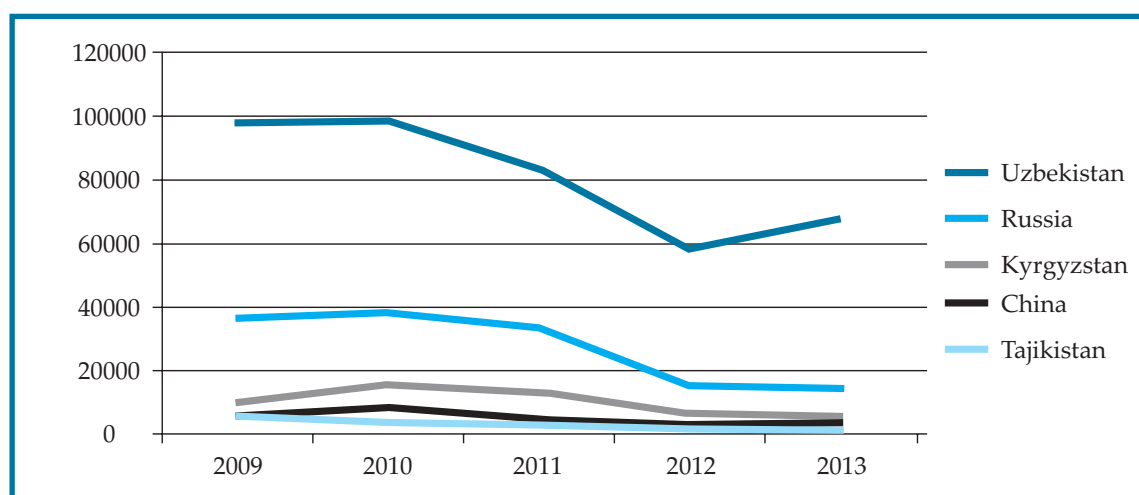
## Volume and composition

### Kazakhstan

Kazakhstan as a country of transit and destination has in particular faced the need to tackle the problem of irregular stay and employment of foreigners. The rate of detections corresponds to the change in overall immigration. Thus, a gradual decline in the number of detected violations of migration regulations could be observed from 2009 to 2011 (down from over 169,000 to 146,000 cases). After a precipitous 40% decline in 2012, the number of breaches of the residence regime rose slightly in 2013, exceeding 100,000 cases. The breakdown by citizenship parallels roughly the shares of nationals of various countries in the legal stock of migrants. Accordingly, over 90% of the detected violators are from CIS countries with the citizens of Uzbekistan and Russia leading the statistics (69% and 14% respectively).

Irregular migrants from Central Asia most commonly violated Kazakhstan’s migration rules by taking up jobs in construction or child care without declaring employment as the purpose of their stay. Recently, the share of the nationals of Kyrgyzstan continues to decline: if in 2011 nearly 13,000 citizens of Kyrgyzstan and 2,644 nationals of Tajikistan were detected violating migration regulations in Kazakhstan, the numbers dropped in 2013 to a mere 5,128 Kyrgyz and 1,490 Tajik citizens (see Fig. 15). In contrast, the nationals of Uzbekistan are the only major group, which recorded significant growth recently in this category between 2012 and 2013 (from 58,451 to 68,632).

**Fig. 15. Administrative violations committed by foreigners in Kazakhstan, top countries of origin (2008-2013)**



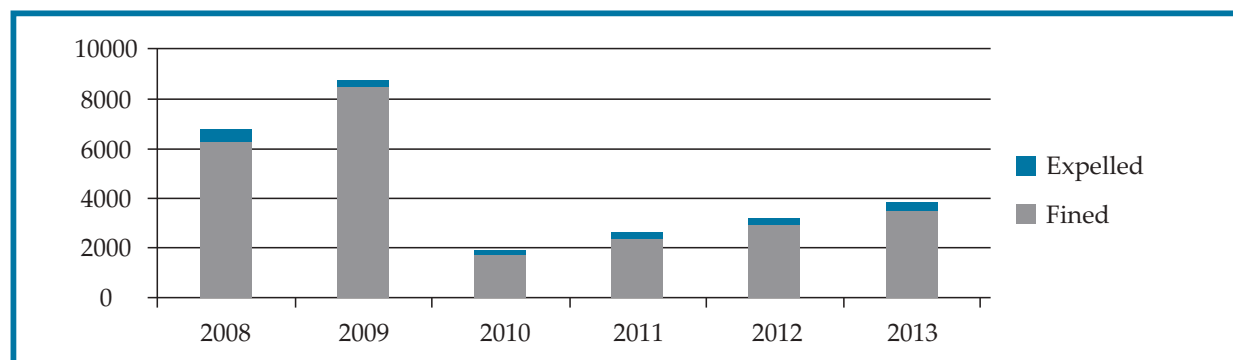
Source: Ministry of Internal Affairs of the Republic of Kazakhstan

<sup>116</sup> Code of the Administrative Liability of the Kyrgyz Republic (Law No. 115) of 4 August 1998 (with further amendments as of 18 July 2014).

## Kyrgyzstan

According to the statistics of the Ministry of Internal Affairs, the number of detected cases of foreigners violating employment regulations reached its maximum in 2009 when 8,450 non-nationals were issued a fine (up from 6,264 cases in 2008) (see Fig. 16). The number of persons who were expelled dropped slightly from 452 in 2008 to 330 in 2009. Sharp decline in the scale of detections and expulsions was recorded in 2010 when only 1,704 persons were fined and 240 were expelled. Since then a steady increase in the number of detections was observed with the number of fines issued doubling between 2010 (1,704 cases) and 2013 (3,535 cases). Meanwhile, expulsions proceeded at a roughly equal rate of around 250 persons a year only to rise to 318 in 2013.

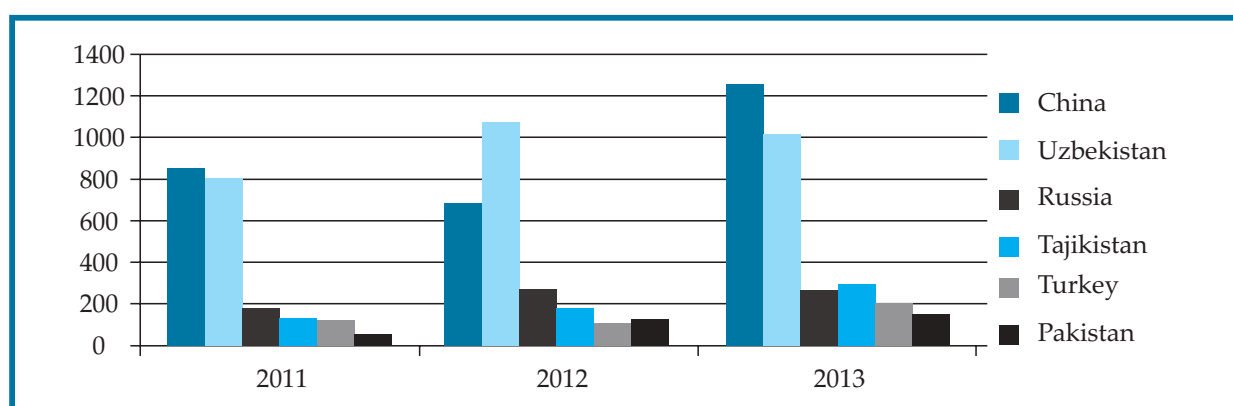
**Fig. 16. Irregular migrant workers detected in Kyrgyzstan (2008-2013)**



Source: Ministry of Internal Affairs of the Kyrgyz Republic

Nationals of two countries, China and Uzbekistan, account for a definite majority of all detections (37% and 30% in 2013) (see Fig. 17).<sup>117</sup> At the same time, in 2012 and 2013 a growing share of cases involved the citizens of Russia and Tajikistan and in 2013 a rise in detected citizens of Kazakhstan was noted. While the figures for other countries are still relatively small, since 2012 India and Pakistan have also featured in the statistics (167 and 274 cases respectively in 2012-2013 overall).

**Fig. 17. Top countries of origin of detected irregular migrant workers in Kyrgyzstan (2011-2013)**



Source: Ministry of Internal Affairs of the Kyrgyz Republic

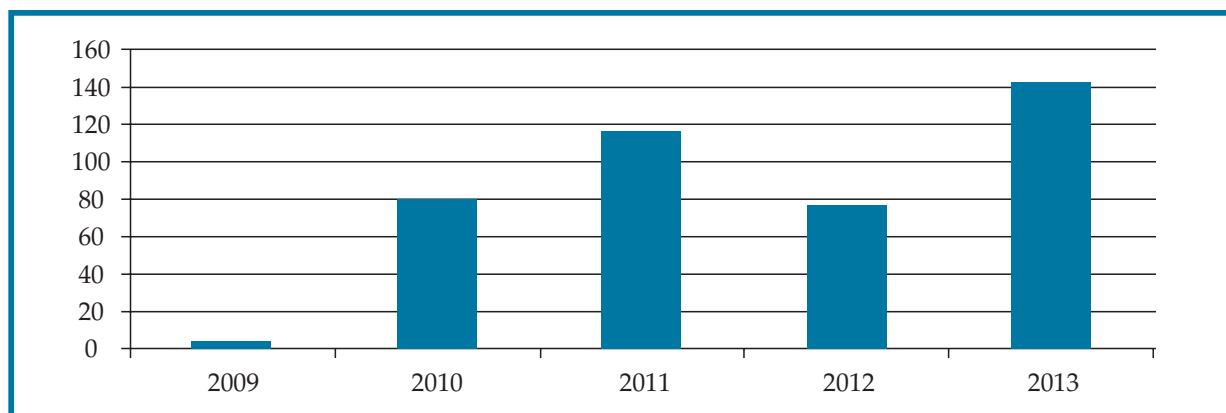
## Tajikistan

Between 2009 and 2013 law enforcement agencies of Tajikistan prosecuted 421 cases under Article 335 of the Criminal Code, penalizing illegal crossing of the state borders (see Fig. 18). In 2013, 143 cases were investigated, which marked a nearly 80% increase compared to the figure for 2010.

<sup>117</sup> See Table 2 in the chapter on Kyrgyzstan.



Fig. 18. Prosecuted cases of illegal crossing of Tajikistan borders\*



\*Art. 335 of the Criminal Code of the Republic of Tajikistan

Source: Migration Service of the Republic of Tajikistan

Recent statistics on the applied sanctions have not been made available. The number of expulsions carried out in 2007-2009 remained on a relatively low level: 74 persons were expelled for violation of the administrative migration regime in 2007 and following a revision of the Administrative Code the number rose to 139 in 2008 and slightly decreased to 113 in 2009.

## Trafficking in persons and smuggling

### Volume and patterns

One area, long a concern both to the governments and international organizations, is the issue of trafficking in persons and smuggling of migrants. In a 2006 IOM study, a combination of interviews with migrants and official statistics helped identify the main routes and patterns of smuggling of migrants through Central Asia.<sup>118</sup> The study stated, “The majority of the smuggled migrants transiting through Central Asia come from South Asia especially from Bangladesh, India, Pakistan and Sri Lanka, as well as from Afghanistan and China”.<sup>119</sup> A frequent pattern involved the use of visas for educational, business or tourist purposes, obtained fraudulently, legal entry into Kyrgyzstan or Tajikistan and unauthorized crossing of the border into Kazakhstan and then Russia. The study found that while transit remained the dominant mode of smuggling migrants, the continued rise in living standards in Central Asia (especially Kazakhstan) made them desirable destinations as well.<sup>120</sup>

A large survey of families in the five Central Asian countries (the total of over 11,000 questionnaires) was carried out by IOM in 2009 to estimate the scale of trafficking in persons in the region. The first study to cover all the states (including Turkmenistan for the first time), it provided some region-wide estimates of the overall volume of trafficking in persons for labor and sexual purposes. The total estimate of victims of trafficking in persons involving citizens of Central Asian countries either within state borders or abroad came to 1,132,486 persons on average (with the upper limit of 1,591,338 persons). According to the study, most trafficking takes place within state borders: 62% of the cases involving Central Asian nationals are internal. On average between 300,000 and 500,000 nationals of Central Asian states are trafficked within their countries with Uzbekistan leading the statistics with estimated over 200,000 victims, followed by Kazakhstan (140,000) and Turkmenistan (40,000). The scale of internal trafficking was the lowest in Tajikistan (less than 20,000) and Kyrgyzstan (nearly 15,000).<sup>121</sup> The report found evidence of a rise in the scale of trafficking in all the countries of the region, and highlighted the prevalence of labor exploitation (accounting for more than 90% of the total volume).<sup>122</sup>

<sup>118</sup> *Baseline Research on Smuggling of Migrants in, from and through Central Asia*, IOM, Vienna 2006.

<sup>119</sup> *Ibid.*, pp. 18-19.

<sup>120</sup> *Ibid.*, p. 56.

<sup>121</sup> T. Kydyrov, J. Abakirova, *The Scale of Human Trafficking in Central Asia*, IOM, Bishkek 2010, p. 54.

<sup>122</sup> *Ibid.*, p. 51.

One of the report's conclusions highlighted the link between labor exploitation and irregular migration, "calling for the counter-trafficking system in the region to focus on the prevention of labor exploitation and forced labor, and establishment of legal migration programs."<sup>123</sup>

A 2014 IOM assessment notes that although much progress has been made in the field of counter-trafficking in the region, several barriers to effective assistance to victims of trafficking still prevail. Some factors stimulate irregular migration potentially putting migrants at risk of exploitation: high poverty and unemployment rates at home, absence of mechanisms for regulating foreign employment of own nationals, lack of opportunities and low awareness among potential migrants as to actual conditions and risks associated with employment abroad. Others, such as high corruption rate, limit the ability to effectively detect and prosecute cases of trafficking.<sup>124</sup>

According to the Special report on the situation with migrants' rights in Kazakhstan, published in 2013, the risk of falling victim to trafficking is higher among the vulnerable categories of migrants: homeless persons, physically and intellectually disabled people and persons addicted to alcohol or drugs. The report also notes the high probability of becoming victims of trafficking among certain kinds of children: those who live in dysfunctional families, street children or minors addicted to substances. The Human Rights Commission under the President of Kazakhstan recommended in its 2013 report that efforts should be stepped up to identify children victims of trafficking, in particular through interviews at Children's Adaptation Centers.<sup>125</sup> In addition, in 2014 IOM, together with the National Commission on Human Rights (CHR) under the President of Kazakhstan, assessed the current anti-trafficking response of the country in accordance with international human rights standards with a special focus on women and children's rights. A Special Report on Combating Trafficking in Persons in Kazakhstan will provide recommendations for future anti-trafficking activities to the Government (NAP for 2015-2017).

## IOM assistance statistics

The most comprehensive dataset on trafficking in persons into, through and out of Central Asia is the information, collected by IOM missions in the Central Asian region, which provide assistance to victims of trafficking, relying on its regional offices and a network of NGO partners. Since the launch of counter-trafficking services, IOM missions have identified and assisted the total of 3,369 victims of trafficking in the three countries under study. Half of the cases were located in Kyrgyzstan (1755 cases, 2002-2014), followed by Kazakhstan (1078 cases, 2004-2014) and Tajikistan (536 cases, 2005- 2013). The following table presents the key destinations of the trafficked persons in the three countries in the period of 2002-2013, for which comparable data are available.

**Table 7. Victims of trafficking assisted by IOM Kazakhstan, Kyrgyzstan and Tajikistan by country of destination (2002-2013)**

Country of Assistance	Destination Country	2002-04*	2005-07	2008-10	2011-13	TOTAL
<b>Kazakhstan</b>		<b>66</b>	<b>249</b>	<b>295</b>	<b>294</b>	<b>1004</b>
*For Kazakhstan, for 2004 only.	Kazakhstan	40	210	273	370	893
	UAE	8	19	12	5	44
	Russia	2	3	4	14	23
	Turkey	11	7	1	2	21
	Other	5	10	5	3	23
<b>Kyrgyzstan</b>		<b>260</b>	<b>375</b>	<b>495</b>	<b>533</b>	<b>1663</b>
	Kazakhstan	203	165	208	220	796
	Russia	9	47	194	197	447
	Kyrgyzstan	5	23	57	86	171
	Turkey	5	86	18	20	129
	UAE	25	27	14	10	76
	Other	13	27	4	0	44

<sup>123</sup> Ibid., p. 58.

<sup>124</sup> Human trafficking in Central Asia: Facts and Figures, IOM, Astana 2014.

<sup>125</sup> K. Sultanov, T. Abishev, Human Rights Commission under the President of the Republic of Kazakhstan Special report „On situation with migrants' rights in the Republic of Kazakhstan”, IOM/OSCE, Astana, 2014, p. 47.

Country of Assistance	Destination Country	2002-04*	2005-07	2008-10	2011-13	TOTAL
<b>Tajikistan</b>			<b>142</b>	<b>173</b>	<b>221</b>	<b>536</b>
	Russia		2	54	150	<b>206</b>
	UAE		102	32	18	<b>152</b>
	Tajikistan		34	80	25	<b>139</b>
	Kazakhstan		0	2	12	<b>14</b>
	Kyrgyzstan		0	0	7	<b>7</b>
	Afghanistan		0	0	6	<b>6</b>
	Turkey		0	0	3	<b>3</b>
	Other		4	5	0	<b>9</b>

Source: Author's calculations, based on IOM country mission statistics.

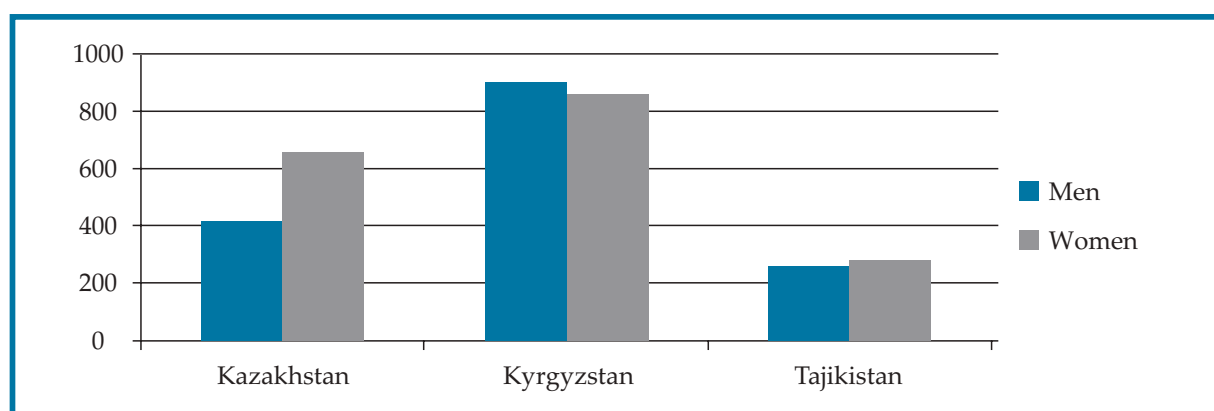
As with general migration flows, the general direction of the routes of trafficking leads from south to north as the clear majority of persons assisted by IOM in all three countries is bound either for Kazakhstan (1703 cases or 49% of all the victims until end of 2013) or Russia (676 cases or nearly 20%). A clear contrast may be observed between the case of Kazakhstan, which serves primarily as a destination (90% of all the detected cases are reported to be bound for this country) and the two other countries, which serve mainly as countries of transit (Kyrgyzstan) and origin (Tajikistan).

While the figures for non-CIS destinations are still very low, the available data suggest some geographic reorientation of the trafficking flows over time. Until 2007 two non-CIS countries were frequently reported by victims of trafficking, turning to IOM in all three countries. United Arab Emirates used to be the key destination for persons trafficked from Tajikistan while Turkey was a significant target for trafficking in persons through and from Kyrgyzstan. The volume of the flow of trafficked persons bound for these destinations has decreased dramatically in recent years. This is most evident in case of Tajikistan, in which over time Russia became the most frequently named country of destination, replacing the United Arab Emirates, which were most often cited until 2008.

According to IOM data, much of trafficking activity takes place within national borders, especially in Kazakhstan, serving as a destination (over 60% cases are internal). Clearly, the other two countries (Kyrgyzstan and Tajikistan), both on account of their geographical position and smaller size, experience mainly international trafficking activity—according to IOM statistics, between 2005 and 2013 only 22% of victims in Tajikistan were trafficked within the country.

Routes of trafficking cannot be accurately drawn due to incomplete data. Information on the countries of origin is only available for the persons trafficked into and through Kazakhstan. Out of the total of 1078 victims who were assisted by IOM Kazakhstan, nearly half (48%) were citizens of Kazakhstan. Among non-nationals dominated the nationals of southern neighbours: Uzbekistan (456 cases) and to a lesser extent Kyrgyzstan (48 cases). Until 2009 only CIS nationals turned in for assistance; since then, a small number of citizens of more distant countries of origin began to be noted, including 4 nationals of the Philippines, 2 Mongolians and one Nigerian.

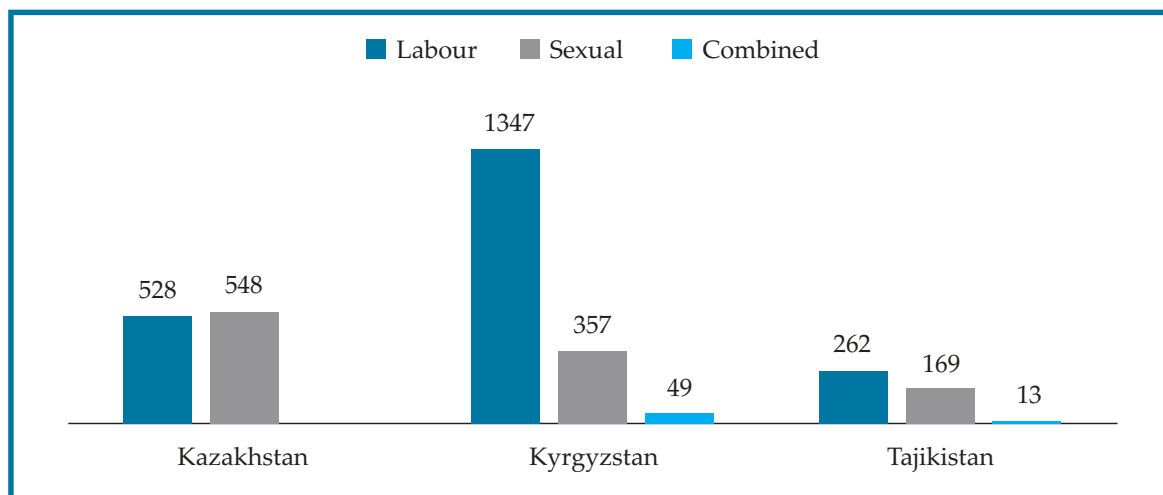
**Fig. 19. Victims of trafficking by gender, assisted by IOM, number of persons**



Source: IOM country missions

Profiles of victims of trafficking differ between Kazakhstan, the country of destination, and the two other countries, serving mainly as places of origin and transit. The number of female victims of trafficking in Kazakhstan exceeds the number of men by over a half while a rough gender balance may be observed in Kyrgyzstan and Tajikistan (see Fig. 19). Kazakhstan is also the only country, in which exploitation for sexual services tops the statistics (see Fig. 20). This is in stark contrast to Kyrgyzstan where four cases of labor exploitation (forced or inhumane labor) are found for every case of trafficking for sexual purposes.

**Fig. 20. Type of exploitation by country, number of persons**



Source: IOM country missions

Difference between Kazakhstan on the one hand and the two other countries on the other is also apparent in the age structure of trafficked persons. Trafficking in Kazakhstan involves younger people than in the rest of the region, which corresponds to the divergence in the type of exploitation. Persons over 30 account for 38% of the beneficiaries of assistance in both Kyrgyzstan and Tajikistan while their share is smaller (28%) in Kazakhstan where the largest group (39%) is composed of persons between 18 and 25 years of age.

## Investigation and prosecution

Data on detection and prosecution of cases of trafficking and smuggling of persons are of limited use in estimating the scale and dynamics of these phenomena. This is due to the differences in the legal definitions and sanctions as well as to the variation in the collection and availability of the statistical data on the subject.

When “trafficking in persons” is narrowed down only to cases, defined as such by a specific article of the Criminal Code (Art. 128 in Kazakhstan, Art. 124 in Kyrgyzstan and Art. 130.1 in Tajikistan), very low figures are obtained.

According to the Ministry of Internal Affairs of Kazakhstan, from 2009 to 2013, only 46 victims of trafficking were identified (on average just nine cases a year). Corresponding data on the number of convictions is not available. As noted in the country chapter, the 2013 report of the Supreme Court on the observance of migrants’ rights found in 2011 no convictions in the area of international trafficking in persons and only 8 cases of internal trafficking, involving 15 victims, resulted in a court sentence to 17 perpetrators.

Equally low are the numbers of cases investigated with regard to trafficking in persons in Kyrgyzstan. Between 2008 and 2012, 47 cases were taken up by law enforcement agencies and 71 cases were brought to the attention of the Supreme Court. Only 26 cases resulted in conviction in that period. In turn, only 22 cases were prosecuted under Article 130.1, “Trafficking in human beings”, in Tajikistan between 2009 and 2013.



Slightly higher figures appear when the notion is expanded to include slavery. A total of 92 instances were investigated by the police in Kyrgyzstan between 2008 and 2012 (19 cases annually on average) and the Supreme Court received 144 notices of slavery or practices similar to slavery in that period (29 cases on average every year). In Tajikistan, 42 cases of “illegal deprivation of liberty” were investigated between 2009 and 2013 under Article 131 of the Criminal Code. Moreover, from 2010 the Tajik law enforcement agencies prosecuted 52 cases of “recruitment of people for exploitation” (Article 132 of the Criminal Code) with a sharp rise in the number of cases in 2013 when as many as 29 cases were prosecuted.

## Return and readmission

### Ethnic return and migration

The break-up of the Soviet Union and establishment of independent states resulted in the early 1990s in substantial movement of representatives of ethnic minorities, seeking to return to their homelands. This phenomenon was observed in all the countries of Central Asia, predominantly with regard to the emigration of ethnic Russians but also with several other ethnic groups, such as the Germans, Jews, Poles or Koreans. The process was particularly pronounced in Kazakhstan and Kyrgyzstan. For instance, comparing the results of the 1989 Soviet census and the 1999 census in Kazakhstan, it becomes clear that the republic’s population decreased by 1,511,000 persons in a decade. At the same time, the share of ethnic Kazakhs increased in the population by 22%, which is attributed to both a high birth rate and acceleration of return migration of members of the Kazakh diaspora (*Oralmans*).<sup>126</sup>

It is generally acknowledged that the return of ethnic Kazakhs has been important for the country since its independence as an element of preservation of the national identity and culture as well as of addressing demographic issues.<sup>127</sup> The right to return to the “historic homeland” was asserted in the country’s first Law on Immigration of 1992, and since 1993 an annual quota for immigration of this group was set. Between 1993 and 2003, the total quota amounted to 40,455 households.<sup>128</sup> Since 2004 annual quotas were raised and ranged from 10,000 to 20,000 families. While until 1998 actual returns of ethnic Kazakhs did not reach or only slightly exceeded the quota, the rate of return immigration accelerated from 2000 onwards, far exceeding the quota. Between 1991 and 2014, the total of 952,000 *oralmans* returned (both within and outside the quota), representing 5.5% of the population of the country. The majority of returnees came from Uzbekistan (61.5%), China (11.6%) and Mongolia (7.3%) and half of them settled in three regions of the country: South Kazakhstan province (21%), Almaty province (16.3%) and Mangystau province (13%).<sup>129</sup>

All *oralmans* were covered with a range of state benefits under the 1997 Law on Migration of the Population. These included pension payments, social and disability allowances, employment assistance and vocational training, educational grants as well as language courses. In addition, the *oralmans* within the annual quota were entitled to custom duty exemption and free transportation when transferring their property from abroad as well as to lump-sum allowances. Initially the funds allocated to integrating the returnees were very small and rose significantly only in 2004. Nevertheless, a 2013 study notes that many among the *oralmans*, especially migrating from non-CIS countries, lack proficiency in Russian and “are unable to find jobs that match their skills and training”.<sup>130</sup>

<sup>126</sup> I. Kucsu, „Ethnic Return Migration and Public Debate: The Case of Kazakhstan”, *International Migration*, vol. 52 (2), 2014, p. 184.

<sup>127</sup> I. Kucsu, *op. cit.*, pp. 184-186; *Status of Oralmans in Kazakhstan: Overview*, IOM/UNDP, Almaty 2006, p. 9, available at: <http://www.kz.undp.org/content/dam/kazakhstan/docs/InclusiveDevelopment/Status%20of%20Oralmans%20in%20Kazakhstan.%20Overview.pdf>

<sup>128</sup> *Status of Oralmans...*, *op. cit.*, p. 9.

<sup>129</sup> Data presented by the Ministry of Labor and Social Protection.

<sup>130</sup> *Ibid.*, p. 187.

Recognizing the issue, the government adopted in 2008 the *Nurly Kosh* (Bright Move) program to tackle the difficulties faced by returning Kazakhs in finding accommodation and employment.<sup>131</sup> Legal amendments introduced in December 2013 announced that certain restrictions to the status of *oralmans* and accompanying rights would be made through amending migration legislation as well as other relevant legal codes. The key changes that are envisioned are as follows: acknowledging uneven distribution of repatriates in the country, the law requires that they settle in specific regions; repatriation quotas and associated lump-sum payments are abolished; returnees may acquire Kazakh citizenship as long as they legally reside in the country for at least four years.<sup>132</sup> Corresponding changes to the migration legislation, implementing these restrictions, were submitted to the parliament in 2014. On 30 June 2014 the law on amnesty for several categories for migrants, including *oralmans*, came into force, stating that between September 2014 and December 2015, eligible persons could legalize in the Republic of Kazakhstan their financial resources, real estate and other property (including located abroad).<sup>133</sup>

To address integration problems of ethnic Kazakhs repatriated from several neighboring states as well as from Afghanistan, Iran and Pakistan, a project has recently been implemented by three United Nations agencies in the East Kazakhstan province.<sup>134</sup> There were around 25,000 *oralmans* residing in the province in 2012. By 2013 over 12,000 returnees received assistance at a dedicated social integration center, which was opened in the city of Semey in 2009. The activities undertaken as part of the project addressed some of the major integration problems: over 90% of the 2,000 participants in language courses acquired skills necessary to fill official documents and submit them to state institutions while individual consultations enabled beneficiaries to enter administrative procedures and solve non-standard problems in contacts with the authorities. As a result of consultations, carried out by volunteers in the various locations around the province, beneficiaries were able to submit documents necessary for acquiring the returnee status and legalizing their residence and employment status as well as apply for small grants for starting their businesses.<sup>135</sup>

Return of ethnic Kyrgyzs to Kyrgyzstan has been on a relatively small scale. According to a recent estimate by the country's labor minister, around 50,000 ethnic Kyrgyzs have returned to the country, out of which 40,000 were naturalized. Approximately 7,000 of them acquired the special status of a *kairylman*, entitling to state assistance in various form (including allocation of housing and farmland).<sup>136</sup> In the first half of 2014, the total of 1,214 *kairylman* cards were issued and another 474 applications for the status were received. The state program of assistance to this group has been developed for years 2014-2018. Currently, particular attention is being paid to the *kairylmans* residing in the Pamir region of Afghanistan, who are the focus of a bilateral agreement, government resolution and an inter-ministerial council, all designed to assist them.<sup>137</sup>

<sup>131</sup> See the discussion on current policy on the *oralmans* in: N. Oka, „A Note on Ethnic Return Migration Policy in Kazakhstan”, Discussion Paper No. 394, Institute of Developing Economies, Chiba (Japan), March 2013, p. 6, available at: [http://ir.ide.go.jp/dspace/bitstream/2344/1218/1/ARRIDE\\_Discussion\\_No.394\\_oka.pdf](http://ir.ide.go.jp/dspace/bitstream/2344/1218/1/ARRIDE_Discussion_No.394_oka.pdf)

<sup>132</sup> Act No. 153-V of 10 December 2013 (Закон Республики Казахстан от 10 декабря 2013 года № 153-V «О внесении изменений и дополнений в некоторые законодательные акты Республики Казахстан по вопросам трудовой миграции»), available at: [http://online.zakon.kz/document/?doc\\_id=31483944](http://online.zakon.kz/document/?doc_id=31483944)

<sup>133</sup> Act No. 213-V of 30 June 2014 (Закон Республики Казахстан от 30 июня 2014 года № 213-V «Об амнистии граждан Республики Казахстан, оралманов и лиц, имеющих вид на жительство в Республике Казахстан, в связи с легализацией ими имущества»), available at: [http://online.zakon.kz/document/?doc\\_id=31573214](http://online.zakon.kz/document/?doc_id=31573214)

<sup>134</sup> „Raising Competitiveness of the Region through Innovative Approaches to Regional Planning and Social Services”, implemented by UNDP, UNFPA and UNICEF.

<sup>135</sup> “Содействие социальной и экономической адаптации оралманов в рамках совместной программы ООН в Восточно-Казахстанской области”, information brief, UNDP 2013.

<sup>136</sup> Cited in „Что такое «Кайрылман»?” on the legal-analytical website *precedentinfo*, 3 December 2014, available at: <http://precedent.kg/2014/12/03/chto-takoe-kajrylman/>

<sup>137</sup> Analytical report on the activities of the Ministry of Labor, Migration and Youth of the Kyrgyz Republic for January-June 2014, Bishkek 2014 [in Russian]

## Readmission agreements

Out of the three investigated countries, *Kazakhstan* has concluded the largest number of readmission agreements with both countries of destination—five EU member states (Czech Republic, Germany, Hungary, Latvia and Lithuania), Norway, Switzerland as well as Belarus—and origin of migrants (Uzbekistan). The agreement with Russia has been signed but not ratified yet, and the EU would like to conclude a readmission agreement with Kazakhstan as the first Central Asian country but negotiations are likely to be protracted. Key concerns with regard to the ratification of the agreement with Russia center around the impact that receiving expelled migrants from other Central Asian countries would have for Kazakhstan. It appears expedient that prior to the entry into force of the agreement with Russia, readmission agreements with key countries of origin of irregular migrants in Central Asia are signed as well.

Admission of third-country nationals could be problematic for a number of reasons. Firstly, the national legislation in Kazakhstan does not provide for implementing mechanisms going beyond the bilateral regulations. Another major problem in the area of return is the failure to collect and analyze on a permanent and regular basis of the data on the expulsion and deportation of own and third-country nationals into Kazakhstan. The country report notes also that while temporary premises for accommodating returning migrants are provided by the law, no facilities have been established yet.

*Kyrgyzstan* signed a readmission agreement with the Russian Federation in 2012, which established a mechanism for the return of irregular migrants to the country of origin through close collaboration between FMS and the Kyrgyz MIA. In parallel, FMS and the Ministry of Labor, Migration and Youth of Kyrgyzstan have worked out a scheme for regularizing the stay of selected categories of Kyrgyz migrants, including migrants who had concluded a work contract prior to arrival in Russia (over 1,000 persons were dropped from the black list already). Work also continues on the implementation of agreements on organized recruitment, under which Kyrgyz nationals may work legally following pre-departure assistance, including language courses. It is hoped that the success of a program implemented with South Korea could be replicated in other countries of destination of the Kyrgyz migrants, such as Kazakhstan, Russia and the United Arab Emirates.<sup>138</sup>

*Tajikistan* has not concluded any readmission agreements. At the same time, as a country of origin of migrant workers, bound primarily for the Russian Federation, it has sought to protect the rights of its nationals abroad through conclusion of bilateral labor agreements. This has been an urgent issue given a large number of Tajik migrants falling under temporary entry bans on account of violations of the Russian administrative rules. Following two bilateral agreements, concluded in 2013, short-term stays of Tajik nationals would require no registration and migrant workers could be employed on the basis of a valid work contract for up to three years. While the effectiveness of these agreements remains to be seen, these solutions address a major issue for migrant workers: ability to plan their careers and secure stable income in the medium to long perspective, potentially reducing incidence of withholding of wages or of prolonged re-entry bans.

<sup>138</sup> See the country chapter on Kyrgyzstan for details.

## Conclusions and recommendations

### General conclusions

#### *Current situation and strategic directions*

Irregular migration mainly for labor purposes is likely to continue as a migrants' strategy to secure their own and families' livelihood and to contribute to the welfare of the countries of destination. However, the combination of structural factors (strong and sustained economic growth in Kazakhstan and geographic and cultural proximity) and the changes in the migration regime (liberalization of the foreign employment regime in Kazakhstan in contrast to the growing restrictiveness of the Russian regulations) may over time bring about reorientation of migrant routes and greater willingness to regularize on the part of foreign workers. These trends imply the need to work out legal and policy arrangements that match the changing migrant flows by:

- offering opportunities for seasonal (circular) migration between neighboring regions of the Central Asian countries,
- providing incentives for employers to ethical recruitment, register the employment of foreign workforce, conclude written and enforceable work contracts, and
- lowering administrative barriers for migrants themselves to moving from informal to regular employment.

**Fig. 21. Key migration management challenges in the region**

Emigration	<ul style="list-style-type: none"> <li>• Limited information on the legal status of emigrants—risk of falling into irregularity, de-skilling</li> <li>• Few incentives for maintaining contact and return home: majority of migrants interested in long-term stay abroad</li> </ul>
Regular immigration	<ul style="list-style-type: none"> <li>• Rules for access to employment not flexible enough and not complied with in major sectors of employment</li> <li>• Insufficient protection of workers' rights (requirement and enforcement of contracts)</li> </ul>
Irregular immigration	<ul style="list-style-type: none"> <li>• Underestimation of irregular flows, especially from CIS</li> <li>• Long-term character of irregular migration patterns</li> <li>• Insufficient incentives (either positive or negative) to regularize status (esp. employment or commerce)</li> </ul>

Analysis of the pilot initiatives (such as changes in the quota systems or conclusion of bilateral labor agreements) shows that the Central Asian governments are increasingly aware of the issue of irregular employment of foreigners, and are taking first steps to address it. Analysis of national reports as well as recent country and regional assessments reveal a number of challenges facing them (see Fig. 21). These range from the elaboration of migration strategies through collection and analysis of data on migratory flows all the way to enforcement of legal and administrative norms, offering schemes for regularizing the migratory patterns and providing support to migrants. Selected references to international practices in each of these areas are provided (see Fig. 22 for the summary).



Fig. 22. Selected relevant international experience

Emigration	<ul style="list-style-type: none"> <li>• <b>Diaspora organizations</b> and NGOs in destination countries provide reach to emigrants, running cultural events, providing legal advice and offering counseling</li> <li>• <b>Migrant resource centers</b> offer information on job opportunities at home, trainings, help with acknowledgment of qualifications</li> <li>• <b>Bilateral agreements</b> on social security help ensure that employment abroad is counted toward pension capital</li> </ul>
Regular immigration	<ul style="list-style-type: none"> <li>• <b>Dedicated tracks</b> are set up for employing professionals and workers with skills in demand: EU Blue Card</li> <li>• <b>Visa and work permit procedures</b> are waived or made simpler for seasonal workers or local commerce and services.</li> <li>• Adopted solutions are modified through constant <b>monitoring</b> of impact and abuse.</li> </ul>
Irregular immigration	<ul style="list-style-type: none"> <li>• <b>Seasonal (Circular) migration</b> schemes are offered for persons with established ties to the destination country</li> <li>• <b>Sanctions</b> concentrate on dishonest employers and facilitators of irregular migration while serving to protect migrants' rights in the workplace (enforcement of contracts, payment of due wages)</li> <li>• <b>Regularization</b> schemes enable overstayers or long-term immigrants to enter regular procedures of legalization of residence</li> </ul>

### Elaborating strategies for migration management

Continued migration out of Kyrgyzstan and Tajikistan, as well as emergence of sizable foreign workforce in Kazakhstan, have put on the agenda the balance between protecting domestic labor markets, meeting demand for migrant labor and guaranteeing rights of foreign workers. Strategic documents have been elaborated in all three countries, which significantly view migration not so much as merely a challenge to face but also as an opportunity to grasp, linking labor mobility to the overall economic growth objectives. Nevertheless, as a 2012 assessment notes with regard to Kyrgyzstan and Tajikistan, the development of national migration strategies is severely limited by certain broader governance weaknesses: limited availability of reliable data on migration and gaps in the area of data management), “weak institutional capacities for migration governance”, and inadequate migration regulations.<sup>139</sup> The assessment summarizes the lessons from the experience of two Central Asian countries (Kyrgyzstan and Tajikistan) as well as Armenia, Moldova and six countries of the Western Balkans (Albania, Croatia, Kosovo, Macedonia, Montenegro and Serbia). Apart from access to high quality data, factors that are crucial for *implementing* migration strategies are: the strong and sustained political will, institutional coordination and adequate funding of planned activities. In turn, it concludes, “lack of ownership, weak governance structures and scarce financial means are among the main obstacles to the effective implementation of migration policies”.<sup>140</sup>

Experience of both countries with a long-standing migration policy as well as the new countries of immigration, shows that the strategic approach is most successful when it involves a clear allocation of responsibilities among state institutions, establishment of a single high-level coordination body and adequate and sustained funding of tasks, which have specific deadlines and measurable outcomes. It is thus recommended that the long-term migration strategies, which are being currently elaborated or implemented in Central Asia, be followed by short- to mid-term action plans, which are then regularly monitored and revised.

<sup>139</sup> A. Schmelz, *Analysis of Migration Strategies in Selected Countries (Albania, Armenia, Croatia, Kosovo, Kyrgyzstan, Macedonia, Moldova, Montenegro, Serbia and Tajikistan)*, Federal Ministry for Economic Cooperation and Development (BMZ), Berlin, 2012.

<sup>140</sup> *Ibid.*, p. 27.

## Recommendations

- **Develop migration strategies, recognizing the linkage between migration and development**
  - Set up an inter-agency body, charged with preparing a dedicated migration strategy
  - Consult the strategy draft with experts, migrant representatives and other key stakeholders
  - Carry out regular reviews of the strategy's implementation and ensure linkages to other sectorial strategies (e.g. development)
- **Allocate responsibilities and funding to state agencies for implementing strategic objectives in the area of migration**
  - Prepare a multi-annual action plan with specific objectives for state agencies and indicators of their fulfillment
  - Set aside annual funding for executing the action plan tasks and review expenditures in light of the plan
- **Maintain emigrants' ties with the culture of the country of origin and promote integration of emigrant diasporas**
  - Organize joint social and cultural events with diaspora organizations
  - Launch regular consultations with diaspora representatives on key challenges facing emigrants, and identify areas for cooperation
- **Facilitate immigration of priority groups (high-skilled migrants, workers with skills in demand)**
  - Identify the priority groups and their specific needs in consultation with employers and experts
  - Initiate a bill introducing a single procedure for obtaining work and residence permits for the identified groups
  - Collect and analyze data on the demand for adopted solutions and amend the procedures accordingly

### *Improving mechanisms for tracking migratory movements*

Irregular movement in Central Asia is not easily identifiable due to the fluid character of migratory flows in the region, in which regular entry and residence status may be used as the basis for unauthorized employment or economic activity. The primary barriers to effectively counter irregular movement and employment remain the limited amount and quality of data on the total volume, composition and characteristics of flows into, through and from the Central Asian countries. While some progress has been made in the monitoring of outward flows of nationals in all the investigated countries, several barriers remain on the way to acquiring an up-to-date and accurate picture of the direction and scale of cross-border movement. The primary issues are:

- Inconsistent recording of movement of persons through border-crossing points, resulting in underestimation of the migratory volume, and
- Inadequate monitoring of the migration of CIS nationals who enjoy visa-free movement in the region.

Establishment of standard procedures for collecting data on the cross-border movement of all persons is thus an urgent necessity.

Estimating the scope of irregular migration is difficult mainly due to the fact that as the EU-wide pioneer “Clandestino” project on the subject concluded – “the majority of irregular migrants actually enter the country legally, and seemingly subsequently slip into irregular status”.<sup>141</sup> Nevertheless, irregular entry is the one statistical item, which is recorded by all EU member states. For these data to be useful as estimates of the changing volume and direction of irregular migratory flows, it is firstly essential that the same legal definitions are applied to various types of violations of the border and residence regime (such as illegal crossing at border points as well as between them, use of false documents or lack of required proof of sufficient financial resources). In addition, all the instances of crossing the border must be recorded, which implies equal count of own and foreign nationals as well as keeping stock of persons enjoying facilitated access to the territory. A crucial component is ensuring that the identity of each traveller is uniquely ascertained and that all the entries and exits are recorded in real time so as to adequately gauge the current and long-term pressure on sections of the border and respond appropriately by reinforcing those sections where strongest increases are recorded. A 2012 study concludes that as the volume of traffic keeps rising, especially at airports, an optimal response may be the introduction of automated border controls, involving optical scanning of passports and identity documents, equipped with biometric elements.<sup>142</sup>

## Recommendations

- **Introduce arrangements for tracing cross-border movement and share statistical information among control agencies within countries**
  - Record entries and exits of all nationals at border crossing points, including local traffic
  - Collect information from both paper-based and electronic forms and develop regular standard reports
- **Assess the scale and composition of irregular migration flows into and through the country**
  - Establish an inter-ministerial group for review of all the regularly collected sets of official data, pertaining to irregular migration
  - Commission studies by local and international experts to provide independent estimates

## Sharing and analyzing migration data

The next step towards obtaining a more accurate picture of irregular migration is the analysis of data from various sources, including statistics from various ministries as well as results of surveys. Unfortunately, some sets of basic data are not made public, and in many instances are not shared with other government agencies or with counterparts in neighboring countries. It is thus crucially important that cooperation is stepped up on both intra-agency, interagency and intergovernmental levels (in particular, between migration and border services of transit and destination countries with their counterparts from countries of migrants’ origin). Examples of such exchange of data may cover statistics on persons subject to administrative procedures (entry ban, expulsion).

The 2011 UN study on the best practices in international migration statistics<sup>143</sup> notes that migration cards, used by a number of countries, including Kazakhstan, Kyrgyzstan and Tajikistan, may be good sources on admissions of non-nationals.<sup>144</sup> An exemplary mechanism is that of the I-94 arrival records, collected from all temporary visitors to the United States.

<sup>141</sup> „Clandestino - Counting the Uncountable: Data and Trends across Europe - Irregular Migration in the U.K.”, project description, website of COMPAS, Oxford, available at: <https://www.compas.ox.ac.uk/research/dynamics/previous-project-clandestino/>

<sup>142</sup> *Best Practice Technical Guidelines for Automated Border Control Systems*, Frontex Research and Development Unit, Warsaw, 2012, p. 13.

<sup>143</sup> *Statistics on International Migration: A Practical Guide for Countries of Eastern Europe and Central Asia*, UNECE/UNPF, Geneva 2011.

<sup>144</sup> *Ibid.*, p. 47.

Every year the Department of Homeland Security publishes a report,<sup>145</sup> analyzing the statistics on the basis of the analysis of all the I-94 forms, which must be filled by all the visitors arriving by land, air or sea (regardless if they need a visa or not). The data are obtained from a central computer system, which holds and compiles information, drawn from electronic and paper-based forms. The information, included in the form, covers: the purpose of visit (type of admission, the dates of arrival and departure, the visitor's citizenship, age and sex as well as the place of entry and state of destination. All the types of data are then processed and presented in several tables, which give an indication of numerical changes over a three-year-period in the inflows to the country by age, sex, type of admission, citizenship, port of entry and state of destination. The reports are placed online in July-August of the following year.

Another system for collecting and sharing personal data has been successfully implemented by the European Union in order to combat fraudulent asylum applications and irregular crossing of the frontier. Eurodac is a centralized database of fingerprints, taken from all applicants for asylum in EU member states aged 14 or older and from all third country nationals apprehended while illegally crossing the external border of the EU. Records of persons included in the database are accessible to national authorities of EU member states, Iceland, Norway and Switzerland, enabling them to verify whether the person has crossed the external frontier without authorization in the past two years or applied for asylum in another EU member states in the past ten years. Through comparing foreigner's fingerprints against the records in the database, border and migration services are able to uniquely identify the applicant for asylum and dismiss asylum claims on the grounds that the person has lodged an unsuccessful claim in another country.<sup>146</sup>

Frontex, the external borders agency of the European Union, is an example of a body, which not only collects the data on irregular migration from the EU's member states, but also works out standard definitions and seeks to provide national authorities with comparative sets of data. As a rule, Frontex reports on at least six types of irregular migration: detected cases of irregular crossing of the border at border crossing points or between them, detected false documents, detected facilitators, detections of irregular residence and cases of denial of entry. Of particular relevance are the data on detections between border crossing points, which are available for various sections of the EU frontier (Schengen area), whether land or sea. The observation of the dynamics of the flows across various sections of the frontier and the national composition of the apprehended migrants enabled the agency to identify seven main migratory routes to enter the EU illegally. The comparison of the total numbers of detections and the recent change of volume as well as concentration of certain national groups helps plan activities of Frontex, aiming to strengthen those parts of the perimeter that are under strongest or most dynamic pressure.<sup>147</sup>

A good example of the integration and analysis of various types of data in order to estimate the overall scale and composition of the stock of irregular migrants was the initiative of the German Ministry of Interior, which realized the policy objective of the federal government of examining thoroughly the question of the overall scale of irregular migration. A team of researchers at the Federal Office for Migration and Refugees was assigned the task of collecting and evaluating "all data available in the field" of irregular migration.<sup>148</sup> The team analyzed the Eurostat data on irregular residence (supplied by the police), denial of entry (broken down by grounds for refusal), departure orders and persons who were removed (by nationality) and cases of rejected asylum claims as well as withdrawals of such status. On this basis, estimates were offered of the size and composition of irregular population, divided into clandestine migrants (hiding from authorities), pseudo-legal migrants (registered on the basis of fraudulent or counterfeit documents) and unauthorized migrants (required to leave the country).<sup>149</sup> Such typology enables then the authorities to differentiate their response to various segments of the irregular population by applying sanctions of various severity and even offering to regularize some migrants.

<sup>145</sup> *Annual Flow Report: Nonimmigrant Admissions to the United States*. The latest report was published in July 2014, and is available at: [http://www.dhs.gov/sites/default/files/publications/ois\\_ni\\_fr\\_2013.pdf](http://www.dhs.gov/sites/default/files/publications/ois_ni_fr_2013.pdf)

<sup>146</sup> Council Regulation No. 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention

<sup>147</sup> See C. Morehouse, M. Blomfield, *Irregular Migration in Europe*, Migration Policy Institute, Washington, DC, 2011, pp. 4-9.

<sup>148</sup> J. Schneider, *Practical Measures for Reducing Irregular Migration*, Working Paper 41, Federal Office for Migration and Refugees, Berlin 2012, p. 70.

<sup>149</sup> *Ibid.*, p. 81.



## Recommendations

- **Establish mechanisms for international exchange of statistical information on migrant flows into and through the countries**
  - Align the conventions used by statistical offices for collecting national migration data
  - Conclude agreements on exchange of data between border and migration services
  - Launch pilot initiatives for sharing biometric data of persons crossing border without authorization among border services
- **Share best practices in border and migration control**
  - Organize study visits and trainings for migration service officials and border guards
  - Set up permanent mechanisms for exchanging lessons learned and good practices (e.g. through seconding liaison officers and setting up intergovernmental consultations, involving relevant agencies)
  - Carry out needs assessment and monitoring of reception facilities, identify gaps and align with international standards

### *Applying sanctions to violations of migration rules*

While violations of the migration and employment regime in Central Asia are predominantly dealt with through application of administrative sanctions, some recent developments point to the growing restrictiveness of the applied measures. The effectiveness of the sanctions depends, however, heavily on the ability of the operational services (border and migration police) to enforce them as well as to undertake joint actions.

As in Central Asia, the majority of irregular foreign workers in Europe enters the EU legally but fail to comply with all the procedural requirements (e.g. conclusion of a written contract covering all the terms of employment and obtaining necessary residence and work permits). Various European countries respond with different levels of tolerance but there is a tendency towards greater restrictiveness and application of higher fines both towards the employer and employee.<sup>150</sup> A good balance between enforcement of employment norms (both in terms of legal status of a foreign employee and with regard to compliance with all the employer's obligations, such as payment of benefits) is found in the Netherlands. Nearly 10,000 labor inspections dealing with irregular employment of foreigners are carried out each year by the labor inspectorate along with aliens police, and customs and tax authorities, among others. Only employers are subject to inspections while foreign workers serve only as witnesses who are interviewed on the paid wages, statutory benefits and working hours. Penalties are imposed in the order of increasing severity: first-time offenders will receive warnings on the spot, followed by written notices, suspending certain business activities until irregularities are removed. In heavier cases, administrative fines and ultimately criminal proceedings will be set in motion. In line with the EU-wide trend, starting from 1 January 2013 administrative fines against employers violating migration legislation were raised by 50% so that, for instance, failure in keeping employees' documents on company premises results in a EUR 2,250 fine per worker while unauthorized employment is fined at the rate of EUR 12,000 for first-time offenders and EUR 36,000 for repeat offenses.<sup>151</sup>

In some countries of the region (e.g. Kyrgyzstan) the severity of sanctions is differentiated with much heavier fines being imposed on the employer than on the foreign employee. This is in line with the practice applied in the European Union, which in the "sanctions directive" transfers the primary responsibility of compliance with the rules of foreign employment on the employer.<sup>152</sup>

<sup>150</sup> See M. Kupiszewski, H. Mattila (eds.), *Addressing the Irregular Employment in the European Union: Between Sanctions and Rights*, IOM Budapest 2008, pp. 320-322.

<sup>151</sup> See: P. Kaźmierkiewicz, *Work Permits and Labour Inspection: Cases of the Netherlands, Germany and Poland*, GYLA & CIPDD, Tbilisi, 2014, pp. 15-22.

<sup>152</sup> European Union Employers' Sanction Directive, adopted on 18 July 2009.

As a result of the introduction of the Directive in the national legislations of EU member states, in many of them fines for delegating work to irregular migrants from outside the EU were raised substantially: for instance, in the more liberal countries, such as Hungary and Poland the maximum fines were set at between EUR 1,200 and EUR 1,350 while repeat offences would be punishable up to EUR 2,500 (Poland) and EUR 5,000 (Hungary) per employee. Comparable amounts in Slovakia and the Czech Republic could be up to EUR 200,000-400,000.<sup>153</sup> The Directive also requires that the employer must cover the cost of returning the irregular migrant to the country of origin.

At the same time, EU experience demonstrates that the administration of sanctions for irregular employment needs to be accompanied by a resolute enforcement of workers' rights with regard to the conclusion of a written contract, limitation of working hours, timely and full payment of due wages and benefits. The latter issues are of concern both among migrants working in Central Asian countries as well as Central Asian nationals working abroad.

## Recommendations

- **Work out effective mechanisms for protection of employment and social security rights of emigrants**
  - Review existing bilateral agreements on labor migration and social security and raise identified issues in consultations with destination countries
  - Identify legal and procedural obstacles to transfer of employment and social security rights with main countries of destination
- **Improve compliance by employers with the rules for foreign work**
  - Disseminate information on the rules of foreign employment and accompanying sanctions at employment offices and during control activities
  - Introduce and enforce during labor inspections a graded system of sanctions for employers by application of warnings and notices to first-time offenders and high fines and temporary closure of activity for repeated offences

## Providing pathways out of irregularity

Another critical issue is the identification of pathways into irregularity and ways of regularizing informal activity. Balance between the protection of the national labor market and meeting the demand for foreign workforce needs to be sought in the regulation of non-nationals' access to employment. A good example in the region is the new scheme, introduced in 2014 by Kazakhstan, which offers a circular migration scheme by regularizing foreign employment in the fields of domestic and child care as well as construction and renovation services. Through a combination of incentives for the employers (possibility to hire up to five seasonal workers for the period of a year) and control mechanisms (need to leave the country upon completion of the work period), the scheme may be an optimal path to regularization of labor migration.

One of the most effective ways to deal with irregular employment is the establishment of legal instruments, appropriate to certain established patterns of migration. These may include regularization (amnesty) initiatives, schemes facilitating circular migration (Mobility Partnerships between the EU and selected third countries) or special arrangements for local border traffic, authorizing multiple entries and regular stay in adjacent border areas.

Circular migration programs are still relatively new schemes and their effectiveness remains to be seen. Within the EU's Mobility Partnership initiative, Italy concluded in 2011 a bilateral agreement with Moldova, a country of origin of migrants traditionally occupying certain niches in Italian economy (e.g. domestic care).

<sup>153</sup> K. Ślubik (ed.), *Implementation of the Employers' Sanctions Directive in the Czech Republic, Hungary, Poland, Romania and Slovakia*, Association for Legal Intervention, Warsaw, 2014, pp. 3-4.

Under its terms, a quota was established for seasonal workers who would be granted work permits for up to nine months, allowing them to change employers during this period. The permit holders enjoy employment, social security and protection rights equal to those of Italian and EU workers. While permits are non-renewable, those who meet the terms of employment successfully are given priority for admission in the following years. The conclusion of the agreement led to the establishment of 70 employment offices in various regions of Moldova, running Italian language and professional trainings. An early evaluation of the program showed that 250 workers had returned to the country of origin while 450 opened their own businesses in Moldova in the first eight months of the program's operation.<sup>154</sup>

The scope of bilateral temporary and circular migration programs may be extended to benefit not only migrant workers but also communities of their origin and destination. Thus, the original scheme launched in 2000 by the local farmer union and its foundation in the Spanish region of Catalonia to address the shortages in harvesting fruits was expanded in 2007 through participation of IOM. Under the terms of the Temporary and Circular Labor Migration (TCLM) program, migrant workers from Colombia, Morocco and Romania are authorized to work in the Spanish agricultural sector for six to nine months. The uniqueness of the enhanced project consists in the involvement of a wide range of stakeholders: the states of origin and destination, the representative of employers (hiring agent) as well as two implementing and support agents – the local foundation and IOM as an agency with broad international experience and analytical capacity. Thus, IOM Colombia runs pre-departure trainings as well as provides them with access to social, educational and financial services on return home. As many as 1,519 Colombian migrant workers received basic technical training and 322 of them (including 165 women) were trained in leadership and local development. In addition, 1,021 migrants took advantage of financial services.<sup>155</sup>

In turn, local partners in the host region offer the Welcome Partner for Temporary Workers, during which the newcomers are informed on their working conditions, receive training in prevention of health risks in the workplace, the Catalan language and are encouraged to take part in socio-cultural activities, bringing them closer to the host community.<sup>156</sup> A 2012 assessment of the program notes that the program has been relatively successful in minimizing the risk of irregular employment: only 6% of the participating workers remained irregularly in the receiving country – the rate is half the average in other Spanish temporary labor migration programs.<sup>157</sup>

Another good practice is a seasonal labor migration scheme, launched by New Zealand in 2006, which opened seasonal work opportunities in the horticulture and viticulture sectors for workers from the country's Pacific island neighborhood.<sup>158</sup> Five island states (Kiribati, Samoa, Tonga, Tuvalu and Vanuatu) concluded bilateral agreements with New Zealand, on the basis of which their nationals could work for up to seven months (nine months in case of two of these countries) and be able to return the following season as long as they comply with the rules of the program. The initial worker quota, set at 5,000 persons, was raised to 8,000. Prospective workers must apply for seasonal work visas and meet health and character requirements. Restrictions apply on the place and time of work: migrant workers may only be employed by a specific employer at a designated location and in a specified position and must return to the home country every year after the allowed period of work.

<sup>154</sup> V. Mosneaga, *Circular migration of the Republic of Moldova*, CARIM-East Explanatory Note 12/68, EUI, Florence, 2012, p. 6.

<sup>155</sup> „Enhancing Development in Colombia through Temporary and Circular Labour Migration to Spain”, IOM website, available at: <http://www.iom.int/cms/en/sites/iom/home/what-we-do/labour-migration/enhancing-development-in-colombi.html>

<sup>156</sup> *Temporary and Circular Labour Migration: Experiences, Challenges and Opportunities*, IOM Series of Research into Migration No. 2, December 2009, IOM, Geneva, p. 22, available at: [http://www.upf.edu/gritim/\\_pdf/Temporary\\_and\\_Circular\\_Labour\\_Migration\\_Experiences\\_Challenges\\_and\\_Opportunities.pdf](http://www.upf.edu/gritim/_pdf/Temporary_and_Circular_Labour_Migration_Experiences_Challenges_and_Opportunities.pdf)

<sup>157</sup> R. Zapata-Barrero, R. F. Garcia, E. Sanchez-Montijano, „Circular Temporary Labour Migration: Reassessing Established Public Policies”, *International Journal of Population Research*, article ID 498158, 2012, available at: <http://www.hindawi.com/journals/ijpr/2012/498158/cta/>

<sup>158</sup> G. Hugo, *Labour Migration for Development: Best Practices in Asia and the Pacific*, ILO Regional Office for Asia and the Pacific, Bangkok, 2009, p. 14.

The participating employers must in turn commit to pay market rates for work (not less than 240 hours in total or 30 hours a week on average) as well as provide migrant workers with accommodation, healthcare and cover half the cost of travel into New Zealand and back home as well as the total of domestic travel.<sup>159</sup>

## Recommendations

- **Provide pathways to regularization of residence and employment of selected groups of immigrants**
  - Set parameters of a regularization program by investigating the results of previous initiatives (if any) and best international practice
  - Consult the proposed regularization program within the government, in particular involving MFA, MoL, migration and border services
  - Initiate a proposal for the regularization program, containing a mechanism for review
- **Provide legal opportunities for seasonal work and cross-border commerce and services**
  - Run consultations with local employers and carry out assessment of needs
  - Identify gaps in existing work permit procedures and initiate changes, addressing cost, duration and complexity of the procedure
  - Run pilot schemes in locations where high demand has been identified
- **Facilitate organized forms of seasonal (circular migration) with countries of destination of own nationals and of origin of irregular immigrants**
  - Commission studies analyzing demand (by sector and volume) and assessing feasibility of seasonal (circular) migration schemes
  - In case of evident demand, commence talks on pilot seasonal (circular) migration schemes with selected countries, especially those with which long-standing migratory movements have been established and which concluded already labor and social security agreements

## Supplying information to returning migrants

Central Asian countries have on the whole recognized the importance of supplying prospective migrants with information on the legal opportunities for employment and consequences of non-compliance with regulations. Thanks to support from IOM and Government partners and in cooperation with non-governmental organizations, centers for migrant advice, hotlines and information campaigns have been established. However, some practical problems are appearing due to the limited access to up-to-date information on the persons subject to sanctions (e.g. re-entry ban) on the part of services and institutions of the countries of migrants' origin. Closer cooperation with the border, migration and employment services of the destination country could facilitate the exchange of information on the changes in procedures for entry and employment, which could then be shared with potential or returning migrants.

The 2009 IOM assessment of 17 migrant resource centers around the world found that the centers (MRCs) might potentially reduce irregular migration and facilitate legal movement.<sup>160</sup> Responding to the issue of "lack of information among migrants themselves on potential means of leveraging their migration, return, or remittances for the development of their countries of origin", at their best, the centers can support circular migration programs through offering vocational trainings to ease reintegration into local economies and address the problem of de-skilling during work abroad.

<sup>159</sup> See the description of the Recognized Seasonal Employers Scheme in the ILO good practices database, available at: [http://www.ilo.org/dyn/migpractice/migmmain.showPractice?p\\_lang=en&p\\_practice\\_id=48](http://www.ilo.org/dyn/migpractice/migmmain.showPractice?p_lang=en&p_practice_id=48)

<sup>160</sup> P. Tacon, E. Warn, *Migrant Resource Centres: An Initial Assessment*, IOM, Geneva, 2009.



Of particular note to the countries of the region may be the role that some MRCs play with regard to gathering and disseminating information on the changes in the migration legislation and procedures in the countries of destination. Such services are facilitated either through inclusion of MRCs into governmental committees on migration or through support, provided by IOM staff.<sup>161</sup>

## Recommendations

- **Promote return of irregular migrants in a humane manner**
  - Review existing bilateral arrangements for return and transfer of irregular migrants (both own and third-country nationals) for their effectiveness, and raise issues at bilateral consultations
  - Conclude readmission agreements with key countries of origin and destination of irregular migrants and draw up cooperation protocols with border services of the parties
  - Taking into account international practice, review domestic legislation and procedures on identification, apprehension, transportation, detention and expulsion/return of third-country irregular migrants, taking into account as well the needs of most vulnerable groups (e.g. trafficked persons, minors, women and asylum-seekers)
- **Improve emigrants' chances of finding employment and/or starting business upon return home**
  - Run vocational trainings and orientation meetings at migrant resource centers
  - Provide funding to NGOs offering legal and psychological counseling to returning migrants
  - Organize trainings for officials at institutions assisting returnees

## Specific objectives and recommended measures

The following table summarizes the key issues to be tackled in the key areas of migration management on national and regional level: migration governance, emigration, regular immigration and regular employment of migrants, and irregular immigration. Each issue is complemented with some recommended measures to be taken in order to address it. This summary builds on the conclusions of the national reports, positions expressed by relevant government and non-governmental stakeholders as well as findings in the country and regional studies.

**Table 8. Specific objectives and recommendations**

Migration Governance	
<i>Objectives</i>	<i>Recommended actions</i>
1. Develop migration strategies, recognizing the linkage between migration and development	1.1. Set up an inter-agency body, charged with preparing a dedicated migration strategy
	1.2. Consult the strategy draft with experts, migrant representatives and other key stakeholders
	1.3. Carry out regular reviews of the strategy's implementation and ensure linkages to other sectorial strategies (e.g. development)
2. Allocate responsibilities and funding to state agencies for implementing strategic objectives in the area of migration	2.1. Prepare a multi-annual action plan with specific objectives for state agencies and indicators of their fulfillment
	2.2. Set aside annual funding for executing the action plan tasks and review expenditures in light of the plan

<sup>161</sup> *Ibid.*, p. 27.

Regional Cooperation	
<i>Objectives</i>	<i>Recommended actions</i>
3. Introduce arrangements for tracing cross-border movement and share statistical information among control agencies within countries	3.1. Record entries and exits of all nationals at border crossing points, including local traffic
	3.2. Collect information from both paper-based and electronic forms and develop regular standard reports
4. Establish mechanisms for international exchange of statistical information on migrant flows into and through the countries	4.1. Align the conventions used by statistical offices for collecting national migration data
	4.2. Conclude agreements on exchange of data between border and migration services
	4.3. Launch pilot initiatives for sharing biometric data of persons crossing border without authorization among border services
5. Share good practices in border and migration control	5.1. Organize study visits and trainings for migration service officials and border guards
	5.2. Set up permanent mechanisms for exchanging lessons learned and good practices (e.g. through seconding liaison officers and setting up intergovernmental consultations, involving relevant agencies)
	5.3. Carry out needs assessment and monitoring of reception facilities, identify gaps and align with international standards

Irregular Immigration and Transit Migration	
<i>Objectives</i>	<i>Recommended actions</i>
6. Assess the scale and composition of irregular migration flows into and through the country	6.1. Establish an inter-ministerial group for review of all the regularly collected sets of official data, pertaining to irregular migration
	6.2. Commission studies by local and international experts to provide independent estimates
7. Provide pathways to regularization of residence and employment of selected groups of immigrants	7.1. Set parameters of a regularization program by investigating the results of previous initiatives (if any) and best international practice
	7.2. Consult the proposed regularization program within the government, in particular involving MFA, MoL, migration and border services
	7.3. Initiate a proposal for the regularization program, containing a mechanism for review
8. Improve compliance by employers with the rules for foreign work	8.1. Disseminate information on the rules of foreign employment and accompanying sanctions at employment offices and during control activities
	8.2. Introduce and enforce during labor inspections a graded system of sanctions for employers by application of warnings and notices to first-time offenders and high fines and temporary closure of activity for repeated offences
9. Promote return of irregular migrants in a humane manner	9.1. Review existing bilateral arrangements for return and transfer of irregular migrants (both own and third-country nationals) for their effectiveness, and raise issues at bilateral consultations
	9.2. Conclude readmission agreements with key countries of origin and destination of irregular migrants and draw up cooperation protocols with border services of the parties

Irregular Immigration and Transit Migration	
<i>Objectives</i>	<i>Recommended actions</i>
	9.3. Taking into account international practice, review domestic legislation and procedures on identification, apprehension, transportation, detention and expulsion/return of third-country irregular migrants, taking into account as well the needs of most vulnerable groups (e.g. trafficked persons, minors, women and asylum-seekers)
10. Facilitate organized forms of seasonal (circular) migration with countries of destination of own nationals and of origin of irregular immigrants	10.1. Commission studies analyzing demand (by sector and volume) and assessing feasibility of seasonal (circular) migration schemes 10.2. In case of evident demand, commence talks on pilot seasonal (circular) migration schemes with selected countries, especially those with which long-standing migratory movements have been established and which concluded already labor and social security agreements

Emigration	
<i>Objectives</i>	<i>Recommended actions</i>
11. Work out effective mechanisms for protection of employment and social security rights of emigrants	11.1. Review existing bilateral agreements on labor migration and social security and raise identified issues in consultations with destination countries 11.2. Identify legal and procedural obstacles to transfer of employment and social security rights with main countries of destination
12. Maintain emigrants' ties with the culture of the country of origin and promote integration of emigrant diasporas	12.1. Organize joint social and cultural events with diaspora organizations 12.2. Launch regular consultations with diaspora representatives on key challenges facing emigrants, and identify areas for cooperation
13. Improve emigrants' chances of finding employment and/or starting business upon return home	13.1. Run vocational trainings and orientation meetings at migrant resource centers 13.2. Provide funding to NGOs offering legal and psychological counseling to returning migrants 13.3. Organize trainings for officials at institutions assisting returnees

Regular Immigration and Employment	
<i>Objectives</i>	<i>Recommended actions</i>
14. Facilitate immigration of priority groups (high-skilled migrants, workers with skills in demand)	14.1. Identify the priority groups and their specific needs in consultation with employers and experts 14.2. Initiate a bill introducing a single procedure for obtaining work and residence permits for the identified groups 14.3. Collect and analyze data on the demand for adopted solutions and amend the procedures accordingly
15. Provide legal opportunities for seasonal work and cross-border commerce and services	15.1. Run consultations with local employers and carry out assessment of needs 15.2. Identify gaps in existing work permit procedures and initiate changes, addressing cost, duration and complexity of the procedure 15.3. Run pilot schemes in locations where high demand has been identified



# Chapter 2

## Migration Mapping: Kazakhstan





## General Information on the country

### Main external migration trends in Kazakhstan

The first decade in the development of Kazakhstan as a sovereign state was marked by a high emigration rate, which peaked in 1994 when about 480,000 people left the country and resulting in a negative net migration of more than 406,000. In the late 1990s, the intensity of migration flows declined and in 1999-2003 negative net migration stabilized. In 2004 a positive net migration rate, of 2,789, was reported for the first time. It should be noted that in 2012 and 2013 slightly negative net migration was observed (1,426 and 279 respectively), which was primarily due to the reduced immigration rate.

The emigration of the 1990s resulted in a significant loss of human resources. Between 1992 and 2010, 3.3 million people left Kazakhstan, of whom two million left the country forever (from a total population of 16.5 million in 1992). Of those who left in the 1990s, 63-65% were of working age and about 45% of those over the age of 15 had higher or secondary vocational education.<sup>162</sup> Due to the emigration of the 1990s, during the period of economic growth in the 2000s Kazakhstan started experiencing labor shortages, primarily of qualified personnel in the fields of healthcare, education, administration, industry, agriculture and other sectors of the economy. However, no detailed research has been conducted on this issue and it is not possible to make a more objective assessment of the sectors and specialties experiencing labor shortages as a result of active emigration in the 1990s.

The preconditions for the transformation of Kazakhstan from a sending to a receiving country in terms of labor migration were created in the early 2000s. The economic growth observed in Kazakhstan from the early 2000s was largely due to the development of the extractive industries (oil, coal, uranium and other metals), steel and construction material production, the recovery of electricity production volumes and developments in transportation and communications, etc. This led to a growing need for technical specialists with the necessary knowledge and skills.

For these reasons, in the early 2000s migration flows from other countries gradually began to develop. In general, the influx of immigrants to Kazakhstan is currently taking place through the following channels:

- repatriation of *oralmans* (ethnic Kazakh repatriates);
- issuance of residence permits and citizenship to individuals (and members of their families) who were born in Kazakhstan or were previously nationals of the Republic of Kazakhstan or the Kazakh Soviet Socialist Republic;
- labor migration within the framework of annual quotas and permits issued to employers for the recruitment of foreign workers, permits for immigrants for self-employment and permits for individuals to work for private individuals; and
- irregular labor migration, primarily from neighboring states, and also from some non-CIS countries.

The data on regular and irregular labor migration, and also on individuals receiving residence permits in Kazakhstan will be considered in the relevant sections below.

### Development of public policy in Kazakhstan in the sphere of labor migration

Public policy in the sphere of labor migration has developed in Kazakhstan since the inclusion of several brief provisions in the State Migration Program approved in January 1995. At that time the focus was only on establishing the conditions for international labor migration, and Kazakhstan was predominantly considered as a country of origin for labor migration. The implementation of public policy in the sphere of labor migration was initially based on the provisions of the Law of the Republic of Kazakhstan No. 204-I of 13 December 1997 "On migration".<sup>163</sup> It included a special chapter on labor migration, regulated on the basis of the following approaches:

- acknowledgement of labor migration to Kazakhstan as temporary, with a requirement for labor migrants to have permanent residence outside Kazakhstan;
- prioritization of the protection of the domestic labor market;
- acknowledgement of the right of regular migrants to remain in Kazakhstan in the event of losing their jobs for the period covered by their work permits; and
- deportation of irregular labor migrants.

<sup>162</sup> A report entitled *Migrants' rights in the Republic of Kazakhstan* was prepared by Almaty Legal Corporation and published by the Human Rights Commission of the President of the Republic of Kazakhstan in early 2013.

<sup>163</sup> This has now been superseded by Law No. 477-IV of the Republic of Kazakhstan of 22 July 2011 "On migration".

Since 2001, a quota system has been in effect for the hiring of foreign workers hired by Kazakh employers and the issuing of the appropriate permits.

Public policy in relation to migration was further developed through the Migration Policy Framework 2007-2015 approved by Resolution No. 399 of the President of the Republic of Kazakhstan on 28 August 2007.<sup>164</sup> At present Kazakh government policy is founded on the long-term objectives set out in the Kazakhstan 2050 Strategy promulgated by the President of Kazakhstan on 14 December 2012. In order to implement the Kazakhstan 2050 Strategy, Resolution No. 1593 of the Government of the Republic of Kazakhstan of 31 December 2013 approved the Comprehensive Plan 2014-2016 for solving migration-related issues, strengthening control over migration flows from neighboring states, and creating favorable conditions for indigenous qualified workers to prevent their excessive outflow to foreign labor markets. The Plan analyzes the current labor migration situation and also provides for a range of actions to protect labor migrants' rights and monitor labor migration.

## Labor migrants' rights in Kazakhstan

According to Article 12.4 of the Constitution, foreign nationals and stateless people in the Republic of Kazakhstan have the same rights and freedoms and responsibilities as citizens, unless otherwise stipulated by the Constitution, laws and international agreements. Thus the principle of the formal equality of the rights of labor migrants and workers who are Kazakh nationals is enshrined at the constitutional level. However, as will be shown below, this often fails to be implemented at the level of laws, by-laws and in practice. Article 5 of Law No. 477-IV of the Republic of Kazakhstan of 22 July 2011 "On migration" sets out the basic rights of all immigrants, including labor migrants, namely:

- to enjoy the rights and freedoms established for nationals of the Republic of Kazakhstan, unless otherwise stipulated by the Constitution, laws and international agreements;
- to receive education, medical and social assistance in accordance with the legislation of the Republic of Kazakhstan;
- to move freely in the Republic of Kazakhstan;
- to freely choose a place of residence in accordance with the legislation of the Republic of Kazakhstan; and
- to apply to the court and government bodies to protect their property and personal non-property rights.

General conditions ensuring the civil, political, social, economic and cultural rights of labor migrants in Kazakhstan are regulated by Law No. 2337 of the Republic of Kazakhstan of 19 June 1995 "On the legal status of foreign nationals". In particular, it regulates their rights in relation to work and leisure, healthcare, social security and pensions, education, housing, participation in public associations, freedom of movement and choice of place of residence, freedom of conscience, etc.

With regard to many rights, only foreign nationals with permanent residence are equal to Kazakh nationals, i.e. the general condition on the equality of the rights of foreign nationals and stateless persons and those of Kazakh nationals does not apply to labor migrants. In particular, this concerns rights relating to social security and pensions, housing, personal property and non-property rights, and also labor rights. In addition, the above Law indicates that, for the purpose of ensuring the constitutional rights of nationals of the Republic of Kazakhstan relating to freedom of labor, legislative acts can set limitations on work carried out in the Republic of Kazakhstan by foreign nationals. In this respect, the provisions of Article 26 of the Labor Code deserve attention, as they provide a number of limitations in relation to labor contracts. One such limitation, set out in Article 26.4, concerns foreign nationals and stateless persons temporarily residing in the Republic of Kazakhstan. Individual labor contracts may not be concluded with such persons without the appropriate permit being received from the local executive body dealing with the recruitment of foreign workers.

## Legislative and institutional framework

The general terms of entry, stay, employment and ensuring the civil, political, social, economic and cultural rights of migrants entering and residing in Kazakhstan are regulated by Law No. 2337 of the Republic of Kazakhstan of 19 June 1995 "On the legal status of foreign nationals". Another fundamental law on migration-related issues in Kazakhstan is Law No. 204-I of the Republic of Kazakhstan of 13 December 1997 "On migration", which defines migration as "the permanent or temporary, voluntary or forced movement of individuals from one state to another, as well as within a state". This law includes the special Chapter 6, devoted to immigration for employment purposes, i.e. external labor migration to Kazakhstan.

<sup>164</sup> This document is now out of date.

The law contains the following categories of labor migrants:

- foreign workers–immigrants, arriving or hired by employers to work in the Republic of Kazakhstan;
- business immigrants–immigrants coming for entrepreneurial purposes;
- foreign seasonal workers–immigrants hired by employers for seasonal work which is performed, due to climatic or other natural conditions, for a certain period of time (season), but no longer than one year; and
- labor immigrants–immigrants coming to the Republic of Kazakhstan as domestic workers to provide services to employers in households, namely private individuals, on the basis of permits issued to labor immigrants.

## Entry to Kazakhstan

The general terms governing the entry of foreign nationals to the Republic of Kazakhstan are set out in the provisions of the Law “On the legal status of foreign nationals”. Specifically, the law defines a whole range of grounds on which entry to the country may be prohibited due to specific threats to national security and public order, including terrorism, threats to public health, and the rights and legal interests of Kazakh nationals. In addition, in accordance with this law, foreign nationals who have previously been deported from Kazakhstan are prohibited from entering the country for five years from the date of the decision on deportation. The Law “On migration” regulates special terms regarding entry to Kazakhstan by certain categories of migrants.

According to the general provisions of the Law “On the legal status of foreign nationals”, foreign nationals may enter Kazakhstan with a valid foreign passport or equivalent document and must have an entry visa to the Republic of Kazakhstan, if it is required. Border Service officers of the National Security Committee checks and makes appropriate notes in individuals’ documents that prove their right to enter or exit when crossing the national border. In most cases, foreign nationals enter Kazakhstan on a foreign passport or, only for Russian and Kyrgyz nationals, on an internal ID document (internal passport). Nationals of Belarus may also enter Kazakhstan with an internal passport, as this country is also a member of the Customs Union. However, a single passport is issued in the Republic of Belarus, i.e. there is no difference between a foreign passport and a document enabling an individual to move within the country.

For the purpose of employment in Kazakhstan, multiple-entry immigration visas are issued for a period of up to one year or for the period covered by the permit. In most cases an employment visa is issued by the relevant consular and diplomatic services of the Republic of Kazakhstan. An exception is made only for those foreign nationals coming to Kazakhstan for employment at the Almaty Regional Financial Center–their visas can be issued upon arrival at Almaty International Airport, on presentation of a support letter from an inviting organization.

## Residence in Kazakhstan

The principal methods for registering immigrants during their stay in Kazakhstan are migration cards and residence registration. Upon arrival in Kazakhstan foreign nationals fill in migration cards, giving their surname, first name, purpose of visit, hosting organization or individual, registration address and the number of accompanying children under the age of 16. In addition, notes are made of entry to and exit from the country, as well as registration of temporary residence. The arriving foreign national must select the purpose of visit from the following options: private, business, work, study, medical treatment or tourism.

Registration of foreign nationals and stateless persons at their place of permanent or temporary residence is made at the local district-level office of the Migration Police Department. Generally, residence registration is done within five calendar days of crossing the national border of the Republic of Kazakhstan, although nationals of some countries may stay for a longer period without registering. Table 9 below shows the registration requirements for nationals of different countries.

The main shortcomings of temporary residence registration data are that nationals of Ukraine and Russia can stay in Kazakhstan without registering for 90 and 30 days respectively, and that most labor migrants do not indicate the real purpose of their visit.

**Table 9. Deadlines for registration of foreign nationals in Kazakhstan at the place of residence**

Nationality	Period of stay without registration
Russian Federation	Up to 30 calendar days after crossing the border
Ukraine	Up to 90 calendar days during a period of 180 days from the date of first entry
Other countries	Up to five calendar days after crossing the border

## Registration of temporary residence and permanent residence permits in Kazakhstan

Long periods of residence in Kazakhstan, including by immigrants arriving from visa-free regime countries for employment purposes, may require registration of temporary residence. Registration is made for a period not longer than the period of validity of the passport and visa of the foreign national. For citizens who come to Kazakhstan from countries with which international agreements on visa-free regimes for entry and residence have been ratified, residence registration may be made in accordance with the length of stay set out in international agreements or, in the absence of such provisions, for a period of no longer than 30 days. For citizens from member states of the Customs Union this period is 90 days. These periods may be extended in the future by the same period. According to Article 37.3 of the Law “On migration”, foreign nationals and stateless persons permanently residing in the Republic of Kazakhstan may take up employment without having to obtain self-employment permits or their employers having to obtain a permit for recruitment of foreign workers. An application for permanent residence may be made by foreign nationals and stateless persons in the following categories:

- ethnic Kazakhs regardless of their visa category;
- foreign nationals who arrive on an immigration visa issued in accordance with the Joint Decree issued by the acting Minister of Foreign Affairs of the Republic of Kazakhstan of 5 March 2013 No. 08-1-1-1/71 and the Minister of Internal Affairs of the Republic of Kazakhstan of 7 March 2013 No. 175 “On establishing the rules on the issuing of visas to the Republic of Kazakhstan and on the extension and reduction of their periods of validity”; and
- nationals of countries with which Kazakhstan has signed agreements on visa-free regimes for entry and residence are entitled to reside in Kazakhstan without a visa.

Registration of temporary residence and the issuing of permanent residence permits are done at the local offices of the Migration Police. The application process takes up to 60 calendar days from the day when the documents are submitted.

## Employment of immigrants in Kazakhstan

In order to be allowed to enter the country for employment purposes, foreign nationals and stateless persons must present the appropriate permits when crossing the border or obtain them after their entry to the country. The issuing of such permits is based on the foreign labor quota, which is applied to protect the Kazakh labor market and is set as a percentage of the economically active population of Kazakhstan. Annual government quotas for the recruitment of foreign labor are formed on the basis of proposals made to the government by the Ministry of Healthcare and Social Development. Article 37.1 of the Law “On migration” sets out the fundamental principles for setting quotas for the recruitment of foreign labor, namely:

- a percentage of the economically active population;
- in absolute terms for priority projects; and
- by country of origin.



Since 2001, the application of a quota based on a percentage of the economically active population has been the main approach applied in Kazakhstan. For 2014 the general quota for the recruitment of foreign labor was set at 0.7% of the country's economically active population, or about 63,290 people. Quotas for foreign labor to be recruited for priority projects are set on an individual basis, as the need arises, and in absolute terms. For example, in 2014 such quotas were issued for six projects, in particular, in the oil and gas extraction and processing sectors, which covered a total of 5,439 foreign nationals.

The percentage of the economically active population quotas and the priority projects quotas are allocated among the following categories of foreign workers, meeting certain qualification requirements: chief executives and their deputies (Category 1), heads of departments or divisions (Category 2), specialists (Category 3) and qualified workers (Category 4). There is a separate category for foreign seasonal workers hired by employers for seasonal work, which is performed, due to climatic or other conditions, during a certain period (season) but for no longer than one year. It should be noted that the 2014 quota for specific priority projects was set without any categorization of foreign workers.

Foreign nationals and stateless persons can work in Kazakhstan on the basis of the following types of permits:

- permit for the recruitment of foreign labor issued to an employer;
- permit for self-employment issued to a foreign worker; and
- permit issued to a labor migrant for work (providing services) for private individuals.

Permits for the recruitment of foreign labor have been issued to employers in Kazakhstan since 2001. Foreign laborers apply only to work for the employer holding such a permit. Prior to such permits being issued, surveys of the domestic labor market are carried, in order to protect the interests of Kazakh workers. The search for suitable candidates in the domestic labor market is undertaken by the employer, who submits information about available vacancies to an authorized body competent for the place of carrying out work by foreign labor force. In recent years the number of permits issued to employers for the recruitment of foreign labor has been gradually decreasing. Nevertheless, this type of permit remains significant in Kazakhstan and in 2012 and 2013 the number of permits issued was 23,978 and 25,559 respectively.

The demand from foreign nationals for self-employment permits remains low: for 2012-2013 only one such permit was issued. Provision was made for the issuing of permits to foreign workers for self-employment with the adoption on 22 July 2011 of a new version of the Law "On migration". At present only certain specialties (professions) are eligible for self-employment permits for foreign nationals in Kazakhstan. There is a list of 30 legally defined specialties (professions), which foreign workers may pursue through self-employment in the Republic of Kazakhstan. Most of these are unrelated to the traditional fields of active employment for foreign nationals in Kazakhstan, and many of them are rare specialties.

Since 2014, new types of permits have been available to nationals of Azerbaijan, Armenia, Georgia, Kyrgyzstan, Moldova, Mongolia, Tajikistan and Uzbekistan<sup>165</sup> for work (services) provided to individuals, such as nannies, caregivers, and various domestic workers, as well as construction and renovation workers of houses or apartments and caretakers. Under this scheme, one individual can hire no more than five foreign workers simultaneously. The maximum period of a permit cannot exceed 12 months and a new permit cannot be issued to the migrant worker earlier than 30 calendar days after the expiry of the previous permit. Thus, there must be a break following the expiry of the permit, during which the migrant worker must leave the country. This scheme requires mandatory registration of temporary residence and payment of so-called advance tax fees equivalent to twice the monthly calculation index (KZT 3,704 as of 2014).<sup>166</sup>

<sup>165</sup> Countries with which the Republic of Kazakhstan has signed agreements on visa-free entry and residence for a period of no more than three months.

<sup>166</sup> Monthly calculation index (MCI) is used for calculation of benefits and other social payments, as well as for the penalties, taxes and other charges in accordance with the Republic of Kazakhstan legislation. MCI is set for 2014 at **1 852 KZT**. [http://egov.kz/wps/portal/Content?contentPath=/egovcontent/bus\\_tax\\_finance/tax\\_payment/article/article\\_mci\\_2012&lang=en](http://egov.kz/wps/portal/Content?contentPath=/egovcontent/bus_tax_finance/tax_payment/article/article_mci_2012&lang=en)

## Liability for offences related to irregular migration

Administrative and criminal liability is set out for certain types of offences related to irregular migration in Kazakhstan. Chapter 25 of the Administrative Code defines various types of offences related to irregular migration and violation of residence and employment regulations in the country. The sanctions vary depending on the type of offence, the offender and whether it is a repeat offence, and include warnings, fines of various amounts, administrative detention of between 10 and 45 days and administrative deportation. The level of administrative fines may be equivalent to between three and one thousand times the monthly calculation index (as of 2014, between KZT 5,556 and KZT 1,852,000). Administrative deportation can be imposed if proof is found of illegal border crossing or working without an appropriate permit, and also in the case of a repeated violation of residence regulations in Kazakhstan. Foreign nationals and stateless persons who were previously deported from the Republic of Kazakhstan are prohibited from entering the country for five years after the day the deportation decision is made.

Criminal liability is applied for a number of offences related to irregular migration. Article 125 of the Criminal Code makes provision for punishment for trafficking in persons (“abduction of people for the purpose of exploitation”) in the form of imprisonment for a period of between five and 15 years with confiscation of property. Article 128 of the Criminal Code establishes liability for trafficking in persons, defined as buying, selling or other transactions with regard to an individual, as well as his/her exploitation or recruitment, transportation, transfer, harboring, receipt and other acts for the purpose of exploitation. International trafficking in persons is covered by Article 128.3 of the Criminal Code, which provides punishment in the form of imprisonment for a period of seven to ten years with confiscation of property.

In addition, Article 330-2 of the Criminal Code prohibits the organization of irregular migration by means of providing transport or fake documents, living or other premises, and also providing other services for illegal entry, exit and transit through the Republic of Kazakhstan to nationals, foreign nationals and stateless persons. In this case a fine can be applied equivalent to between 200 and 500 times the monthly calculation index, or imprisonment for a period of up to two years, and in the case of the same offences committed by an organized group or using their official authority, penalties include imprisonment for a period of up to five years.

## Institutional foundations of migration management

In accordance with Resolution No. 466 of the President of the Republic of Kazakhstan of 16 January 2013 “On further improvements to the public administration system of the Republic of Kazakhstan”, public policy on migration is formulated by the Ministry of National Economy. The main government bodies authorized to implement this policy and migration management in Kazakhstan are the Ministry of Healthcare and Social Development (MHCS), the Ministry of Internal Affairs (MIA) and its area subdivisions, the Ministry of Foreign Affairs (MFA), the Border Service of the National Security Committee (NSC), migration units within departments of employment and social programs operated by the local executive bodies of the *oblasts* and the cities of Almaty and Astana.

In accordance with Resolution No. 466, the functions and authority of the MIA with regard to the implementation of public policy in the field of migration, inter-ministerial coordination and the development of the systems of measures for regulating and monitoring migration processes were transferred to the MHCS. The MIA retained responsibility and authority for combating irregular migration, recording and registering foreign nationals and stateless persons, issuing documents for temporary and permanent residence, exit from the country for permanent residence, documenting, recording and registering nationals, and refugee issues.

In terms of managing labor migration flows, the key role is played by the MHCS, offices of the MIA Migration Police and the local executive bodies of the *oblasts* and the cities of Almaty and Astana. The MHCS is responsible for implementing policy in relation to labor migration management and setting quotas for foreign workers. The MIA is tasked with recording and registering migrants, combating irregular migration, and also regulating the labor migration scheme on the basis of permits for domestic work for private individuals. Local executive bodies issue permits to employers for the recruitment of foreign labor.

## Flows of regular labor migration

### Dynamics of regular migration

For reasons of privacy, it was not possible to obtain statistics on the total number of border crossings from the Border Service. However, estimates can be made on the basis of statistical data on inbound tourism. The figures for inbound tourism are calculated on the basis of data from the Border Service on the numbers of foreign nationals and stateless persons entering Kazakhstan through border checkpoints, by purpose of visit (official, business, tourism, private, etc.) (Table 10). These figures do not include data on border crossings by people arriving in Kazakhstan for permanent residence or work, nor border crossings by the operating personnel of vehicles travelling abroad.<sup>167</sup>

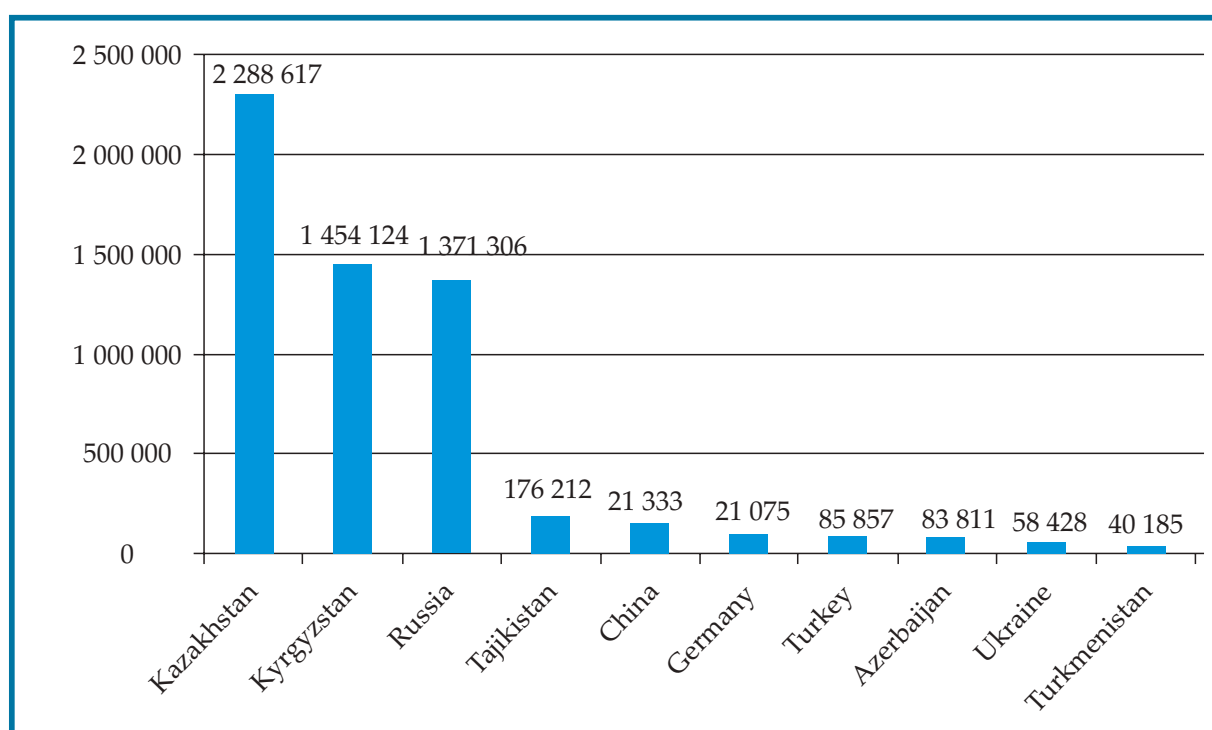
**Table 10. Number of visitors by purpose of visit (2008-2012)**

Purpose of visit	Years				
	2008	2009	2010	2011	2012
<b>Official</b>	<b>149,103</b>	<b>92,862</b>	<b>81,431</b>	<b>74,039</b>	<b>99,965</b>
<b>Tourism</b>	<b>187,988</b>	<b>148,980</b>	<b>184,271</b>	<b>289,809</b>	<b>373,407</b>
<b>Private</b>	<b>3,977,293</b>	<b>5,170,574</b>	<b>5,170,574</b>	<b>7,641,272</b>	<b>8,578,861</b>
<b>Transit</b>	<b>15,130</b>	<b>10,259</b>	<b>25,011</b>	<b>15,280</b>	<b>13,346</b>
<b>Total</b>	<b>4,329,514</b>	<b>5,422,675</b>	<b>6,019,171</b>	<b>8,020,400</b>	<b>9,065,579</b>

Source: *Tourism in Kazakhstan, 2008-2012. Statistical Compilation, Statistics Agency of the Republic of Kazakhstan, Astana, 2013.*

The largest numbers of visitors in the so-called inbound tourism category come from Uzbekistan, Kyrgyzstan, Russia, Tajikistan, China, Germany, Turkey, Ukraine, Azerbaijan and Turkmenistan (see Fig. 23). In the case of Germany, these are mainly private visits, as a large ethnic German diaspora left Kazakhstan in the 1990s. In the case of Russia, the maintenance of family ties and close economic relations are a major factor. The other countries can be considered as sending countries for labor migration, although a significant proportion of visitors from Uzbekistan, Kyrgyzstan, Ukraine, Azerbaijan and Turkmenistan may be entering Kazakhstan for purposes other than labor migration.

**Fig. 23. Number of visitors by 10 main countries (2012)**



Source: *Tourism in Kazakhstan, 2008-2012. Statistical Compilation, Statistics Agency of the RK, Astana, 2013.*

<sup>167</sup> Tourism in Kazakhstan, 2008-2012. Statistical Compilation, Statistics Agency of the RK. Astana, 2013 (in Russian).

It may be noted that there is a considerable lack of reliability in the data on border crossings by foreign nationals and stateless persons. First, when they cross the border, migrants often fail to disclose that work is the real purpose of their visit. Thus, in 2008 there were only 6,536 cases where the purpose of visit on entering the country was stated as “work”, although 47,561 permits for the recruitment of foreign labor were issued. In addition, with regard to the number of border crossings by nationals of neighboring countries, especially Kyrgyzstan and Uzbekistan, there is the issue of multiple border crossings (even within a single day, by one and the same person), for example, as a result of active cross-border trade, provision of taxi services, use of porters to carry luggage between the border control checkpoints of two countries, etc.

## Extent and distribution of regular labor migration

Regular labor migrants working in Kazakhstan divide into the following groups:

- migrants whose employers were issued permits for the recruitment of foreign labor or who received self-employment permits;
- labor immigrants with permits to work (provide services) in domestic households; and
- people who are exempt from requirements to obtain permits in relation to foreign labor.

The main flow of regular labor migration is formed as a result of the permits issued since 2001 to employers for the recruitment of foreign labor. Permits to work (provide services) in domestic households have only been issued since April 2014 and, according to the figures as at 1 October 2014, around 44,000 such permits have been issued. Since 2012, self-employment permits have been issued to foreign nationals, but in 2012 only one such permit was issued (Table 11).

A list of foreign nationals entitled to work in Kazakhstan without permits is set out in point 5 of the Rules and Terms for Issuing Permits to Foreign Nationals for Employment and to Employers for the Recruitment of Foreign Labor, of 13 January 2012. Separate categories of foreign nationals and stateless persons have been exempt from requirements related to permits, specifically nationals of Belarus and the Russian Federation, chief executives of branches and representative offices of foreign legal entities and organizations making foreign investments in Kazakhstan, members of crews of sea and river vessels, air, rail and automobile transportation, actors, producers, directors, choirmasters, choreographers, artists, tutors, sportspeople and trainers. It was not possible, during the course of this research, to gain access to the data on the numbers of such labor migrants. At the same time, the statistical data on the number of organizations working outside the permits system show that in 2008 there were 90 and by 2013 this had risen to 180. This means a conclusion can be drawn about the desire of organizations to escape the complicated permits system regulating entry by foreign workers and to conform to the requirements of the exceptions list.

**Table 11. Statistics on regular labor migration (2008-2013)**

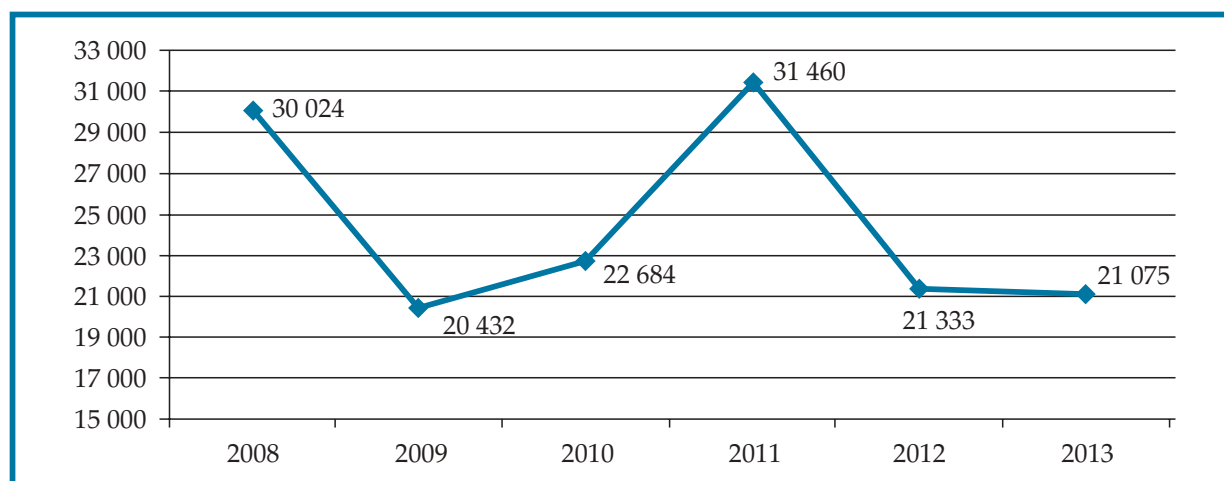
Indicator	Year					
	2008	2009	2010	2011	2012	2013
Permits received by employers	47,561	31,886	30,687	28,753	23,978	25,559
Permits received by foreign workers	0	0	0	0	1	0
Working with permits as of 1 January of following year	51,084	28,059	25,632	27,132	No data	No data

Source: Ministry of Healthcare and Social Development



The flows of labor migrants from countries with visa regimes can theoretically be traced on the basis of the number of work visas issued at the consular and diplomatic offices of the Kazakh Ministry of Foreign Affairs. The table below shows data on the number of work visas issued in recent years.

**Fig. 24. Total number of work visas issued (2008-2013)**



Source: Ministry of Foreign Affairs.

However, this information does not enable the flows of labor migrants from visa regime countries to be reliably traced. The information provided monthly to the Ministry of Foreign Affairs by consular offices contains data only on the numbers of visas of various categories issued and the consular fees collected. In particular, they do not indicate the nationality of people who were issued with visas through the consular offices, but record only the countries where the visas were issued and the periods for which work visas were issued to foreign nationals. Thus, in 2012 most work visas were issued in Kyrgyzstan (2,216) and a large number of such visas were issued in Azerbaijan, although both these countries have a visa-free regime with Kazakhstan.

It is also important to note the lack of comparability of the statistical data on the permits issued for the recruitment of foreign labor and work visas. Thus, in 2009, 20,432 work visas were issued and 47,561 permits were issued to employers for the recruitment of foreign labor, while, in 2013, 21,075 work visas and 25,559 permits to employers for the recruitment of foreign labor were issued. Obviously, there could not really be such a significant change in the correlation between regular flows from countries of origin with visa and visa-free regimes.

Nationals of Turkey, China, Russia, the USA and the United Kingdom represent the main regular labor migration flows. For a long time the largest numbers of labor migrants working with permits came from Turkey, accounting for between one third and half of all foreign nationals hired on the basis of permits. In 2010, China occupied first place for the number of foreign workers, due to the construction of an international transit corridor between Western China and Western Europe and development of other projects with Chinese investments. With regard to fields of employment, the majority of foreign workers hired on the basis of permits were employed in the construction, extractive and processing industries (Table 12). Statistics on the qualifications of the labor migrants making up labor migration flows in Kazakhstan are available on the basis of data on the distribution of quotas for foreign workers, by *oblast*, and by the cities of Almaty and Astana. The majority of them are management personnel and qualified specialists.

There are no data on regular labor migration transit through the Republic of Kazakhstan. Obviously, labor migration flows through Kazakhstan mainly go to the Russian Federation, yet there is no way to distinguish between regular and irregular migration here.

**Table 12. Total number of regional quotas by category of foreign workers (2008-2013)**

Categories	Years					
	2008	2009	2010	2011	2012	2013
Categories 1 and 2	32,992	29,440	29,801	29,679	11,097	10,725
Category 3	43,214	29,440	12,736	15,213	21,039	16,052
Category 4	5,559	750	3,200	3,200	12,615	7,556
Seasonal workers	N/A	N/A	N/A	N/A	3,464	2,762
Self-employment	0	0	0	0	688	385
<i>Total</i>	81,765	59,630	45,737	48,092	48,903	37,480

## Working conditions and social rights of regular labor migrants in Kazakhstan

At the legislative level there is a marked difference in the legal status of Kazakhstani nationals, permanent residents of Kazakhstan and migrants working on the basis of work permits in the country. People who receive the right of permanent residence in Kazakhstan have virtually the full range of rights enjoyed by Kazakhstani nationals with regard to labor, employment, access to education and to social and pension support systems. At the same time, in accordance with Article 26.1 of the Labor Code, migrants who are temporarily residing in the country can only sign a labor contract after receiving an appropriate permit and for a term no longer than that covered by the permit. In addition, unlike foreign nationals and stateless persons who have obtained a right to permanent residence, labor migrants are not entitled to state guarantees in relation to employment, including government services providing assistance in finding jobs and employment.

With regard to access to medical assistance, regular labor migrants, in accordance with Article 88.5 of the Code on Public Health and the Healthcare System, only have the right to receive a guaranteed package of free medical assistance in cases of acute illnesses, which pose a risk to the public. At the same time, labor migrants from the CIS countries are also entitled to emergency medical services. Other kinds of medical care are available on a paid basis, and the system of such paid services is relatively widespread in Kazakhstan.

With respect to access to education, migrants who are permanent residents have the right to free preschool, primary, basic secondary and general secondary education, and also—on a competitive basis—to technical and vocational, post-secondary, higher and post-graduate education.<sup>168</sup> Education is free-of-charge when they receive it for the first time at each of these levels. Labor migrants do not have the right to free education. Only foreign nationals and stateless persons permanently residing in Kazakhstan enjoy equal rights with regard to pensions and social security. Labor migrants who are temporarily resident in Kazakhstan do not have such rights.

## Irregular migration flows

### Extent of irregular migration

Labor migration flows to Kazakhstan from Central Asian countries are predominantly irregular in nature, i.e. they occur without the individuals obtaining the appropriate permits to work in Kazakhstan. In particular, this is confirmed by the fact that only 12% (about 5,700 people) of the 47,561 foreign workers whose employers had obtained permits for the recruitment of foreign labor in 2008 came from countries of the former Soviet Union.

<sup>168</sup> Article 10 of the Law “On the legal status of foreign nationals” and Article 8 of Law No. 319-3 of 27 July 2007 “On education”.

There has been no full-scale research on the extent of irregular labor migration in Kazakhstan. During a joint study conducted by the OSCE and UNESCO in late 2006 and early 2007 in 10 regions of Kazakhstan, 1,500 irregular migrants were identified and interviewed.

Of these, 51.1% were nationals of Uzbekistan, 29.9% were nationals of Kyrgyzstan, 9.3% were nationals of Russia and the other 10.7% were nationals of Tajikistan, Turkmenistan, Armenia, Georgia, Azerbaijan, Ukraine, Belarus and Moldova. Migration from Russia mainly occurs in the northern regions of Kazakhstan, including along the border (Kokshetau, Öskemen and Oral). More recent estimates of irregular labor migration rates are based on expert assessments. Within the framework of the baseline study to address the needs of the foreign labor force in the Republic of Kazakhstan, conducted by IOM consultants in 2013, respondents participating in in-depth interviews gave different estimates of the extent of irregular labor migration in Kazakhstan. Focus group participants in South-Kazakhstan and Almaty *oblasts* estimated the level of irregular labor migration in the country at 100,000-300,000 people per year, while estimates by focus group participants in Astana put the rate at 800,000-900,000 people per year.

The official statistics on foreign nationals and stateless persons who have been subject to administrative sanctions is not a reliable source for assessing the real rate of irregular labor migration in Kazakhstan. Data from the Ministry of Healthcare and Social Development show very low rates of identification by state inspectors conducting checks at workplaces (between 40 and 433 irregular labor migrants a year) (Table 13). The issue is that such inspections are not conducted on a regular basis, and periodically moratoria are introduced on inspections of small and medium-sized business, which is where most irregular migrants work. The number of migrants working in Kazakhstan irregularly and identified by the Migration Police is much higher, but it also does not provide a full picture of the scale of irregular labor migration flows into the country.

**Table 13. Number of migrants subject to administrative sanctions for irregular employment (2009-2013)**

Indicator	Year				
	2009	2010	2011	2012	2013
<b>Irregular labor migrants identified by labor inspectors from the Ministry of Healthcare and Social Development</b>	433	95	74	40	180
<b>Total number of irregular labor migrants identified by the Migration Police:</b>	13	5,412	7,022	5,096	5,860
<b>From outside the CIS</b>	0	45	40	21	48
<b>From the CIS</b>	13	5,367	6,982	5,075	5,812

Source: Ministry of Healthcare and Social Development

In some ways, the only official source of data on the extent of irregular labor migration is the results of the amnesty action in Kazakhstan for the period from 1 August to 31 December 2006. In total, 164,000 labor migrants with irregular status were identified during the course of the amnesty. However, these results were also lower compared to the real extent of labor migration, as the amnesty only covered CIS nationals and by no means all of them took advantage of the opportunity of the amnesty.

In particular, it did not include the following groups:

- those who enter Kazakhstan in violation of legislation;
- those who do not have documents entitling them to reside in the Republic of Kazakhstan;
- those who report false information about themselves, including information about criminal prosecutions, or do not provide required documents; and
- those who perform work requiring an appropriate license.

At present there are no official long-term forecasts regarding future labor migration flows. Relatively reliable sources of data on trends in the field of irregular migration are also not available.

## Irregular migration routes

Among the main countries of origin for labor migration flows to Kazakhstan are the neighboring Central Asian states, specifically Uzbekistan and Kyrgyzstan, which have common borders and visa-free regimes. Kazakhstan is also a popular destination country for nationals of Tajikistan.<sup>169</sup> The increase in migration flows from Tajikistan came later, in the second half of the 2000s, as there is no common border with Kazakhstan. These migration routes have been covered in publications by the IOM<sup>170</sup> and ILO<sup>171</sup> and also in the Special Report of the Human Rights Commission of the President of Kazakhstan on the situation of migrants' rights in the Republic of Kazakhstan, published in 2013.

Other countries of origin for irregular labor migration are Turkey, China, India and Pakistan<sup>172</sup>, i.e. countries with a high population density and much greater competition in their domestic labor markets. It should be pointed out that migrants from these countries come to Kazakhstan not only for employment but also for entrepreneurial purposes. A proportion of migrants from Turkey and China also work on the basis of permits issued to their employers for the recruitment of foreign labor and thus form part of the regular migration flows considered in the relevant section of this report.

Kazakhstan is not only a country of destination for labor migration – flows of migrants also transit through its territory. According to a number of reports<sup>173</sup>, transit migrants arrive in Kazakhstan first of all from Uzbekistan, Tajikistan, Afghanistan, China, and India. Most transit migrants arrive in Kazakhstan legally (possessing valid travel documents), and later on try entering Russia (through "green border") or Europe. The factors contributing to transit migration are: opening of new international aviation, railway and automobile routes in recent years; corruption of some government officials; imperfect immigration control system; and also significant length and "transparency" of borders due to preservation of a free-movement regime with CIS countries.

## Profile of irregular migrants

A number of studies conducted among labor migrants show that, in the case of irregular migration to Kazakhstan from Central Asian countries, the dominant motives are economic, namely: difficulties with finding employment at home and the fact that it is not possible to earn the same levels of income in their own countries.<sup>174</sup> Very often the level of remuneration in Kazakhstan is significantly higher than in Uzbekistan, Kyrgyzstan and Tajikistan, however, having found a job at a somewhat lower rate of pay at home, some migrants prefer to return to their native country. For many of them, Kazakhstan is not so attractive from the point of view of a higher standard of living, compared to the neighboring Central Asian states, because the cost of living there is also higher; moreover, the level of social security is not as high as in developed countries, and it does not apply to non-citizens, as a rule.

Among the main reasons resulting in irregular migrant status in Kazakhstan are jobs without the appropriate permit for foreign labor and the absence of registration of temporary residence. Studies conducted by the IOM with regard to labor migrants from Kyrgyzstan and Tajikistan revealed that, in 2010, only 2.1% of migrants interviewed were working on the basis of official foreign labor permits and in 2012 the figure was 4.7%. Among the reasons for the absence of permits are various difficulties with obtaining them, including the absence of a permit system or quotas for unqualified workers, a large number of required documents and disparity between expenses and expected income, as well as the lack of opportunity to register at the place of residence.

<sup>169</sup> Comprehensive plan 2014-2016 for solving migration-related issues, strengthening control over migration flows from neighboring states, and creating favorable conditions for indigenous qualified workers to prevent their excessive outflow to foreign labor markets, approved by Resolution No. 1593 of the Government of the Republic of Kazakhstan of 31 December 2013.

<sup>170</sup> *Access of migrant workers from Kyrgyzstan and Tajikistan to social services in Kazakhstan. Results of the sociological study*, Astana, 2012.

<sup>171</sup> *Employment of migrant workers in the informal economy in Kazakhstan. A study conducted of Southern Kazakhstan*, ILO, Almaty, 2009.

<sup>172</sup> *Employment of migrant workers in the informal economy in Kazakhstan. A study of Southern Kazakhstan*, ILO, Almaty, 2009.

<sup>173</sup> Kazakhstan. ICMPD. Review of migration systems in CIS states, 2005; Special report on the situation of migrants' rights in the Republic of Kazakhstan, the Human Rights Commission under the President of the Republic of Kazakhstan, Astana, 2013.

<sup>174</sup> *Survey report on labour migration to Kazakhstan 2006-2007*, OSCE ODIHR/UNESCO; *Needs assessment of women-labor migrants in Central Asian countries (Kyrgyzstan, Tajikistan, Uzbekistan, Kazakhstan and Russia)*, Almaty, 2009; *Access of migrant workers from the Kyrgyzstan and Tajikistan to social services in Kazakhstan. Results of the sociological study*, Astana, 2011.



At the same time, migrants from Kyrgyzstan to a lesser extent consider this a serious problem, as many of them work in an informal sector, for example, in market trading, and also have greater opportunities for circular migration, with frequent returns home.

The data on the age, gender, education and professional experience of irregular migrants are only available from selected studies conducted by means of interviewing migrants themselves. A weak point of the existing data on the structure of irregular migration is that it is obtained on the basis of selected studies conducted through projects by international organizations that also partially cover regular labor migrants. In 2012, within the framework of the Central Asian Regional Migration Program implemented by the IOM mission in Central Asia, a study was conducted of the social and legal status of labor migrants from Kyrgyzstan and Tajikistan. In total, 867 labor migrants from Kyrgyzstan, Tajikistan and Uzbekistan were interviewed in Astana, Almaty, Aktobe, Shymkent, Petropavlovsk and Karaganda. Among them, 54.1% were under the age of 29 and 34.5% were aged between 30 and 41. The proportion of women among the interviewees was 35.6%. Of the interviewees, 27.9% had not completed their secondary education, 42% completed general secondary education, 20.1% vocational education and 5.4% higher education. One of the conclusions of this study was that the educational level of labor migrants from Central Asia working in Kazakhstan is gradually decreasing.

## Trafficking in persons

Resolution No. 1347 of the Government of the Republic of Kazakhstan of 24 October 2012 approved the Action Plan on Combating and Preventing Crimes Related to Trafficking in Human Beings, for 2012–2014. It was adopted to guarantee and coordinate work on combating and preventing crimes related to trafficking in persons, and provides for state bodies to undertake specific actions aimed at eliminating such violations. Non-governmental organizations are also actively working on issues, such as identification of trafficking cases, providing assistance to trafficking victims and help for labor migrants with adaptation and social integration into Kazakhstani society.

With regard to international trafficking in persons, although Kazakhstan is predominantly a country of destination and transit for men, women and children from Uzbekistan, Tajikistan and Kyrgyzstan, it also remains a country of origin of trafficking victims. In the report prepared for the third session of the OSCE Review Conference in 2010, it was noted that trafficking in persons occurs primarily for the purposes of sexual exploitation and forced labor, including forced domestic servitude and forced labor in the tobacco, cotton and meat-processing industries. In terms of internal trafficking, victims are often Kazakhstani nationals responding to job advertisements in the country's major cities (Almaty, Astana, Shymkent, Atyrau and Aktau), where they are subjected to labor or sexual exploitation.

The available statistics on the identification of cases and criminal investigation and prosecution for trafficking-related crimes often make no distinction of cases of international trafficking, when victims are foreign nationals or stateless persons. One of the barriers to effective law enforcement in this field is that many victims refuse to testify, due to a fear of reprisals from their traffickers, and also due to the fact that the government does not allocate sufficient funds for the protection of victims who appear as witnesses.

The official statistics provided by the Migration Police Department of the MIA shows a low level of trafficking victims identified from other countries in 2009–2013 (Table 14). They are mainly nationals of Uzbekistan, the rest being six nationals of Kyrgyzstan and one female victim from Tajikistan. These crimes were committed mainly for the purpose of sexual or labor exploitation, and most of victims were women aged between 14 and 25. According to statistical data from the Supreme Court, provided in a Special Report of 2013 on the situation of migrants' rights, in 2011, sentences relating to Article 128 of the Criminal Code "Trafficking in persons" were imposed in eight cases and 17 people underwent criminal prosecution, with 15 women being recognized as victims.

However, none of these cases were defined as trafficking in persons related to import, export and transit through the territory of Kazakhstan, i.e. the conclusion can therefore be drawn that all these cases involved internal trafficking in persons. Data on criminal prosecutions under other articles of the Criminal Code related to trafficking in persons are not available.

**Table 14. Number of trafficking victims among foreign nationals and stateless persons (2009-2013)**

Year	2009	2010	2011	2012	2013
Number of trafficking victims	9	9	6	11	11

Source: Ministry of Internal Affairs.

In April to June 2014, Human Rights Charter conducted monitored the situation of trafficking victims in Almaty and Almaty Oblast at centers for the temporary isolation, adaptation and rehabilitation of adults and minors. Their survey shows that the real number of trafficking victims exceeds the number of people identified by law enforcement agencies. Of the total number of interviewees (390 people, including 100 children), 29 adults and seven children were trafficking victims. Among them were nationals of Kazakhstan, Kyrgyzstan, Uzbekistan and the Russian Federation, as well as stateless persons.

## Repatriation and readmission

The current legislation does not contain provisions directly defining or mentioning readmission of persons as the basis for entry (or repeated entry) to the Republic of Kazakhstan. It has separate rules and regulations, which serve as the basis for implementing measures related to the readmission procedure for foreign nationals and stateless persons. At present readmission is regulated primarily by bilateral agreements signed and approved with Kazakhstan by a number of countries. In particular, such agreements have been signed with Belarus, the Czech Republic Germany, Hungary, Latvia, Lithuania, Norway, Russia, Switzerland and Uzbekistan. The standard readmission procedure, in accordance with international agreements of the Republic of Kazakhstan, can be divided into the following sequence of steps:

- identification of an individual who has violated the regulations on entry, stay and residence in a foreign state;
- confirmation of the identity of that individual;
- collection of facts to prove the applicability of the readmission procedure of the individual to the requested State, including nationality of the requested State or grounds for readmission of third-country nationals or stateless persons;
- preparation of documents for sending a request for readmission to the competent authority of the requested State;
- processing of the request for readmission by the competent authority in the requested State;
- provision of a response to the request for readmission by the competent authority of the requested State; and
- transfer and reception of the individual undergoing the readmission procedure by representatives of the competent authorities of the requested State if there are grounds for it.

The period for the implementation of the readmission procedure is determined by the different international agreements signed on by the Republic of Kazakhstan. There are no special programs for the repatriation to Kazakhstan of irregular migrants, because there are currently no mass flows of irregular migration from the country.

The Kazakhstani government bodies do not usually have information on specific individuals deported from other countries. Accordingly, the issue of the reintegration of Kazakh nationals is not considered to be relevant for the country.

The expansion of the number of states in respect of which international agreements exist on the readmission of individuals implies the need for the establishment in Kazakhstan of specialized institutions for the temporary accommodation of migrants from third countries. Taking into account the current migration flows regulated by the provisions of the international agreements already adopted by the Republic of Kazakhstan regarding readmission of individuals, they could be established in the major population centers, for example, in Astana in the north and Almaty in the south. Legislative provision is made for the establishment of specialized institutions for the temporary accommodation of migrants, but currently they are not yet in place.<sup>175</sup>

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<sup>175</sup> This issue was a special topic of discussion in the framework of meetings between officials from the Migration Police Department of the MIA and the IOM office in Astana in late 2013.



# Chapter 3

## Migration Mapping: Kyrgyzstan





## General information on the country

### Main external migration trends in Kyrgyzstan

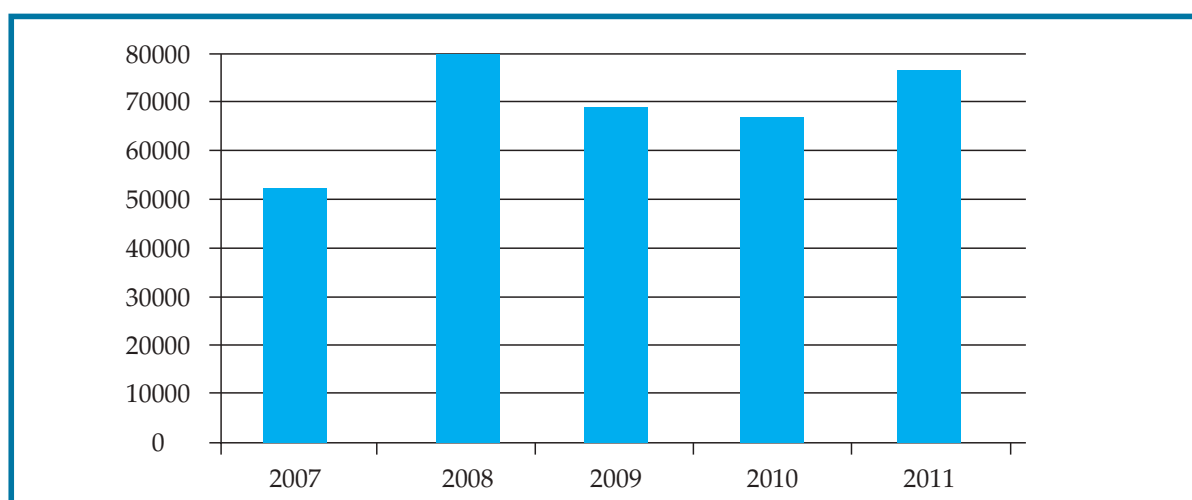
The migration processes in Kyrgyzstan can be divided into three main phases. The first phase, between 1991 and 1994 (ethnic migration), was characterized by an extraordinary rise in migration, with the mass migration of the Russian-speaking population abroad caused by a sharp increase in the socio-economic crisis and the exacerbation of inter-ethnic relations. During the second phase, between 1995 and 2005 (mixed migration), the migration situation in Kyrgyzstan stabilized, due to short-term improvements in the main economic development indicators and income growth. From the early 2000s, together with ethnic migration, a significant increase began to be observed for the first time in the flow of external labor migration, including by ethnic Kyrgyz citizens. The third phase, from 2006 to the present (external labor migration), is characterized by the predominance of labor migration over ethnic migration and is related primarily to the aggravation of the economic situation within the country, political instability and global crises, including the global financial and economic crisis.

According to the National Statistical Committee (NSC) of the Kyrgyz Republic, between 1990 and 2010 over 900,000 people left Kyrgyzstan for CIS countries and beyond, including: 653,465 to Russia; 84,931 to Kazakhstan; 52,482 to Uzbekistan; 22,210 to other post-Soviet countries; and 96,604 to countries outside the former Soviet Union. Based on data analysis by the NSC, it may be noted that since 2007, the trend has been for ethnic Kyrgyz to be the largest ethnic group migrating abroad. For the period between 2000 and 2004, the proportion of ethnic Kyrgyz people who left the country was 7.2% of the total number who left; between 2004 and 2006, the figure was 16.7%. Between 2006 and 2009, the proportion of ethnic Kyrgyz was 41.5% of departing labor migrants and in 2010-2011 it was 38.95%.

According to data from the NSC, between 1990 and 2013 negative net migration from the country was 772,200 or approximately 55,000 people per year on average. Kyrgyzstan became a labor “donor” for other countries—for each person arriving in the country, 3.8 people left. The major stimulating factors in labor migration from Kyrgyzstan are border “porosity” and the visa-free regime, common historical connections and citizens’ freedom of movement, as well as the existence of Kyrgyz Diasporas in Russia and Kazakhstan. In addition, there is a high demand for labor in these countries, and the high level of wages as compared to Kyrgyzstan drives economic attractiveness.

At the same time, Kyrgyzstan has always been attractive for tourists, investors and students from other countries. According to data from the Registration Department of the Kyrgyz State Registration Service, for the period from 2007 to 2011, 333,556 foreign nationals were registered in Kyrgyzstan—49,726 in 2007, 77,585 in 2008, 66,754 in 2009, 64,801 in 2010, and 74,690 in 2011 (see Fig. 25).

**Fig. 25. Number of registered foreign nationals in the Kyrgyz Republic (2007-2011)**



Source: Registration Department, Kyrgyz State Registration Service

## Development of national policy in Kyrgyzstan in relation to labor migration

The development and implementation of labor migration policy in recent years in Kyrgyzstan has led to the following results. First, a comprehensive legal and regulatory framework has been developed and implemented, and initial developments have been made in the infrastructure for labor migration management and the selection and export of labor abroad. Secondly, measures are being developed and implemented to provide information support for this process and access to information for labor migrants. At the same time, concrete steps are being taken in relation to signing bilateral inter-governmental agreements and treaties and developing implementation mechanisms for them, with coordination of the efforts of the country's government and parliament. Interaction between the state and civil society on streamlining labor migration processes is strengthening, and the activities of non-governmental organizations are increasing.

In 2004, the President of Kyrgyzstan endorsed a Concept on State Migration Policy and a Program of Measures on its Implementation. In 2007, a Resolution of the Kyrgyz government adopted the State Program on Regulating Migration Processes for 2007-2010. A new migration strategy to 2020 is currently being developed, wherein migration-related issues will be considered in the framework of general human resources management.

The legal basis for addressing labor migration issues consists of laws of the Kyrgyz Republic, bilateral agreements, international conventions and covenants previously ratified by Kyrgyzstan. Kyrgyzstan is a state party to the founding documents of the UN, ILO and IOM conventions in relation to the protection of labor migrants' rights and migration in general.

An enormous amount of work has been undertaken in Kyrgyzstan in recent years on the development and implementation of government policy in the field of labor migration. In this context, a legal and regulatory basis has been developed and implemented, which takes into consideration almost all the country's international obligations on migration-related issues.

However, in fairness it should be noted that many provisions of the regulations and decisions made during various conferences aimed at creating decent working conditions for migrants remain unfulfilled due to a lack of funding and real implementation mechanisms.

Within the framework of the new migration strategy, the Kyrgyz government has been recommended to develop and implement a program to develop an infrastructure to ensure the implementation of migration policy, including:

- establishing pre-migration preparation centers ensuring legitimacy, awareness, security and training for migrants. These services may include information and advice centers, vocational and language training, and support in finding employment and in legal matters;
- creating a single database on migration (availability of job vacancies, register of organizations involved in migration-related issues, border crossing registration and deregistration), as well as the development of standards and a methodology for collecting statistical information on labor migration for the purpose of qualitative improvements in statistical data in relation to covering the gender characteristics of migration;
- launching projects to create crisis centers, hotlines and help centers for migrants in destination countries;
- optimizing foreign labor recruitment processes; and
- combating irregular migration.

In addition, in the context of globalization it is intended to develop a special support program to sustain links with Kyrgyz people who have emigrated and settled abroad, which could also provide a system of preserving communication and the transfer of socio-cultural practices between Kyrgyzstan and Kyrgyz diasporas abroad. With regard to this, the Kyrgyz government drafted the Law "On the fundamental principles of government policy to support Kyrgyz citizens abroad", which was passed by the Kyrgyz parliament (Jogorku Kenesh) on 27 June 2013 and signed as Law No. 183 by the President of Kyrgyzstan on 3 August 2013.

The Kyrgyz government should also devise measures to involve migrants in various investment development projects at the national and especially local levels, by providing financial support to investments made by migrants through various benefits and the creation of a range of development funds.

### Labor migrants' rights

Foreign nationals and stateless persons have the right to freely use their skills to work, to choose a type of activity or vocation (providing they possess the appropriate document certifying their vocational education or they have appropriate work experience with supporting documents to prove it), and also the right to freely use their skills and property for entrepreneurial or other economic activity not prohibited by law.

When labor contracts are concluded for the recruitment of foreign labor to Kyrgyzstan, the principle of the equal rights of labor migrants and Kyrgyz nationals must be observed.<sup>176</sup> It is not permitted to hire labor migrants on conditions that are humiliating to human dignity, cause damage to their health or pose a threat to their lives. Kyrgyz nationals going abroad to work under labor contracts retain the rights and responsibilities provided for by Kyrgyz legislation.

In addition, specific laws regulate issues of ensuring the employment and social rights of labor migrants, their social security, compensation for damage caused to a labor migrant's health, remittances, taxation, recognition of documents certifying vocational qualifications and also the import and export by labor migrants of personal property, tools and equipment.<sup>177</sup>

The legal basis for resolving issues related to labor migration is established by the international conventions and treaties previously ratified by Kyrgyzstan. Kyrgyzstan is a party to the founding documents of the UN and ILO and IOM conventions related to the protection of labor migrants' rights and to migration in general.

In addition, Kyrgyzstan has ratified a number of legislative instruments passed within the framework of the CIS. Of these, particular note should be taken of the Agreement on Cooperation in Labor Migration and Social Protection for Migrant Workers, of 15 April 1994, and the Convention on the Legal Status of Migrant Workers and Members of their Families, ratified by Kyrgyz Law No. 305 of 26 November 2009.

## Legislative and institutional framework

Labor migration in Kyrgyzstan is regulated in accordance with the Constitution and other legal acts. The most important laws in Kyrgyzstan regulating migration flows are the laws "On external migration", "On internal migration", "On external labor migration", "On refugees" and "On preventing and combating trafficking in human beings". Bilateral agreements are in operation with the country's "migration partners"—Russia, Kazakhstan and South Korea.

The fundamental legal act regulating legal relations in labor migration in Kyrgyzstan is the Law "On external labor migration" of 13 January 2006, which defines external labor migration as "the voluntary exit from the country by Kyrgyz citizens on a legal basis, and also the entry of foreign nationals and stateless persons to Kyrgyzstan for the purpose of carrying out labor activities".<sup>178</sup>

The Law defines a labor migrant as "an individual with a legitimate status who is engaged in labor activities in a country of which s/he is not a citizen".<sup>179</sup> The Law also establishes the procedure for Kyrgyz citizens engaging in labor activities abroad and foreign nationals and stateless persons in Kyrgyzstan, and also contains provisions regulating the procedures for entry to and exit from Kyrgyzstan for both Kyrgyz and foreign nationals.

<sup>176</sup> The Law of the Kyrgyz Republic "On external labor migration" of 13 January 2006, Article 18.

<sup>177</sup> Ibid, Articles 21-25.

<sup>178</sup> Ibid, Article 2.

<sup>179</sup> Ibid, Article 1.

## Rules of entry and residence for foreign nationals in Kyrgyzstan

The procedures for processing and issuing visas was developed in accordance with the Law “On external migration” of 17 July 2000. The Law establishes the procedures for processing visas for foreign nationals and stateless persons for entry to, exit from, transit through and also residence in Kyrgyzstan.

Entry visas are issued by the diplomatic representations and consular services of Kyrgyzstan abroad and also by the 24-hour visa office at Manas International Airport.

Visa extensions within Kyrgyzstan are provided by:

- Consular Services Department of the Ministry of Foreign Affairs for the following visa categories: diplomatic (D), official (O), investment (INV), business (B2), work (W1) and tourist (TS); and
- Registration Department of the Kyrgyz government’s State Registration Service and its regional subdivisions for the following visa categories: business (B1), study (S), work (W2), religious (R), private (P1, P2, P3) and tourist (TS).

Documents that may substitute visas are resident permits for foreign nationals permanently residing in Kyrgyzstan and certificates of statelessness issued by the Kyrgyz government’s State Registration Service.

The list of countries with which a visa-free regime is in operation (regardless of passport category):

- Azerbaijan, Armenia, Georgia and Moldova through the Agreement of the CIS countries of 1992 “On the visa-free movement of citizens of CIS Member States on the territory of the CIS”;
- Belarus, Kazakhstan, the Russian Federation and Tajikistan through the Agreement of the Eurasian Economic Community (EurAsEC) Member States of 2000;
- Former USSR and Vietnam, North Korea and Cuba through bilateral agreements;
- Malaysia (up to 30 days), Mongolia (up to 90 days), Turkey (unlimited, on the basis of the agreement between Kyrgyzstan and Turkey of 26 April 2011), Ukraine (up to 30 days) and Uzbekistan (up to 60 days) through bilateral agreements; and
- Japan, in accordance with Government Resolution No. 735 of 31 December 1999 and No. 262 of 4 June 2001, which established a unilateral visa-free regime for Japanese nationals entering Kyrgyzstan for an unlimited period of time.

In accordance with the Law No. 121 “On introducing a visa-free regime for nationals of some countries for a period of up to 60 days” of 21 July 2012, citizens of the European Union (except Bulgaria, Cyprus and Romania) and the following countries are exempt from visa requirements for a period of up to 60 days: Australia, Bahrain, Bosnia and Herzegovina, Brunei, Canada, Iceland, Kuwait, New Zealand, Norway, Qatar, Saudi Arabia, Singapore, South Korea, Switzerland, the United Arab Emirates and the United States of America.

## Labor activities of migrants in Kyrgyzstan

The employment of foreign nationals in Kyrgyzstan is regulated by the Laws “On external migration” and “On external labor migration”, which set out the arrangements for their engagement in labor activities. The main mechanism for regulating the number of foreign specialists arriving in the country is an annually established quota for labor migration.<sup>180</sup> The quota for recruiting and using foreign labor in Kyrgyzstan is set by the government, taking account of national interests and the situation on the domestic labor market, and approved by the Kyrgyz Parliament four months prior to the beginning of each calendar year.

<sup>180</sup> The State Program on the Regulation of Migration Processes for 2007-2010.



An authorized state body on migration organizes the distribution of quotas for labor migration among employers recruiting foreign nationals and stateless persons for employment in Kyrgyzstan, taking into account their contribution to the development of the national economy and the priority right of Kyrgyz citizens to fill the available vacancies.<sup>181</sup> Employers' activities related to recruiting and using foreign labor in Kyrgyzstan are undertaken on the basis of permits for recruiting and using foreign labor issued by the authorized state body on migration in the manner prescribed by the Kyrgyz government.<sup>182</sup>

In 2013, 13 sessions of the Inter-Ministerial Commission of the Ministry of Labor, Migration and Youth were held, during which 1,358 applications for recruiting foreign labor were considered, of which 1,228 applications were approved for legal entities and individuals. A quota was then set for the recruitment of 10,472 foreign specialists. This represents a portion of the total quota of 12,990 for the whole country, comprising 80.6% of the labor quota approved by the Kyrgyz government for 2013. In addition, 1,478 permits were issued during this period to individual entrepreneurs engaged in market trading.

Of the labor quota of 10,472 foreign specialists, 4,483 (or 42.8%) are engaged in labor activities in the cities of Bishkek, 1,776 (or 17.0%) in Chuy oblast and 1,437 (or 13.7%) in Jalal-Abad Oblast. This is evidence of the work undertaken by local bodies to legalize foreign nationals who did not previously have authorization documents. The labor quota set for 2013 was distributed by sector, as follows: industry and construction–48.3%; trade, catering and entrepreneurial activities–21.3% (of which 14.1% was for entrepreneurial activities); communications, transportation, geology (mining) and energy–18.4%; education and healthcare–7.2%; agriculture and processing–1.5%; and financial lending and other services–3.4%. During 2013, foreign and joint enterprises with foreign capital recruited more than 40,000 Kyrgyz citizens, including 1,500 new jobs created by foreign employers for local nationals.

### Liability for violations related to irregular migration

In Kyrgyzstan, crimes committed in relation to irregular migration incur administrative or criminal liability.

Thus, Article 77 (“Illegal employment of nationals”) of the Kyrgyz Administrative Code states that employment of Kyrgyz citizens abroad without a permit or in violation of the conditions provided by a permit shall entail the imposition of an administrative fine: for citizens–between 10 and 20 times the monthly calculation index, for officials between 50 and 100 times the monthly calculation index and for legal entities between 300 and 700 times the monthly calculation index.<sup>183</sup>

In monetary terms this fine is equivalent to:

- For individuals–between KGS 1,000 and KGS 2,000;
- For officials–between KGS 5,000 and KGS 10,000; and
- For legal entities–between KGS 30,000 and KGS 70,000.

In the case of more serious crimes related to trafficking in persons, criminal liability is set out in Article 124 of the Kyrgyz Criminal Code: “trafficking in human beings–recruitment, transportation, harboring, receipt, transfer or sale of an individual or other unlawful transaction with or without his/her consent by means of coercion, blackmail, fraud, deception, abduction, for the purpose of exploitation or extraction of other benefits–is punishable by imprisonment for up to five years or imprisonment from five to eight years with or without confiscation of property”.

<sup>181</sup> Law “On external labor migration” of 13 January 2006, Article 7.

<sup>182</sup> The State Program on the Regulation of Migration Processes for 2007–2010, Article 6.

<sup>183</sup> Monthly calculation index is equal to KGS 100.

## Institutional foundations of migration management

One of the first steps in this regard was the establishment of the Migration Department of the Ministry of Labor and Social Protection of Kyrgyzstan. In 1999, the Kyrgyz government established the State Agency on Migration and Demography. Together with the ministries affected and other national agencies, as well as with regional administrations and local government bodies in Bishkek, the Agency undertook a number of measures for the implementation of the main aspects of the Strategy on Migration Policy for 1999-2001. From 2001 to 2005, migration processes were managed by the Migration Service Department of the Ministry of Foreign Affairs.

The period after 2000 can be considered as the most effective in the process of the development and implementation of state migration policy. By this time a legislative framework had been developed. In April 2004, a Concept on State Migration Policy to 2010 was developed, which determined the main pre-conditions, aims, objectives and principles of state migration policy. On 13 January 2006, the Law "On external labor migration" was adopted. The Kyrgyz government is developing and implementing a number of programs for the regulation of migration processes. These are primarily the National Development Strategy for 2007-2011 and the National Employment Policy of Kyrgyzstan to 2010, adopted on 17 August 2006, the State Program of Kyrgyzstan on the Regulation of Migration Processes for 2007-2010, approved on 25 September 2007, and others.

An effective government institution on the implementation of migration policy was the State Committee on Migration and Employment (2005-2009) established during this period and later transformed into the Ministry of Labor, Employment and Migration.

Currently, the Kyrgyz state bodies involved in migration issues are the Ministry of Labor, Migration and Youth and the Ministry of Foreign Affairs. The Ministry of Foreign Affairs focuses on issues relating to external migrants, although this applies only to those Kyrgyz citizens who are already abroad and are facing problems. The Ministry of Labor, Migration and Youth focuses on policy regarding potential labor migrants and their pre-departure preparation.

In 2010, the Center for the Employment of Kyrgyz Citizens Abroad was established by the Ministry of Labor, Employment and Migration. Its main aim is to provide assistance to Kyrgyz nationals in employment abroad. In 2012, during the government structural reforms, the Center for the Employment of Kyrgyz Citizens Abroad was transformed into the Center for the Employment of Kyrgyz Citizens of the Ministry of Labor, Employment and Migration.

The Jogorku Kenesh Social Policy Committee makes a major contribution to migration policy in Kyrgyzstan. The Committee covers a total of 14 different areas: women's issues, children, young people, pensioners, healthcare, social policy, labor and migration, as well as dealing with correspondence, complaints and other referrals from Kyrgyz citizens, employee organizations, funds, non-governmental organizations and labor, war and home front veterans.

Its work includes:

- recruitment and employment issues, occupational health and safety, the use of reserves to increase wage levels and changing the system for setting rates of pay for employees in the social sector;
- solutions to issues of internal migration in Kyrgyzstan and creating jobs in the regions; and
- external migration issues, protecting the rights and interests of migrant workers and Kyrgyz citizens abroad, work with ethnic Kyrgyz people, refugees, internally displaced persons, international cooperation on issues of labor, migration and employment.

In the period between 1 September 2013 and 30 June 2014, the Social Policy Committee held 24 sessions, during which it considered 80 draft laws of which, 29 were introduced to the *Jogorku Kenesh*, 17 were adopted by the Parliament and 17 were endorsed by the President. In addition, the Committee considered 50 matters concerning the social sector and requiring intervention by the Kyrgyz Parliament.

## Labor emigration by Kyrgyz nationals

After gaining independence in 1991, Kyrgyzstan started actively conducting systemic and radical socio-economic and political reforms in all spheres of life related to the transition to a market economy. This inevitably led to disruption and losses in the dynamism and scale of development of the real sector of the economy and other economic spheres, as well as a worsening of the situation and extreme pressures on the domestic labor market. The inadequacy and unsustainability of these key factors, which are the underlying causes of and at the same time the mechanisms and tools for regulating migration processes, resulted in an unprecedented rise in migration flows in Kyrgyzstan and were the reason for their spontaneous nature.

Having lost a portion of the labor market and source of income, a significant part of the economically active population and their family members had to resort to what was at the time the simplest way out of the difficult socio-economic situation—mass participation in various forms of migration. The extreme exacerbation of the migration situation became a destabilizing factor in the country's political, economic and social development.

### Extent and distribution of labor migration

According to expert analysis, at different times of the year between 580,000 and 650,000 Kyrgyz citizens are engaged in labor and entrepreneurial activities outside the country's borders. The number of Kyrgyz citizens engaged in temporary employment activities varies in different seasons from 5 to 10% of the economically active population.

Currently, the main locations of migrant workers from Kyrgyzstan are:

- Russian Federation (350,000 to 570,000)—according to data from the Russian Federal Migration Service, for the period from 1 January to 31 December 2013, 657,800 Kyrgyz nationals entered the Russian Federation and 568,800 Kyrgyz nationals left;
- Kazakhstan (more than 70,000); and
- Developed countries outside the former Soviet Union (up to 30,000 according to data from different sources).

### Profile of labor migrants from Kyrgyzstan

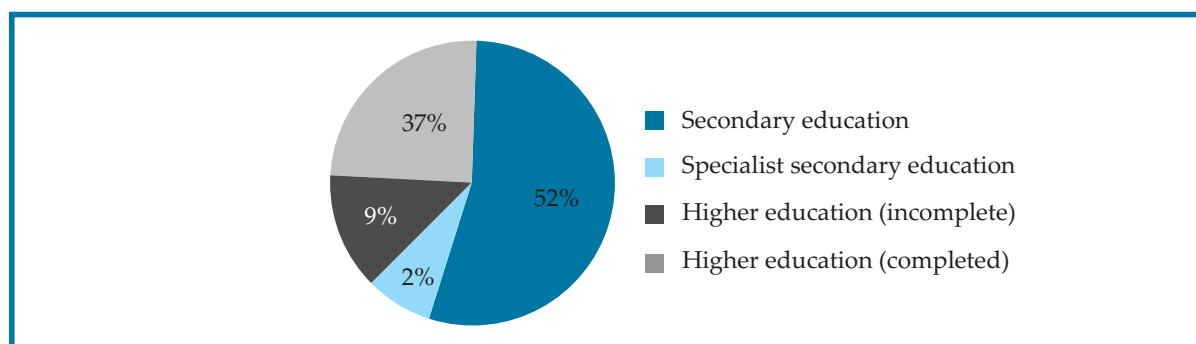
For the purpose of studying the external migration processes of Kyrgyzstan and undertaking a more comprehensive and deeper analysis of their causes, participants and consequences, in 2013 the Kyrgyz National Institute of Strategic Studies conducted a sociological study consisting of 890 questionnaires and 37 expert surveys. The study was conducted in all regions of Kyrgyzstan and in two settlements in the Russian Federation.<sup>184</sup>

The survey of labor migrants showed uneven gender and age structures in different categories. With regard to age, the largest group was of young people aged 16-25, comprising 44.1% of interviewees. Respondents aged 26-35 made up 31.4% of interviewees and 6.8% for those over 36 years old. This means that there is a tendency towards younger migrants in external labor migration.

<sup>184</sup> Development of the Concept on Migration Policy of the Kyrgyz Republic [report], Bishkek, 2013 (in Russian).

Taking into account the predominant youth of the survey participants, it should be noted that more than half of the interviewees had secondary education (52.2%) and higher education (36.7%), as shown in Fig. 26.

**Fig. 26. Education levels among migrants**



The gender balance of labor migrants was 56.5% men and 43.5% women. The majority of migrants are ethnic Kyrgyz (97.2%), the proportion of other ethnicities was lower than 1%. Most of the respondents have families (55.1%), however, 41.9% are young, single people, some of whom went to Russia with relatives.

### *Motives for migration and forms of employment abroad*

The results of the study showed that the main purpose for Kyrgyz nationals traveling to the Russian Federation is employment. Over three quarters of the respondents (78%) go there to work as employees. In addition, the process of finding employment depends to a large extent on migrants' connections and awareness. More than half of the respondents (52.8%) managed to find jobs with the help of relatives who were temporarily working and living there, 35.1% of respondents were helped by friends and acquaintances, 10% found jobs by themselves and 2.2% found work through employment agencies. Only 1.7% of respondents managed to find jobs with the help of individuals engaged in recruitment and the smallest proportion of them found jobs through the internet (1%).

### *Employment of migrants*

Only 12.8% of the respondents are currently working in Russia in the areas of employment they trained in, the remaining 83.6% are engaged in other jobs. The reasons for not working in their specialties were given by them as follows: lack of vacancies in their specialties (17.4%), refusal by employers to hire them on the basis of qualifications acquired in Kyrgyzstan (17.9%), lack of interest on the part of employers in the specialties and qualifications of labor migrants (19.4%), lack of higher education (14%) and non-recognition by employers of migrants' professional qualifications (7.4%).

Most migrants work year-round (67.1%) and only one third of them do seasonal work. Construction is the most common area of employment for migrants—the majority in this area are men (95.8%) and most (30%) are in the 26-35 age-range. The most common areas of employment for women are jobs in services, catering, clothing manufacture and private households. Employment of labor migrants in highly-qualified specialties is very low: only 1.3% of the total number of migrants work in the financial sector, 1% in healthcare and the same number in the education system. Only 4% of respondents were engaged in business and entrepreneurial activities, although 12.5% plan to start their own business in Russia in the future, and 2.8% only have a share in businesses.

### *Factors contributing to labor emigration from Kyrgyzstan*

A situational analysis of labor migration shows that the causes of the continuing high levels of labor migration are directly related to the situation on the domestic labor market and also to the demographic changes in the population structure of Kyrgyzstan.



The economically active population numbers 2,490,100 people<sup>185</sup>, of whom 2,277,700 (or 91% of the economically active population) are employed. The number of unemployed, according to data from the National Statistical Committee of the Kyrgyz Republic is 210,400 people, of whom 112,500 are men and 97,900 are women.

The economically active population in rural areas numbers 1,599,000 people, of whom 1,496,000 (or 94% of the economically active rural population) are employed. The number unemployed in rural areas is 102,900. The high level of employment in rural areas is explained by the fact that agricultural work is often temporary (seasonal) in nature and lasts for five to six months, but people who are employed in this way are not considered unemployed when the seasonal work ends.

The main peculiarity of the Kyrgyz labor market is the overabundance of labor, which is explained by the high growth rate of the working-age population. It is predicted that this overabundance will continue to grow, due to the high birthrate – 27 births per thousand of the population in 2013. Every year between 80,000 and 100,000 young people reach working age in Kyrgyzstan. Thus, the proportion of the working-age population increased from 57.8% in 2005 to 61.1% in early 2012. An analysis conducted of the domestic labor market shows that in recent years the growth of the working-age population has been more than double the rate of employment growth. For the last six years labor supply has been exceeding demand by more than 32%.

## Labor immigration to Kyrgyzstan

In accordance with Article 7 of the Kyrgyz Law “On external labor migration” and Article 28 of the Kyrgyz Law “On external migration”, the Kyrgyz government sets an annual quota of over 12,000 for labor migration, which defines the limit of foreign nationals and stateless persons who can enter Kyrgyzstan for labor purposes. In 2013, the labor quota was shared among representatives of 69 countries in total. In terms of the recruitment of foreign labor there is a trend towards Chinese nationals, who make up 71.8% of the total, with 10.6% from Turkey, 2.6% from Pakistan, 2.4% from South Korea and 4.9% from CIS countries (Russia, Kazakhstan, Belarus and Tajikistan).<sup>186</sup>

Due to the simplified entry procedure to Kyrgyzstan for nationals of certain countries and also to the existence of a visa-free regime with more than 50 countries, it is extremely difficult to determine the exact number of foreign nationals permanently residing in Kyrgyzstan. According to expert estimates, the number of foreign nationals is between 80,000 and 100,000 people annually.

## Irregular migration flows

Many foreign nationals and stateless persons, taking advantage of Kyrgyzstan’s liberal migration legislation, the porosity of its borders and weak immigration controls, engage in irregular labor and entrepreneurial activities in the country. This in turn leads to the displacement of domestic labor resources and an increase in the use of unqualified foreign labor in the country, as well as to a rise in the proportion of foreign entrepreneurs who displace local business people from this sphere, and as a result, to growth in migration abroad by Kyrgyz nationals.<sup>187</sup>

<sup>185</sup> Employment and unemployment. Compilation of the National Statistical Committee of the KR, Bishkek, 2012 (in Russian).

<sup>186</sup> See: [http://www.vb.kg/doc/259838\\_mintryda\\_oglasilo\\_statistiky\\_o\\_gastarbayterah\\_v\\_kyrgyzstane.html](http://www.vb.kg/doc/259838_mintryda_oglasilo_statistiky_o_gastarbayterah_v_kyrgyzstane.html)

<sup>187</sup> Social challenges of labor migration in Kyrgyzstan [report], Bishkek, 2014 (in Russian).

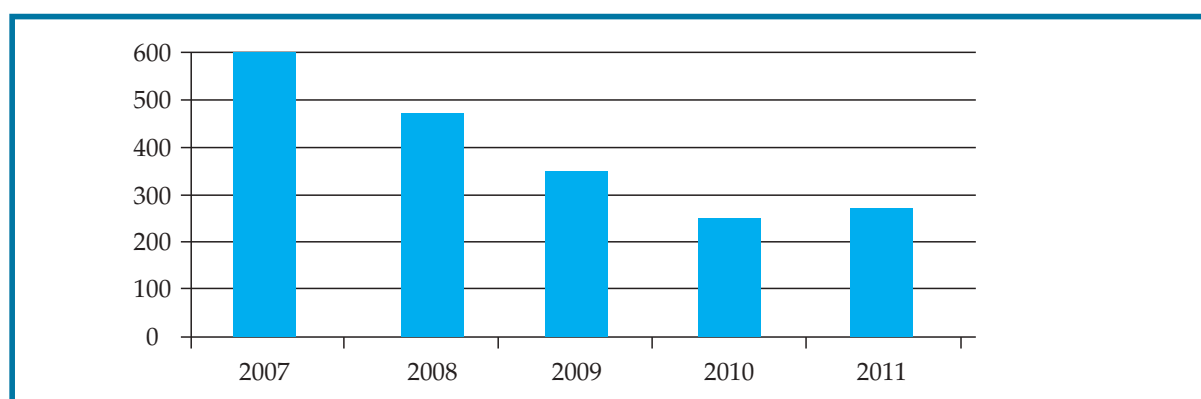
## Irregular migration rates

Producing a quantitative estimate of irregular migration is a very complicated element of analyzing the phenomenon and likewise of addressing it. The main reason for uncertainty in any estimates is a lack of coordination between various agencies using different methods of data collection.

According to data from the Kyrgyz Ministry of Internal Affairs, during the period between 2007 and 2011, a total of 17,496 irregular labor migrants were detected in Kyrgyzstan. Out of this number, 15,640 people faced administrative sanctions for violating residence and employment regulations and were fined a total of over KGS 4,290,880. In all, 1,856 foreign nationals were deported from Kyrgyzstan following a court decision. For the same period, 298 instances of the organization of irregular migration were identified, on the basis of which criminal proceedings were initiated in 46 cases.

In 2011, 167 instances of illegal border crossing were identified, of which criminal proceedings were initiated in 52 cases and for the rest administrative proceedings were brought. In the same year, 2,612 foreign nationals were identified as violating residence and employment regulations in Kyrgyzstan, of whom 259 were deported from the country, some of them after payment of an administrative fine. Among those deported were: 129 citizens of Uzbekistan, 44 from China, 34 from Tajikistan, 17 from Turkey, 10 from Pakistan, six from Kazakhstan, six from Russia, four from Nigeria, three from Turkmenistan, two from Sri Lanka and one each from Syria, Canada, Palestine and Serbia (see Fig. 27).

**Fig. 27. Number of foreign nationals deported from Kyrgyzstan (2007-2011)**



Source: *Expanded migration profile*, IOM, Bishkek, 2012.

Preventive measures are periodically conducted in Kyrgyzstan under “Operation Illegal”. In 2011 officers from the Ministry of Internal Affairs identified 814 breaches of the migration legislation, including 670 for violations of residence regulations, 134 violations of the procedures governing labor activities and ten other offences. In the course of operations, 345 crimes were identified and solved, including eight related to drugs; five of illicit arms trafficking; 16 of organizing irregular migration; 29 of illegal border crossing; and 37 cases of wanted persons being apprehended.

In 2013, in Batken Oblast, during preventive operations to combat irregular migration including human trafficking, officers of the Border Services, the Ministry of Internal Affairs and the State National Security Committee identified 284 foreign nationals unlawfully residing and working there. In Kadamjay District, 28 Chinese and seven Uzbek nationals were identified and had administrative proceedings brought against them for working irregularly at markets. In April 2014, during preventive operations, Nigerian citizens were arrested on suspicion of organizing irregular migration and forging official documents, and criminal proceedings were initiated against them.<sup>188</sup>

<sup>188</sup> Officers of the State National Security Committee arrested Nigerian nationals on suspicion of organizing illegal migration. URL: <http://www.kabar.kg/law-and-order/full/74660>

**Table 15. Number of foreign nationals identified in connection with violations of employment regulations, by nationality (in descending order) (2011-2013)**

Nationality	2011	2012	2013
China	847	688	1,262
Uzbekistan	802	1,074	1,013
Russia	184	274	269
Tajikistan	131	184	302
Turkey	124	112	207
Kazakhstan	72	23	127
Pakistan	54	128	146
India	20	93	74
Korea	20	25	25
Afghanistan	19	14	2
<i>Total</i>	<i>2,273</i>	<i>2,615</i>	<i>3,427</i>

*Source: Kyrgyz Ministry of Internal Affairs*

The main reason for the increase in the number of Chinese and Uzbek nationals violating Kyrgyz migration legislation in recent years (Table 15) is the fact that, following the events of 2010, political and social stability has been re-established in Kyrgyzstan and new labor markets and product distribution have opened up. In addition, joining the Customs Union of the main receiving countries for labor migrants also enhanced the attractiveness of Kyrgyzstan for foreign migrants from neighboring states.

### Profile of irregular migrants

The situation around internal migration processes, which accounts for about 60% of all movement of people, has become very complex and aggravated. This is due to unsatisfactory living conditions in rural areas, limited access to social services and the lack of jobs. For these reasons, many citizens move to more urbanized regions, thus creating pressure on the social infrastructure of large cities. There is a predominance of mass, unregulated and interrelated migration flows. Movement is mostly from mountainous rural areas and strategically important borderlands to the urban areas, characterized by higher levels of economic and infrastructure development but limited in capacity (in terms of land, housing, communication, labor market and other elements). Most internal migrants come from previously mono-functional, medium and small towns and urban villages originally developed around mining and electro-technical companies that have fallen into decline.

This strengthening and deepening of the tensions in the real sector of the economy of Kyrgyzstan and its domestic labor market was the fundamental cause of the widespread intensification and unprecedented increase in the scale of external migration. Initially, economic migrants fill gaps within the domestic labor market and subsequently, once those gaps are exhausted, they seek to make a living beyond the borders of their own country.

Foreign nationals often remain in an irregular state after violating the residence regulations in Kyrgyzstan (30 days). Many foreign nationals cannot legalize their status, due to the limitations imposed by the labor quotas (in 2013 the total quota was set at 12,990 jobs).

### Trafficking in persons

In order to prevent and reduce cases of illegal export and trafficking in persons, the Presidential Resolution of the 21 April 2002 established the National Council on Combating the Illegal Export and Trafficking in Persons and adopted Law No. 55 "On preventing and combating trafficking in human beings" of 17 March 2005. The Kyrgyz government approved the Action Plan for 2008-2011<sup>189</sup> on Combating Trafficking in Persons in the Kyrgyz Republic, and also the Kyrgyz Government Program on Combating Trafficking in Persons for 2013-2016.<sup>190</sup>

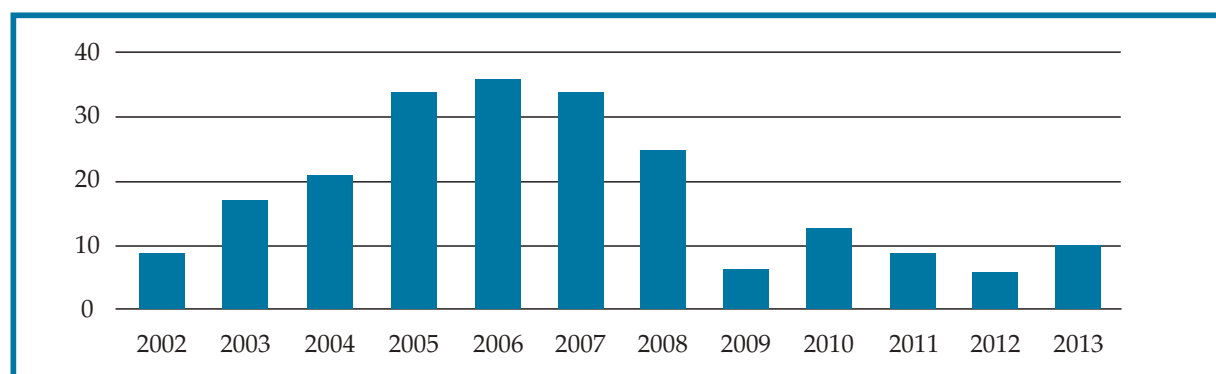
<sup>189</sup> Resolution No. 515 of the Government of the KR of 14 January 2013.

<sup>190</sup> Resolution No. 1 of the Government of the KR of 14 January 2013.

There are no official data on trafficking in persons in Kyrgyzstan. It is very difficult to determine the extent of this phenomenon as both criminals and victims carefully conceal it. According to expert estimates by the IOM, between 5,000 and 15,000 Kyrgyz citizens become victims of trafficking abroad.<sup>191</sup> Every year over 10,000 Kyrgyz citizens apply to the authorized body on migration for information about migration, including in relation to issues of employment abroad (60%) and the illegal export and trafficking in persons (40%).

For the period of 2002-2013 the Ministry of Foreign Affairs recorded 220 cases of people trafficking and criminal proceedings were initiated in relation to each of them (see Fig. 28). In addition, between 2010 and 2011, state bodies, in partnership with non-government and international organizations, were able to return 700 victims of trafficking to their home countries, of whom 30% were victims of sexual exploitation.

**Fig. 28. Criminal proceedings initiated by the Kyrgyz Ministry of Internal Affairs in accordance with Art. 124 of the Criminal Code (2002-2013)**



Source: Kyrgyz Ministry of Internal Affairs

Between 2008 and 2013, the Investigative Unit of the Kyrgyz State National Security Committee identified and stopped more than 10 trafficking channels and initiated 10 criminal proceedings in accordance with Article 124 “Trafficking in persons” of the Criminal Code, and also identified and stopped established channels for sending young women to the United Arab Emirates and Turkey for sexual exploitation.<sup>192</sup>

## Repatriation and readmission

Monitoring of the social rehabilitation of labor migrants and ethnic Kyrgyz following their repatriation revealed a lack of systematic work in this area.

Thus, surveys conducted by the El-Pikir Center of Public Opinion Research and Forecasting for the Eurasia Foundation of Central Asia project “Promoting Improvements in the Socio-economic Conditions for Returning Migrants and Compatriots revealed the following problems among migrants returning from Russia and Kazakhstan:

- Lack of a concrete mechanism for obtaining dual citizenship;
- Lack of social and medical insurance;
- Lack of pension support for migrants who worked for Russian and Kazakh companies;
- Inconsistencies in the migration legislation of Kyrgyzstan, Kazakhstan and Russia;
- Problems with recognition of the employment record for the period spent working in Russia and Kazakhstan; and
- Problems with social and cultural readjustment for returning migrants.<sup>193</sup>

<sup>191</sup> Combating trafficking in persons and assisting migrants in Central Asia. URL: [http://iom.kg/?page\\_id=116](http://iom.kg/?page_id=116)

<sup>192</sup> Ibid

<sup>193</sup> “Assessment of socio-economic problems of labor migrants and compatriots returning to the Kyrgyz Republic”, El-Pikir Center of Public Opinion Research and Forecasting, 2008.



The Concept on State Migration Policy of 30 April 2004 and the Program of Measures on its Implementation of 4 December 2004 for the first time set out measures on providing social guarantees to labor migrants and compatriots (ethnic Kyrgyz) outside the country, including making provisions following their return to Kyrgyzstan.

There are currently over 900,000 ethnic Kyrgyz people living outside Kyrgyzstan. In order to establish social guarantees and conditions for their return home, the Law “On state guarantees for ethnic Kyrgyz returning to their homeland” of 26 November 2007 was passed. By means of this law, favorable terms were established for ethnic Kyrgyz in areas such as education, medicine, finding employment and further vocational training, allocation of land and loans for home construction.

In order to prevent labor exploitation of Kyrgyz citizens abroad and to optimize the processes for organized, legal employment of Kyrgyz citizens outside the country, the Center for the Employment of Kyrgyz Citizens Abroad<sup>194</sup> was established in Bishkek in 2010 by the authorized body on migration of the Kyrgyz Republic. In accordance with the Memorandum of Understanding signed on 21 December 2012 (the first Memorandum was signed in 2007) between the Ministry of Labor, Migration and Youth of the Kyrgyz Republic and the Ministry of Employment and Labor of the South Korea, a state program for the organized employment of Kyrgyz citizens in South Korea in small and medium-sized enterprises is being implemented. For 2007-2013, in accordance with the Memorandum, over 4,300 people of a total of 6,800 participants were successfully tested on their knowledge of the Korean language. Of these, 1,800 Kyrgyz nationals went to work in South Korea.

Based on the same principle, the Kyrgyz Ministry of Labor, Migration and Youth opened up new foreign labor markets and signed agreements on organized recruitment leading to employment in such countries as the Russian Federation and the United Arab Emirates, and also in a pilot project on organized recruitment of Kyrgyz citizens for work in the Republic of Kazakhstan. In addition, negotiations with other countries are currently underway.

Furthermore, on 11 October 2012 the Kyrgyz and Russian governments signed an agreement on readmission, setting out the procedure for repatriating individuals violating the legislation of the receiving country. The Kyrgyz Ministry of Internal Affairs and the Russian Federal Migration Service (FMS) were appointed to implement the agreement.

At present, due to the amended regulations on entry to Russia, 43,000 Kyrgyz nationals have been banned from entering the country and about 60,000 Kyrgyz migrants are in the at-risk group. As a result of joint work between the Inter-Ministerial Commission of the Ministry of Labor, Migration and Youth of Kyrgyzstan and the Russian Federal Migration Service, 1,036 citizens of Kyrgyzstan will be removed from the FMS black list. Kyrgyz nationals can be removed from the black list in three instances: if their spouse has Russian citizenship; if the Kyrgyz national is a student at a Russian higher education institution; and if the Kyrgyz national travels to Russia on a labor contract. Furthermore, individuals identified for minor violations of Russian migration legislation will also be removed from the list.

Thus, new approaches to the regulation of migration processes should allow positive effects to be reinforced and negative consequences to be reduced, through the creation of a regional labor market and the implementation of measures aimed at combating irregular migration. Migration should become a creative economic and social force promoting economic and social development.

Taking into account the above, the main objective today is to ensure an approach whereby an individual intending to work abroad legally will know in advance where s/he is going and for what type of work s/he they will have. Only then will labor migrants be able to enjoy the benefits of legal and social protection.

<sup>194</sup> Government Resolution No. 85 “On the Center for the Employment of Kyrgyz Citizens Abroad of the Ministry of Labor, Employment and Migration of the Kyrgyz Republic” of 9 February 2010.



# Chapter 4

## Migration Mapping: Tajikistan





## General information on the country

### Quantitative migration indicators

The Republic of Tajikistan today is a country of emigration, with young men, and in recent years women as well, leaving the country in search of work, as evidenced by the national statistics. In addition to labor migration abroad by Tajik citizens, labor migration by foreign nationals is observed in the country, as well as inward migration flows of refugees and asylum seekers. There are a number of stateless persons resident in Tajikistan and migration can also be a factor leading to the risk of acquiring this status.

In 2010 the results of the Census on Population and Housing revealed the following data on labor migrants who are Tajik citizens.

**Table 16. Number of external labor migrants by area, gender and duration of absence due to migration**

Absent due to labor migration		Up to 1 month	1-6 months	7-12 months
Total number of external labor migrants, of whom:	417,060	13,349	117,223	286,488
City/town	73,018	2,998	19,637	50,383
Rural	344,042	10,351	97,586	236,105
Men	389,951	12,349	111,371	266,231
Women	27,109	1,000	5,852	20,257

Source: Agency for Statistics of the President of Tajikistan, 'Life expectancy in places of permanent residence and migration in the Republic of Tajikistan', 2013.

Before 2010 there was a lack of information on the numbers of foreign nationals residing in Tajikistan. Data on the numbers of foreign nationals temporarily resident in Tajikistan, by nationality, age and gender, were first presented in 2013 in the Compilation of the Agency for Statistics of the President of Tajikistan, 'Life expectancy in places of permanent residence and migration in the Republic of Tajikistan'.<sup>195</sup> According to this data, the proportion of foreign nationals permanently residing in Tajikistan was 0.1% of the total population. This included 4,793 nationals of CIS countries, 3,478 nationals of other countries and 1,364 stateless persons. At the same time, there were 3,220 foreign nationals who were temporarily resident in Tajikistan.

### Development of national policy in Tajikistan in relation to labor migration

In 1998, almost immediately after signing the Agreement on Establishing Peace and National Accord, the Tajik government adopted the Concept on State Migration Policy in the Republic of Tajikistan. The Concept noted that increased migration flows were due to several factors, such as the civil war, internal armed conflicts, transition to a new political and economic system and also the deterioration of social conditions among the population. In addition to the general Concept on State Migration Policy, Resolution No. 242 of the Government of the Republic of Tajikistan of 9 June 2001 adopted the Concept on Labor Migration by Tajik Nationals. The Concept states that, due to the oversupply of labor and financial constraints in the creation of new jobs in Tajikistan, about 30% of the unemployed population could move to work abroad. The Concept provides that the main aim of state policy in the field of labor migration is social and legal protection for Tajik nationals temporarily working abroad, regulation of migration flows, prevention of illegal migration and upholding of the rule of law in the migration process.

<sup>195</sup> The data provided in this compilation were drawn from the results of the Census on Population and Housing conducted in 2010.

The Concept also provides a number of strategic goals. First, state policy should aim to prevent the growth of illegal and irregular migration by establishing a legal basis and economic mechanisms for migration processes, creating a labor migration system in cooperation with receiving countries, and involving local government bodies, communities and the public through the mass media in the fight against illegal migration. Second, the Concept states that, at the very beginning of its implementation, Tajikistan will only be able to export unqualified labor, but that in the future a priority in the development of external labor migration should be the export of qualified labor, while maintaining sufficient capacity of qualified labor resources within the country. According to the Concept, the main implementation mechanism of state policy in the field of labor migration is state regulation. Unfortunately, the Concept does not reflect the realities of labor migration by Tajik citizens and, in particular, the unregulated status of labor migrants in the Russian Federation as the main destination country for Tajik labor migrants. The Concept does not provide a mechanism for signing agreements with receiving countries for the organized recruitment of labor migrants, but instead relies on the mechanism of recruiting workers through employment agencies.

In order to develop state policy on labor migration, a number of state programs/strategies on external labor migration were adopted. The most recent National Strategy on Labor Migration by Tajik Nationals Abroad was adopted by the Tajik Government in 2011. The adoption of this National Strategy on Labor Migration for 2011-2015 served as the starting point for the acknowledgement by the government of the influence of labor migration on the Tajik economy and the need to adopt a fundamentally new approach to regulating labor migration in Tajikistan.<sup>196</sup> The main aims of the strategy are to establish legal and institutional mechanisms for migration management and to provide services to migrants and their families and, to a lesser extent, to provide specific services to labor migrants. The implementation plan for the Strategy and the anticipated results do not include indicators of the number of labor migrants who will benefit from it or the impact of activities carried out within the framework of the Strategy in respect of protecting the rights of labor migrants.

### Labor migrants' rights

Labor emigration and immigration matters in Tajikistan are regulated by the Law "On Migration". The adoption of a separate law on external labor migration has been discussed in Tajikistan for several years. At the time of writing, this law has already passed through the debating stages and will be adopted in the near future. According to information provided by the Migration Service, instead of adopting a new law on external migration, the Law "On Migration" will be revised to cover the issue of external labor migration.

In accordance with Article 8 of the Law "On Migration" the state promotes the organized export of Tajik labor migrants with their consent only to those countries where their rights are protected. The Law states the following factors among the protection guarantees of labor migrants' rights:

- existence of labor and social legislation protecting labor migrants' rights in the country of employment;
- participation of the country of employment in international conventions, declarations and resolutions concerning labor migrants' rights;
- existence of bilateral and multilateral agreements between the country of employment and the Republic of Tajikistan on protection of labor migrants' rights abroad;
- adoption of positive, practical measures for the protection of labor migrants' rights by the country of employment.

Furthermore, the Law states that the recruitment of foreign labor and activities related to sending Tajik citizens to work abroad are carried out by Tajik business entities on the basis of licenses issued by the Migration Service of the Ministry of Labor, Migration and Social Protection. Although the Law states that one of the mechanisms for the state regulation of labor migration is bilateral and multilateral agreements, it still employs business entities and employment agencies as a recruitment mechanism for labor migration abroad. A Bill on Private Recruitment Agencies has been under discussion for several years in Tajikistan, but at the time of writing it had not been adopted.

<sup>196</sup> The National Strategy on Labor Migration by Tajik Nationals Abroad for 2011-2015, pp. 1-2.



Apart from inter-governmental agreements between Tajikistan and destination countries for labor migration by Tajik nationals (the Russian Federation and Kazakhstan), the Law “On Migration” only considers labor emigration on the basis of a labor contract which the labor migrant—a Tajik citizen—must sign with his/her employer prior to leaving Tajikistan. The contract should contain the following items:

- its duration, the nature and place of paid work, working conditions and payment, including night shifts, weekends and holidays;
- size of bonuses, premiums and deductions from wages;
- rights, obligations and liabilities of the parties, procedure and conditions for the termination or renewal of the labor contract;
- conditions for arranging travel, food, accommodation and medical services for the labor migrant and his/her family;
- procedure and conditions for the labor migrant’s social insurance;
- compensation procedure for harm caused to the labor migrant’s health as a result of his/her paid work, and other social guarantees.

The same requirements are applied to foreign labor migrants in Tajikistan who should also have labor contracts with their employers.

Tajikistan ratified the International Convention on the Protection of the Rights of all Migrant Workers and their Families in 2003. Following the review of the implementation of this Convention by the Committee on Migrant Workers, the Tajik government developed and on 28 June 2013 adopted the ‘National Action Plan on the Implementation of the Recommendations of the UN Committee on the Protection of the Rights of all Migrant Workers and their Families 2013-2017’. The relevant ministries and departments are involved in the implementation of this plan of action.

## Legislative and institutional framework

The status of foreign nationals, rules on their entry to, exit from and transit through Tajikistan, and also their residence and activities in the country, are regulated by the Law “On the legal status of foreign nationals in the Republic of Tajikistan”, the Law “On migration” and a number of regulations.<sup>197</sup>

The Law “On the legal status of foreign nationals in the Republic of Tajikistan” states general provisions of entry, exit and transit of foreign nationals and their residence in Tajikistan, as well as their rights and responsibilities during their stay in the country. The Law “On migration” states general provisions for labor immigration by foreign nationals. The above rules and regulations set out the implementation mechanisms for those two Laws with regard to foreign nationals in Tajikistan.

## Rules of entry and transit through Tajikistan for foreign nationals

Entry into and exit from Tajikistan is made on the basis of an individual’s valid passport or another identity document substituting it. For stateless persons it is made on the basis of a valid document issued by competent bodies in their country of residence, proving their identity, and also on the basis of a valid entry or exit visa, if a visa regime exists between Tajikistan and the country of citizenship.<sup>198</sup>

<sup>197</sup> Rules governing the issuing of Tajik visas to foreign nationals and stateless persons are set out by Resolution No. 122 of the government of Tajikistan of 27 February 2009; Rules on residence by foreign nationals in Tajikistan are set out by Resolution No. 218 of the government of Tajikistan of 15 May 1999; Rules on the registration of foreign nationals’ passports are set out by Resolution No. 663 of the government of Tajikistan of 30 December 2011; Provisions on the passport system in Tajikistan are set out by Resolution No. 302 of the government of Tajikistan of 15 July 1997; A description of the residence permit form issued to foreign nationals is set out by Resolution No. 91 of the government of Tajikistan of 27 February 2010; Rules on the issuing of work permits to foreign nationals and stateless persons working in Tajikistan are set out by Resolution No. 529 of the government of Tajikistan of 31 October 2008; Rules on transit by foreign nationals through Tajikistan are set out by Resolution No. 218 of the government of Tajikistan of 15 May 1999; Provision on the implementation of immigration controls are set out by Resolution No. 599 of the government of Tajikistan of 2 December 2008.

<sup>198</sup> Rules on residence by foreign nationals in Tajikistan are set out by Resolution No. 218 of the government of Tajikistan of 15 May 1999, p. 8.

On the basis of bilateral and multilateral agreements signed by Tajikistan with other countries, visa-free regimes exist with respect to the countries listed below, with certain types of passport:

- Russian Federation: all types of international passport, as well as internal passports and birth certificates (with a stamp proving citizenship);
- Armenia, Azerbaijan (up to 90 days), Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Ukraine (up to 90 days): all types of international passports;
- China (up to 30 days): official and diplomatic passports, and also general international passports for official use (with the stamp “Official”);
- North Korea (with no restriction on duration), Hungary, Romania, South Korea (up to 90 days), India, Iran, Turkmenistan (up to 30 days), Brunei (up to 14 days): official and diplomatic passports;
- Pakistan (up to 90 days), Uzbekistan (up to 30 days): diplomatic passports.

In addition, for nationals of 80 countries there is a simplified process for issuing entry visas to Tajikistan. These countries, listed in Annex 1 of Resolution No. 122 of the government of Tajikistan of 27 February 2009, include, in particular, countries of the European Union, USA, Canada, Japan, South Korea, China, Iran, Turkey, Turkmenistan and also, with regard to the “diplomatic” and “official” visa categories, India and Pakistan. The same process applies to Uzbekistan, with regard to the “diplomatic”, “official”, “investor”, “free economic zone”, “driver” and “sportspeople and creative groups” visa categories.

For visas issued by the Tajik Ministry of Foreign Affairs, it is mandatory that the purpose of the visit and the name of the hosting organization be indicated and, in the case of personal invitations, the purpose of the visit.<sup>199</sup> Depending on the purpose of the visit to Tajikistan, 19 types of visas are issued, including:

- *Work (M)* – for foreign nationals and their family members arriving in Tajikistan for work, including on the basis of international agreements and treaties;
- *Business (K)* – for foreign nationals and their family members arriving or residing in Tajikistan for business purposes (participation in business negotiations, meetings, symposiums, forums, conferences, tenders, signing of contracts, opening of joint ventures, studying the Tajik market, participation in auctions, exhibitions and trade fairs, scientific research and internships, providing consultative and auditing services, etc.);
- *Investor (C)* – for heads of world-renowned foreign companies, and their family members, who are genuinely participating in investment in the economy of Tajikistan, executives of large foreign companies working in the Tajik market or with genuine plans to develop business projects;
- *Commercial (CI)* – for foreign nationals engaged in commercial activities;<sup>200</sup>
- *Permanent Residence (ID)* – for foreign nationals coming to Tajikistan for the purpose of permanent residence, until they obtain a residence permit;
- *Private (XC)* – for foreign nationals coming to Tajikistan to visit relatives and friends, for leisure, medical treatment or other purposes of a personal nature.

Every foreign national and stateless person is provided with a migration card upon entering Tajikistan when crossing the national border at border control checkpoints. Upon arrival at a destination point in Tajikistan a note is made in the migration card by the local department of internal affairs in the individual’s temporary place of residence.<sup>201 202</sup>

<sup>199</sup> Ibid, pp. 9-11.

<sup>200</sup> Rules on issuing Tajik visas to foreign nationals and stateless persons are set out by Resolution No. 122 of the government of Tajikistan of 27 February 2009, p. 2.1.

<sup>201</sup> Except for members of official foreign delegations, officials of foreign diplomatic representations and international organizations, and also correspondents of foreign mass media accredited by the Tajik Ministry of Foreign Affairs.

<sup>202</sup> Provision on the implementation of immigration controls (approved by Resolution No. 599 of the government of Tajiki-

On leaving Tajikistan, each foreign national and stateless person returns the migration card to the Border Service representatives of the Tajik State Committee for National Security.

Transit is the passage of foreign nationals through the territory of Tajikistan within 72 hours from the moment of their arrival at a port, station or terminal located in Tajikistan. A transit visa is issued to foreign nationals for the purpose of transiting through the territory of Tajikistan. Foreign nationals transiting through the country must travel to a border checkpoint to exit Tajikistan in accordance with a set route and may stop only at places indicated in the transit visa. Foreign nationals with a transit visa which permits them to stop at one or several points within Tajikistan for a period exceeding 24 hours are obliged to register their international passports or substitute documents upon arriving at those points, and must leave Tajikistan within the set time of their stay.

## Residence regulations for foreign nationals in Tajikistan

If foreign nationals enter Tajikistan for a period of over six months, it is mandatory for them to obtain a residence permit from an internal affairs agency. The term of a residence permit is renewed in accordance with the renewal term of their entry and exit visa. Foreign nationals permanently residing in Tajikistan and wishing to change their place of residence or go to another area temporarily are obliged to obtain permission from the local internal affairs agency.

All other foreign nationals are considered temporary residents and are obliged to register their passports within three days of entry to the country. They must leave Tajikistan upon the expiration of the applicable set term. Persons under the age of 16 or those arriving in Tajikistan for holidays or weekends for a period of up to three days, or for a period of up to three days on weekdays (and leaving Tajikistan within that period), are exempt from registering their passports.

Foreign nationals coming to Tajikistan for more than three months for work, study, permanent residence or other purposes must undergo a medical examination within 10 days of their arrival, except for those foreign nationals arriving with certificates of having been screened for antibodies to the HIV virus. Foreign nationals coming to study or work in the country are subject to an additional medical examination and, if they leave Tajikistan for various reasons, again three months after their return.

## Employment of immigrants in Tajikistan

The Law “On the legal status of foreign nationals” establishes the right for permanent or temporary resident foreign nationals to engage in labor activities. Unlike permanent resident foreign nationals, whose rights to work and to labor protection are guaranteed by the Law, temporary resident foreign nationals can work only if the purpose of their stay in Tajikistan is to work.<sup>203</sup> Foreign nationals have the same rights and obligations with respect to work as Tajik nationals. However, foreign nationals cannot be appointed to certain positions or engage in certain types of employment if, in accordance with Tajik legislation, their appointment to or engagement in such employment is conditional on their holding Tajik citizenship.

Employment of foreign nationals in Tajikistan takes place on the basis of permits issued by an authorized state migration body. The issuing of work permits is made within the set quota established annually by the Tajik government. A decision to issue or refuse to issue a work permit is made within 15 days from the submission of the documents by the applicant. Work permits are issued for a period of one year.

When obtaining a work permit, the employer or foreign national is obliged to provide medical certificates stating absence of drug addiction, infectious diseases included in a list set by the Tajik government, as well as a certificate stating HIV negative status. A work permit is not issued if the application and supporting documents contain invalid data or incorrect information about the applicant.

stan of 2 December 2008).

<sup>203</sup> Law No. 230 “On the legal status of foreign nationals in the Republic of Tajikistan” of 1 February 1996, Article 7.

A foreign national who obtains a work permit is obliged to engage in employment only in the region of Tajikistan indicated in the permit. A work permit can be cancelled by an authorized body in the case of violation by a foreign national or a Tajik employer under existing legislation. Also a permit can be voided if the employment of a foreign national in Tajikistan poses a threat to national security or the need arises to protect the rights and legal interests of Tajik citizens.

The Tajik government sets quotas annually for the recruitment of foreign labor. The government resolutions on quotas do not apply to foreign nationals working on the basis of inter-governmental or inter-state agreements or to foreign specialists hired by local and foreign companies for the purpose of developing the Tajik economy.

### Liability for violations related to irregular migration

In accordance with the Law “On the legal status of foreign nationals in the Republic of Tajikistan”, entry into Tajikistan by a foreign national can be prohibited if: during a previous stay, there was evidence showing that the individual violated existing legal requirements, customs, currency or other legislation of the country; at the time of applying to enter Tajikistan, he/she declared false data or did not provide the necessary documentation; it is deemed necessary to protect the rights and legal interests of Tajik nationals and other persons. Entry is also prohibited in the interests of ensuring national security or maintaining public order or for other grounds established by the legislation of Tajikistan.<sup>204</sup>

A foreign national is not allowed to leave Tajikistan if:

- he/she is accused of committing a crime—until the completion of a sentence or exemption from punishment;
- his/her exit contradicts the interests of ensuring national security—while the circumstances preventing his/her exit continue to apply;
- there are grounds for his/her criminal prosecution—until the end of the proceedings;
- there are other grounds established by the legislation of Tajikistan and preventing exit from the country.

In addition, the exit of a foreign national from Tajikistan can be postponed until he/she has fulfilled property obligations related to the essential interests of Tajik nationals and other persons, government, cooperative or other public organizations.

In the case of a foreign national’s overstay of a visa or following a decision by relevant bodies about the undesirability of a foreign national’s continued presence in Tajikistan, an exit visa is issued. The exit visa is issued by the Consular Department of the Tajik Ministry of Foreign Affairs for a period not exceeding 14 days. In the case of a foreign national failing to leave the country within the set time, without a valid reason, another exit visa for a period of up to three days is issued.

According to the Tajik Administrative Code (Article 46, part 3), the administrative expulsion of foreign nationals and stateless persons from Tajikistan is executed as an administrative penalty in respect of indicated persons and is imposed by a judge or, in the case of a foreign national or stateless person having committed an administrative offence when entering the country, by an authorized state body or official.

Until 2014 no period of prohibited entry to Tajikistan following deportation had been established. In fact, a foreign national could enter Tajikistan immediately after crossing the border and obtaining an entry visa. In 2014 the Law was amended so that foreign nationals who have previously been deported from Tajikistan are prohibited from re-entering the country for a period of five years from the day of the decision on deportation.<sup>205</sup>

<sup>204</sup> Law No. 230 “On the legal status of foreign nationals in the Republic of Tajikistan” of 1 February 1996, Article 24.

<sup>205</sup> Ibid.



On 2 April 2001 Decree No. 544 of the President of Tajikistan “On strengthening the fight against illegal migration in the Republic of Tajikistan” was issued. In 2008 the Criminal Code was amended, with additions providing liability for arranging the illegal entry of foreign nationals and stateless persons to Tajikistan or their illegal transit through the country (Article 335<sup>1</sup> of the Criminal Code). Criminal liability was also established for arranging illegal migration (Article 335<sup>2</sup> of the Criminal Code). This article provided criminal liability not only for arranging the illegal sending and employment of Tajik nationals abroad, but also for the employment of migrants by a person who does not have a relevant license for carrying out this type of activity.

## Institutional foundations of migration management

The Inter-Ministerial Commission on Regulating Migration Processes, established in 1997, implements coordination and cooperation in the field of migration in Tajikistan. The Deputy Prime Minister of Tajikistan heads the Commission. The members of the Commission are drawn from all the ministries and departments, represented at the level of deputy ministers/heads of government agencies.<sup>206</sup> The Commission is a coordinating body acting on a permanent basis to develop and adopt relevant decisions with respect to migrants of all categories, refugees and asylum seekers. The Ministry of Internal Affairs, the State Committee on National Security, the Tajik Migration Service and the Ministry of Foreign Affairs, implements immigration control jointly.

The field of migration management has undergone four periods of reform. Before 2007, the Ministry of Labor and Social Protection was in a position of authority in this field. During 2007 this authority was transferred to the Ministry of Internal Affairs. In 2011, the Migration Service was established under the Government, which was not made part of any ministry and was the central executive authority in the field of migration. Finally, in 2013 the Migration Service was put under the authority of the reformed Ministry of Labor, Migration and Employment.<sup>207</sup>

A negative factor of these reforms in relation to migration management is lack of continuity and the system of devolution in the process of reforming and establishing departments. For example, the removal of the Migration Service from the Ministry of Internal Affairs led to the loss of most of the human resources who had capacity-building training in the field of migration, due to the unwillingness of the personnel to leave the police service and lose their associated wages.

It is noted in Provision No. 390 on the Migration Service of the Ministry of Labor, Migration and Employment, approved by Government Resolution of 4 June 2014, that it is a state executive body of the Republic of Tajikistan implementing state policy in the field of migration. However, its mandate is limited to three migration fields: labor, internal (voluntary) and environmental.

The Central Office of the Migration Service is located in Dushanbe. Besides the Central Office, Migration Service Units and Sections were established in Sughd and Khatlon Provinces and in Dushanbe, and also in Gorno-Badakhshan Autonomous Province, as well as in towns and districts throughout the country. This structure is a significant achievement in labor migration management, owing to the fact that previous structures did not include Migration Service units in towns and districts, which was a serious obstacle for potential labor migrants wishing to access information and services.

<sup>206</sup> Deputy Prime Minister of the Republic of Tajikistan (Chair of the Commission); Head of the Department of Employment and Social Protection of the President’s Executive Office (Deputy Chair of the Commission); Head of the Migration and Relations with Compatriots Abroad Unit within the Department of Employment and Social Protection of the President’s Executive Office (Secretary of the Commission); First Deputy of the Ministry of Justice; Deputy Minister of Labor and Social Protection; Deputy Minister of Finance; Deputy Minister of Healthcare; Deputy Minister of Foreign Affairs; Deputy Minister of Education; Deputy Minister of Transportation and Communications; Deputy Minister of Economic Development and Trade; First Deputy Chair of the State Committee for National Security; Deputy Chair of the Government Committee on TV and Radio Broadcasting; Deputy Chair of the Government Committee on Youth, Sports and Tourism; Deputy Chair of the Government Committee for Women and Family Affairs; Deputy Chair of the Government Committee for Emergency Situations and Civil Defense; Deputy Chair of the Tax Committee of the Government of the Republic of Tajikistan; Deputy Chair of the Customs Service of the Government of the Republic of Tajikistan; Deputy Chair of the National Bank of Tajikistan; Deputy Head of the Main Office of Geology of the Government of the Republic of Tajikistan; and Deputy Director of the Agency for Land Management, Geodesy and Cartography of the Government of the Republic of Tajikistan.

<sup>207</sup> The reforms in the Ministry of Labor, Migration and Employment in 2013 affected social protection units and their inclusion in the newly created Ministry of Healthcare and Social Protection. Migration-related issues were included in remit of the Ministry of Labor.

In addition, an undoubted achievement was the inclusion of a network of government agencies in the Migration Service system, including Centers for Pre-departure Consultation for Labor Migrants in the cities of Dushanbe, Khorog, Khujand, Vakhdat, Kurgan-Tyube, Kulyab, Panjakent, Tursunzade, Isfara and Rasht districts.

Following Government Resolution No. 392, the Representative Office of the Ministry of Labor, Migration and Employment was opened in Moscow on 4 June 2014.<sup>208</sup> The main objectives of the Representative Office include: the protection of the rights and interests of Tajik labor migrants in the Russian Federation, jointly with the Embassy and Consular Services of Tajikistan; cooperation with relevant bodies in the Russian Federation in this field; implementation of measures on fulfilling Tajikistan's international agreements in the field of migration; and analysis of the labor market in Russia.

## Labor migration by Tajik nationals

### Extent and distribution of labor migration

According to data from the Migration Service of the Ministry of Labor, Migration and Employment, since the creation of the separate Migration Service under the Tajik government (in 2011), the following flows of Tajik migrants to the indicated countries were recorded (Table 17).

**Table 17. Number of labor migrants (Tajik citizens) by gender and destination country (2011-2014)**

Destination country	2011		2012		2013		April 2014		Total
	Male	Female	Male	Female	Male	Female	Male	Female	
Russian Federation	578,491	75,819	707,107	101,557	422,757	49,555	260,779	46,755	2,242,820
Kazakhstan	30,102	2,877	4,842	1,757	6,081	867	2222	222	48,970
Afghanistan	21,260	1,335	4,528	1,028	258	102	345	22	28,878
Kyrgyzstan	11,500	2,050	6,939	2,391	64	11	747	178	23,880
Ukraine	14,119	1,907	712	415	185	25	0	0	17,363
China	182	85	10,343	3,733	104	55	28	60	14,590
Uzbekistan	451	828	3,675	7,352	0	0	0	0	12,306
UAE	19	5	4,531	2,195	182	16	72	30	7,050
Turkey	84	22	4,396	1,958	46	82	44	73	6,705
Iran	89	10	5,317	881	239	5	91	61	6,693
Germany	24	7	938	440	8	0	1	0	1,418
<b>Total</b>	<b>656,321</b>	<b>84,945</b>	<b>753,328</b>	<b>123,707</b>	<b>429,924</b>	<b>50,718</b>	<b>264,329</b>	<b>47,401</b>	<b>2,410,673</b>
<b>Total by year</b>	<b>741,266</b>		<b>877,035</b>		<b>480,642</b>		<b>311,730</b>		

Source: Migration Service of the Ministry of Labor, Migration and Employment, 2014.

As migration trends show, the steady choice of Tajik citizens is the Russian Federation as the main destination country for labor migration, with 93% of labor migrants going there. The next most popular destination country for labor migration is Kazakhstan, followed by Afghanistan. It should also be noted that each year the number of women among labor migrants going to work in the Russian Federation is increasing. While in 2011 women made up 11.5% of the total number of labor migrants going to Russia, by April 2014 they represented 15.2% of the total number of labor migrants. The Migration Service believes that the increase in labor migration by women is linked to recent increases in family migration.

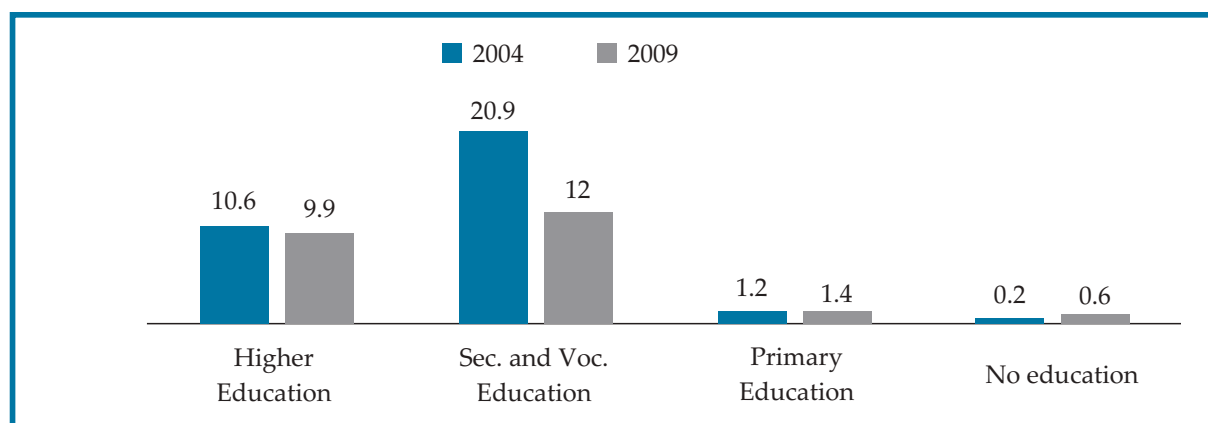
### Profile of Tajik labor migrants

For the last five to seven years there has been a steady increase in labor migration from Tajikistan. In particular, low-skilled labor migration has become more widespread, while the professional level of labor migrants has declined. Due to the tightening of the migration regime in the Russian Federation – the main destination country for Tajik labor migrants—there have been increases in permanent migration and illegal labor migration from Tajikistan.

<sup>208</sup> The Resolution set out the cost estimates for the functioning of the Representative Office, in the amount of USD 798,984. The staff of the Representative Office consists of 16 people.

As a rule, Tajik citizens in the Russian Federation engage in low-skilled jobs, due to their low level of vocational training. In the five-year period between the labor force surveys the proportion of labor migrants with higher education decreased from 10.6% in 2004 to 9.9% in 2009. For the same period the proportion of labor migrants with secondary and primary education decreased from 20.9% to 12.0%. The proportion of people who had only completed primary education increased from 1.2% to 1.4%, and the proportion of people with no education rose from 0.2% to 0.6% (see Fig. 29).

**Fig. 29. Changes in labor migrants' levels of education, in %.**



Source: *The analytical report on the labor force survey, July-August 2004 / State Statistics Committee, 2005; The situation on the Tajik labor market, from the results of the labor force survey. June-July 2009 / Agency for Statistics of the President of Tajikistan.*

The changing socio-demographic structure of labor migration reveals the increase in the proportion of more vulnerable population groups among labor migrants (Table 18). The proportion of city dwellers going to work abroad is decreasing, whereas the proportion of people from rural areas is rising. People from rural Tajikistan are at higher risk of falling into irregular status than city dwellers. People from rural areas have less knowledge of the languages of the destination countries and this prompts them to use the services of various intermediaries, including criminals. They also know very little of the rules, regulations or their rights in the destination countries.

**Table 18. The socio-demographic structure of external labor migrants according to data from PRS-2004 and PRS-2009**

	2004	2009
Total external labor migrants, (thousands)	<b>317.9</b>	<b>519.9</b>
- from cities	<b>23%</b>	<b>21.9%</b>
- from rural areas	<b>77%</b>	<b>78.1%</b>
- male	<b>95.2%</b>	<b>94.3%</b>
- women	<b>4.8%</b>	<b>5.7%</b>
- 15-24 years old	<b>31.7%</b>	<b>36.4%</b>
- 25- 59 years old	<b>68.2%</b>	<b>63.5%</b>
- 60-75 years old	<b>0.09%</b>	<b>0.14%</b>

Source: *The analytical report on the labor force survey, July-August 2004 / State Statistics Committee, 2005; The situation on the Tajik labor market, from the results of the labor force survey. June-July 2009 / Agency for Statistics of the President of Tajikistan.*

There is a growing number of women in the overall flows of migrants from Tajikistan. Among the general issues faced by all labor migrants, of note is the higher risk for women falling into sexual exploitation, because they tend to turn to their social connections when they need to obtain information or search for work, and solve their problems with the help of friends and relatives, rather than through official channels.

The age distribution shows that the proportion of very young people (15-24 years old) has increased. This group is noted for its lower level of vocational training, as compared to people in the older age groups, as well as poorer knowledge of the languages of the destination countries and fewer social connections, which could help them in their destination countries. Due to these characteristics, this age group is at greater risk of ending up with undocumented status, falling into slavery and being exposed to various kinds of discrimination.

## Factors contributing to labor migration by the Tajik population

Organizations and academics studying the phenomenon of external labor migration from Tajikistan note that there is a complex web of factors that lead to labor migration by the Tajik population, such as demographic growth, lack of jobs and low wages in Tajikistan.

According to data from the Agency for Statistics, general population growth between 2000 and 2014 was 2% on average. Since 2000 the Tajik population has grown by 2,032,600 to a total of 8,161,100. The labor force in Tajikistan has also grown. While in 1991 the number of working-age people was 2,627,246, in 2013 it was 4,797,566. As a whole, the working-age population in 2013 was 60.1% of the overall population. Thus, one can predict that, taking into account the population growth rate in the coming years, the work force on the labor market will remain at least the same or will increase slightly.

The Tajik labor market has limited capacity to make use of the available labor force. Economic activity among the working-age population is markedly decreasing. According to data from the survey conducted in 2009 (PRS-2009), the economic activity of the population decreased by 3.9% as compared to 2004, reaching 51.2%. Among the reasons for this are the consequences of the financial crisis and limited opportunities for creating new jobs.

The decrease in economic activity is mainly related to the sharp decline in employment among women. Economic activity among women in 2009 was 55.4% (77.8% in 2004). The data from PRS-2009 shows that women's employment was 33.9% as compared to 45% among men. The reduced economic activity among women is explained by the high concentration of women's employment in the agricultural sector, which is developing slowly due to increasing imports of agricultural products and unfavorable conditions for the development of farming in Tajikistan.

The difficulties of the transitional period from a planned economy to a market economy, the consequences of the civil war and reductions in opportunities on the labor market led to a fall in incomes and the emergence of poor sections of society in Tajikistan. According to the official statistics, 35.6% of the population still remains poor. In spite of the sharp increase in nominal wages since 2010, income per household member has not changed significantly. In addition, wages in the agricultural sector are among the lowest (slightly above 73% of the Tajik population lives in rural areas).

## Consequences of labor migration

According to data from the World Bank, the volume of remittances sent by Tajik labor migrants to Tajikistan in 2010 was USD 2.1 billion or 40% of GDP, and in 2013 this almost doubled to USD 4.1 billion or 49% of GDP. In terms of remittance as a proportion of GDP, Tajikistan occupies first place among recipient countries of remittances from labor migrants.<sup>209</sup> The World Bank notes the positive impact of remittances on the country's economy.

<sup>209</sup> According to data from the National Bank of Tajikistan and the World Bank, 'Migration and Remittances Factbook 2011' as indicated in the NGO report to the UN Committee on the Rights of Labor Migrants on the implementation by Tajikistan of the International Convention on Protecting the Rights of All Labor Migrants and their Families, 2011; World Bank (2013), Migration and Development Brief, 21, Migration and Remittances Flows: Recent Trends and Outlook, 2013-2016, p.15.



In particular, they have facilitated an increase in private consumption, the development of the service sector, which is the largest sector in the Tajik economy, and lead to poverty reduction and growth in imported consumer goods.<sup>210</sup> However, labor migrants do not use remittances to invest in the country's economy, as they are mainly spent on private consumption.<sup>211</sup>

With regard to the negative impacts of labor migration, experts note the following factors:

- *loss of human capital*: the loss of vocational qualifications and outflow of the labor force, especially from rural areas.
- *negative impact on families left in Tajikistan*: although the financial situation of labor migrants' families has improved, relationships within families between spouses and between parents and children have worsened. There is an increase in labor migrants leaving their families and reduced financial support for their families, that is, their wives and children.
- *deterioration of labor migrants' health*: as labor migrants live in unfavorable socio-economic conditions and mainly work without any guarantees of access to social and medical services, their health is noticeably worsening. Furthermore, labor migration brings an increased risk of being infected with tuberculosis and also of importing sexually transmitted diseases, including HIV/AIDS, into Tajikistan.
- *violation of labor migrants' rights*: due to the low level of education among labor migrants, their lack of Russian language skills and migrating with the aid of social connections, labor migrants face a number of difficulties, including the risk of falling into labor exploitation and also violation of their rights by Russian law enforcement bodies. Labor migrants working in the Russian Federation have become objects of xenophobia and political speculation.

## Labor migration to Tajikistan

As was noted above, the Tajik government sets annual quotas for attracting foreign labor into the country. Tajikistan currently provides the largest quota for Chinese nationals (17,500 during 2007-2014), then equally to nationals of Turkey and Afghanistan. At the same time there is a marked reduction in quotas issued for Russian and Kazakh nationals (see Table 19).

**Table 19. Changes in quotas for attracting labor to Tajikistan (2007- 2014)**

Country of origin	2007	2009	2010	2011	2012	2013	2014	Total
China	3,000	2,500	2,000	2,500	2,500	2,500	2,500	17,500
Turkey	1,500	1,000	1,000	150	300	250	250	4,450
Iran	1,000	500	800	200	300	300	300	3,400
Russian Federation	1,000	1,000	600	200	100	50	50	3,000
India	100	100	300	100	100	150	150	1,000
Afghanistan	300	300	400	1,500	800	600	600	4,500
Kazakhstan	200	200	500	100	100	50	50	1,200
Kyrgyzstan	200	200	300	100	100	100	100	1,100
Uzbekistan	100	100	400	100	200	200	0	1,100
European states	100	100	0	0	0	0	0	200
Pakistan	0	0	0	0	0	150	150	300
Azerbaijan	0	0	0	0	0	0	200	200
Other countries	0	0	700	100	300	0	450	1,550
Total	7,500	6,000	7,000	5,050	4,800	4,350	4,800	39,500

Source: Migration Service of the Ministry of Labor, Migration and Employment, 2014, and Resolutions of the Government of Tajikistan on setting quotas for the years indicated in the table.

<sup>210</sup> World Bank (2014), Tajikistan: sustainable growth, increasing risks. Report on the economic development of Tajikistan No. 5, spring 2014, p. 5.

<sup>211</sup> Mezentsseva E., (2012) The legislation and policy of the Republic of Tajikistan in the field of social protection of the population: gender analysis, p. 88. Dushanbe: UN Women Sub-Regional Office in countries of Eastern Europe and Central Asia, 2012, p. 88.

The number of quotas issued is obviously not sufficient for the foreign nationals from the countries of origin, since in 2012 and 2013 the number of work permits issued exceeded the quotas set by the Tajik government for labor recruitment.

**Table 20. Number of work permits issued by country of origin (2011-2014)**

Country of origin	2011	2012	2013	Jan-Apr 2014
China	2,408	2,692	3,861	1,129
Turkey	197	244	354	96
Iran	201	267	330	51
Russian Federation	69	51	65	17
India	42	73	103	25
Afghanistan	620	868	874	281
Kazakhstan	9	23	21	4
Kyrgyzstan	67	66	79	17
Uzbekistan	141	204	144	34
Pakistan	69	134	168	19
Azerbaijan	11	14	13	1
Other countries	124	194	0	0
Total	3,958	4,830	6,012	1,674

Source: Migration Service of the Ministry of Labor, Migration and Employment, 2014

In addition to the number of work permits issued in accordance with the quotas for the period from 2011 to April 2014, the Migration Service issued about 1,000 permits to foreign nationals to engage in labor for which the government did not issue quotas for the recruitment of foreign labor. These are nationals of European countries (Lithuania, Austria, Czech Republic, Ireland, Bulgaria, Croatia, Norway, Switzerland, etc.), the UAE, African countries (Guinea, Cameroon, Nigeria, Ghana, Uganda, etc.), countries of South Asia (Korea and Bangladesh), etc. According to information received from the Migration Service, foreign nationals in Tajikistan work mostly in such sectors as construction, trade, catering and the manufacturing industry.

## Irregular migration flows

### Irregular labor migration by Tajik nationals

As noted above, most labor migrants from Tajikistan in the Russian Federation can be described as irregular or undocumented. They are considered as such due to their violation of the registration system during their stay in the Russian Federation or because they engage in employment in Russia without the relevant authorization documents. There are no precise data on the number of irregular migrants from Tajikistan in the Russian Federation. However, some reports indicate that, according to data from the Russian Federal Migration Service, the number of irregular migrants from Tajikistan in Russia is between 600,000 and 800,000.<sup>212</sup> Some surveys show that only 60 % of labor migrants are working in the Russian Federation legally.<sup>213</sup>

Among the factors leading to irregular status, as mentioned above, a significant role is played by the lack of formal mechanisms for organized recruitment outside Tajikistan, low awareness among labor migrants of residence and employment regulations in the Russian Federation and, as a result, registration and work permits being obtained through intermediaries. An additional factor contributing to irregularity is the migration regime in the Russian Federation, which sets quotas for foreign labor, which are significantly lower than the real labor market demands in the country.

The situation of irregularity has serious consequences for Tajik labor migrants due to the fact that the Russian Federation is undertaking measures to ban them from returning to work there for a period of several years.

<sup>212</sup> Tajikistan. Expanded migration profile. Building migration partnerships, p. 41.

<sup>213</sup> Maier, A (2013), Tajik Migrant with Re-entry Bans to the Russian Federation, p. 8.

## Extent of irregular migration to Tajikistan

There is no separate research or study of irregular migration in Tajikistan, as the flow of foreign nationals into the country is not significant. Agencies responsible for immigration control have conducted a series of joint operations (for example, “Illegal”) to identify foreign nationals who have violated residence and employment regulations in Tajikistan.

It is stated in the National Report on the Implementation of the UN Convention on the Rights of Labor Migrants and their Families, that 74 people were deported from Tajikistan in 2007, in accordance with Article 31 of the Law “On the legal status of foreign nationals in the Republic of Tajikistan”. Decisions on deportation were made on an individual basis with respect to each individual. In 2008, the Migration Service and the State Committee for National Security deported 139 people from Tajikistan on the basis of Article 499 of the new Tajik Administrative Code. In 2009, 113 people were deported from Tajikistan. According to data from the Migration Service provided for this report, between 2011 and 2013, 1,709 people committed administrative violations. Of these, 984 were deported.

## Trafficking in persons

Resolution No. 5 of the Tajik Government of 4 January 2005 established the Inter-Ministerial Commission on Combating Trafficking in Persons, which is a consultative agency functioning on a permanent basis and created with the aim of coordinating the activities of different bodies in relation to combating trafficking in persons. In 2006, the first Comprehensive Program on Combating Trafficking in Persons was adopted for 2006-2010. Following its completion, in 2011 a second Program was adopted for 2011-2013. The main shortcoming in the development and implementation of policies and strategies to effectively combat trafficking in persons in Tajikistan is the lack of a monitoring mechanism and evaluation of already approved programs and also the fact that evaluation results cannot be used in the development of new programs.<sup>214</sup>

In July 2004, the Law “On combating trafficking in persons” was adopted. However, there were a number of drawbacks in the counter-trafficking legislation:

- no resolution to identify victims of trafficking;
- no development of referral mechanism for victims of trafficking;
- no resolution to ensure the rights of victims of trafficking prior to their recognition as victims;
- no norms establishing the legal status of a victim of trafficking;
- no procedure for granting legal status to victims;
- no legal guarantees providing victims with a certain period of time for consideration, during which they could make a decision on whether to cooperate with law enforcement bodies and/or act as witnesses.

On 26 July 2014, the President of Tajikistan signed a new Law “On combating trafficking in persons”. However, at the time of writing this report, it had not yet been promulgated. According to information received from IOM Tajikistan, the new law is intended to address the above shortcomings and bring the country into conformity with international standards in the field of counter-trafficking. The new Law provides a clearer definition of the status of victims of trafficking, strengthens the role of the Inter-Ministerial Commission, envisages the establishment of an Assistance Fund for Trafficking Victims at the expense of offenders, and has a provision on creating a referral mechanism for victims of trafficking. After the adoption of the Law it is planned to adopt a National Action Plan on Combating Trafficking in Persons.

<sup>214</sup> This chapter uses information provided in the report by the NGO, Human Rights Center, for the UN Human Rights Committee in 2013.

Since 2010, there has been a growing number of cases of people being trafficked abroad from Tajikistan, with an average of 68 cases per year. From 2010 onwards, the number of victims of forced labor increased significantly, from 10 cases in 2009, to 64 cases in 2012, and greatly exceeded the number of victims of sexual exploitation. As noted by the IOM office in Tajikistan, this upward trend in cases of forced labor is directly connected to labor migration. In recent years there has been a significant increase in applications to IOM-supported Support Centers for Victims of Trafficking, regarding labor migration issues.

Between 2005 and 2013, the IOM identified 536 victims of trafficking (277 women and 259 men). Of the total number of victims of trafficking there were 106 minors (61 of them children under the age of 14). The remaining 430 were over 18. According to IOM statistics, most victims of trafficking were identified in the Russian Federation (206 people), followed by the UAE (152 people). Tajikistan itself is also a destination country for people trafficking—139 trafficking victims were identified here for the above-mentioned period.

According to the statistics provided by IOM Tajikistan, for the period from 2009 to 2013, 2,550 criminal prosecutions were recorded for trafficking-related crimes.

**Table 21. Number of cases prosecuted by law enforcement bodies for trafficking-related crimes (2009-2013)**

<b>Criminal Code of the Republic of Tajikistan</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>Total</b>
<b>Article 130. Kidnapping</b>	12	7	6	6	12	43
<b>Article 130.1. Trafficking in persons</b>	0	6	6	3	7	22
<b>Article 131. Unlawful deprivation of liberty</b>	8	10	8	7	9	42
<b>Article 132. Recruitment for purpose of exploitation</b>	0	14	2	7	29	52
<b>Article 134. Coercion</b>	1	1	3	2	3	10
<b>Article 138. Rape</b>	54	72	66	55	54	301
<b>Article 139. Sexual assault</b>	35	43	48	50	45	221
<b>Article 140. Coercion to perform sexual acts</b>	6	3	6	10	13	38
<b>Article 141. Sexual intercourse or other sexual acts with a person under 16</b>	72	80	81	81	91	405
<b>Article 142. Indecent assault</b>	4	13	15	23	32	87
<b>Article 167. Trafficking in minors</b>	9	16	24	17	10	76
<b>Article 238. Involvement in prostitution</b>	2	3	0	2	2	9
<b>Article 239. Organizing or running brothels, pimping</b>	75	109	102	153	189	628
<b>Article 335. Illegal crossing of border of Tajikistan</b>	4	80	117	77	143	421
<b>Article 336. Violation of the state border regime</b>	1	0	0	0	0	1
<b>Article 339. Stealing/damaging documents, stamps &amp; seals</b>	22	73	22	29	39	185
<b>Article 340. Forgery, production or sale of forged documents, state awards, stamps, seals and forms</b>	0	0	6	1	2	9
<b>Total</b>	<b>305</b>	<b>530</b>	<b>512</b>	<b>523</b>	<b>680</b>	<b>2,550</b>

*Source: IOM office in Tajikistan, 2014*

With the support of IOM, 11 Support Centers for Victims of Trafficking are functioning in Kulyab, Pyandj, Khujand, Istravshan, Ayni, Panjakent, Rasht and Dushanbe. In addition, with support from IOM, three shelters for victims of trafficking are currently operating—two of them are in Dushanbe (one for men and one for women) and one in Khujand. Victims are provided with various kinds of support, including assistance to return home, shelter, transportation, social support, vocational training, medical assistance, psychological support, legal services, restoration of passports and birth certificates, support for families and children and income-generating activities.



## Repatriation and readmission

In view of changes in the migration regime of the Russian Federation—the main destination country for labor migrants from Tajikistan—Tajik nationals committing any administrative offence in Russia can be banned from re-entering the country for several years. The Migration Service of the Tajik Ministry of Labor, Migration and Employment noted that, in late 2013, 72,000 Tajik citizens had already been deported from the Russian Federation. According to information from the Russian Federal Migration Service (FMS), various offences were committed by 460,000 Tajik citizens in Russia and for this reason the FMS plans to ban their entry to the Russian Federation by end of 2014.

Data on all offenders have been entered into the FMS database, which selects individuals to ban from entry on a random basis. Apart from the FMS database, the Russian Federal Security Service (FSB), the Ministry of Internal Affairs and other agencies have their own databases of foreign nationals and lists of individuals whose entry to the Russian Federation is banned or considered undesirable. Unlike the Russian FMS database, Tajik official bodies have no access to the databases of these agencies. As a result, when deciding whether to travel to Russia for labor migration purposes, Tajik nationals cannot always obtain up-to-date information on whether they are prohibited from entering.

For Tajikistan, this development in relation to labor migration flows is new, and at this stage, ways must be sought to manage the situation of labor migrants who are banned from entering the Russian Federation. The Tajik Migration Service, the IOM and NGOs are currently working to obtain more detailed information on the number of Tajik nationals banned from entering the Russian Federation, as well as the reasons for and periods for which they are prohibited from entering. They are also appealing against decisions. In addition, the Tajik Ministry of Labor, Migration and Employment is working with the FMS to remove from the list of Tajik citizens temporarily prohibited from entering Russia those citizens who have committed minor administrative violations. Tajikistan has not yet signed readmission agreements with any country.

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## Glossary of Key Terms

<b>admission</b>	The granting of entry into a State.
<b>applicant</b>	A person who formally requests some government or legal action, such as the granting of refugee status, a visa or working permit.
<b>assisted voluntary return</b>	Administrative, logistical, financial and reintegration support to rejected asylum-seekers, victims of trafficking in persons, stranded migrants, qualified nationals and other migrants unable or unwilling to remain in the host country who volunteer to return to their countries of origin.
<b>asylum-seeker</b>	A person who seeks safety from persecution or serious harm in a country other than his or her own and awaits a decision on the application for refugee status under relevant international and national instruments.
<b>border/boundary/frontier</b>	Line separating the land territory or maritime zones of one State from another.
<b>border control</b>	A State's regulation of the entry of persons to its territory
<b>border management</b>	Facilitation of authorized flows of business people, tourists, migrants and refugees and the detection and prevention of illegal entry of aliens into a given country.
<b>brain drain</b>	Emigration of trained and talented individuals from the country of origin to a third country.
<b>capacity building</b>	Building capacity of governments and civil society through strengthening their knowledge, skills and attitudes.
<b>circular migration</b>	The fluid movement of people between countries, including temporary or long-term movement which may be beneficial to all involved, if occurring voluntarily and linked to the labor needs of countries of origin and destination
<b>cross-border migration</b>	A process of movement of persons across international borders.
<b>deportation</b>	The act of a State in the exercise of its sovereignty in removing an alien from its territory to a certain place after refusal of admission or termination of permission to remain.
<b>diasporas</b>	Individuals and members or networks, associations and communities, who have left their country of origin, but maintain links with their homelands.
<b>displaced person</b>	A person who flees his or her State or community due to fear or dangers for reasons other than those which would make him or her a refugee.
<b>economic migrant</b>	A person leaving his/her habitual place of residence to settle outside his/her country of origin in order to improve his/her quality of life.
<b>emigration</b>	The act of departing or exiting from one State with a view to settle in another.
<b>entry</b>	Any entrance of an alien into a foreign country, whether voluntary or involuntary, legally or illegally.
<b>exclusion</b>	The formal denial of an alien's admission into a State.

<b>exit visa</b>	Visa issued for individuals with expired visas who need to extend them before leaving the country.
<b>exploitation</b>	The act of taking advantage of something or someone, in particular the act of taking unjust advantage of another for one's own benefit (e.g. sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude)
<b>expulsion</b>	An act by an authority of the State with the intention and with the effect of securing the removal of a person or persons (aliens or stateless persons) against their will from the territory of that State.
<b>facilitated migration</b>	Fostering or encouraging of legitimate migration by making travel easier and more convenient.
<b>family migration</b>	A general concept covering family reunification and the migration of a family units as a whole.
<b>forced labor</b>	All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself/herself voluntarily.
<b>forced return</b>	The compulsory return of an individual to the country of origin, transit or third country, on the basis of an administrative or judicial act.
<b>foreigner/non-national</b>	A person who is not a national of a given State.
<b>high-skilled migrant</b>	A person who has earned, either by tertiary level education or occupational experience, the level of qualifications typically needed to practice a profession.
<b>illegal entry</b>	Act of crossing borders without complying with the necessary requirements for legal entry into the receiving State
<b>immigration</b>	A process by which non-nationals move into a country for the purpose of settlement.
<b>influx</b>	A continuous arrival of non-nationals in a country, in large numbers.
<b>Immigration and border management</b>	National and international coordination and cooperation among all the relevant authorities and agencies involved in border security and trade facilitation to establish effective, efficient and integrated border management systems, in order to reach the objective of open, but well controlled and secure borders.
<b>international migration</b>	Movement of persons who leave their country of origin, or the country of habitual residence, to establish themselves either permanently or temporarily in another country.
<b>irregular migration</b>	Movement that takes place outside the regulatory norms of the sending, transit and receiving countries.
<b>labor migration</b>	Movement of persons from their home State to another State for the purpose of employment.
<b>long-term migrant</b>	A person who moves to a country other than that of his or her usual residence for a period of at least a year, so that the country of destination effectively becomes his or her new country of usual residence.

<b>migrant flow</b>	The number of migrants counted as moving or being authorized to move, to or from a country to access employment or to establish themselves over a defined period of time.
<b>migrant stock</b>	The number of migrants residing in a country at a particular point of time
<b>migrant worker</b>	A person who is to be engaged, is engaged or has been engaged in a remunerated activity in a State of which he or she is not a national
<b>migrant's rights</b>	Rights pertaining to a migrant guaranteed by international human rights instruments
<b>migration</b>	A process of moving, either across an international border, or within a State.
<b>migration card/ arrival/departure card</b>	A card which is filled out by an individual prior to or upon arrival in the country of destination and presented (along with passport and, if requested, visa) to officials at the checkpoint.
<b>migration management/ governance</b>	Numerous governmental functions and a national system of orderly and humane management for cross-border migration, particularly managing the entry and presence of foreigners within the borders of the State and the protection of refugees and others in need of protection.
<b>mixed migration flows</b>	Complex population movements including refugees, asylum seekers, economic migrants and other migrants.
<b>net migration/ migration balance</b>	Difference between the number of persons entering the territory of a State and the number of persons who leave the territory in the same period.
<b>permanent residence</b>	The right, granted by a host State to a non-national, to live and work therein on a permanent (unlimited) basis
<b>quota</b>	A quantitative restriction on the number of migrants to be admitted each year.
<b>readmission</b>	Act by a State accepting the re-entry of an individual (own national, third-country national or stateless person), who has been found illegally entering or being present in another State.
<b>readmission agreement</b>	Agreement which addresses procedures for one State to return aliens in an irregular situation to their home State or a State through which they passed en route to the State which seeks to return them.
<b>registration</b>	Obligatory authorization of a foreigner's migration (arrival/departure) card in the place of residence
<b>regularization</b>	Any process by which a country allows aliens in an irregular situation to obtain legal status in the country.
<b>regular migration</b>	Migration that occurs through recognized, legal channels.
<b>reintegration</b>	Re-inclusion or re-incorporation of a person into a group or a process, e.g. of a migrant into the society of his country of origin.
<b>remittances</b>	Monies earned or acquired by non-nationals that are transferred back to their country of origin.

<b>repatriation</b>	The personal right of a refugee, prisoner of war or a civil detainee to return to his or her country of nationality under specific conditions laid down in various international instruments.
<b>residence permit</b>	A document issued by a state to an alien, confirming that the alien has the right to live in the State (either permanently or for a predetermined period of time).
<b>return migration</b>	The movement of a person returning to his/her country of origin or habitual residence usually after spending at least one year in another country.
<b>seasonal (migrant) worker</b>	A migrant worker whose work by its character is dependent on seasonal conditions and is performed only during part of the year
<b>short-term migrant</b>	A person who moves to a country other than that of his or her usual residence for a period of at least three months but less than a year) except in cases where the movement to that country is for purposes of recreation, holiday, visits to friends or relatives, business or medical treatment.
<b>skilled migrant</b>	Migrant worker who, because of his/her skills, is usually granted preferential treatment regarding admission to a host country (and is therefore subject to fewer restrictions regarding length of stay, change of employment and family reunification).
<b>smuggling</b>	The procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident
<b>statelessness</b>	The condition of an individual who is not considered as a national by any State under its domestic law.
<b>third country</b>	A country other than the country of origin of a person.
<b>third country national</b>	A national of a state other than the host country and the state that is signatory to an international agreement.
<b>trafficking in persons</b>	The recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation
<b>transit visa</b>	A visa for passing through the country issuing the visa to a third destination.
<b>unaccompanied minors</b>	Persons under the age of majority who are not accompanied by a parent, guardian, or other adult who by law or custom is responsible for them.
<b>unlawful entry</b>	Act of crossing borders without complying with the necessary requirements for legal entry into the receiving State
<b>voluntary return</b>	The assisted or independent return to the country of origin, transit or another third country based on the free will of the returnee.
<b>work permit</b>	A legal document giving authorization required for employment of migrant workers in the host country.



# ANNEX

## ANNEX I: Data Collection Index

### Regional

#### 1. United Nations Economic Commission for Europe (UNECE), International Labour Organization (ILO), World Bank (WB): Selected socioeconomic indicators; Russia, Kazakhstan, Kyrgyzstan, Tajikistan

- Population growth (2008-2013)
- Gross average monthly wages, nominal (2008-2013)
- GDP per person employed (2008-2012)
- GDP growth (annual %) (2008-2013)
- Unemployment (% of total labour force) (2008-2012)
- Unemployment among young men (% of male labour force aged 15-24) (2008-2012)
- Unemployment among young women (% of female labour force aged 15-24) (2008-2012)

#### 2. Migration-related indicators

- United Nations Department of Economic and Social Affairs (UNDESA): Total migrant stock, male and female migrants, by country of origin (2000, 2010, 2013)
- Human Development Report of the Organization for Economic Co-operation and Development (OECD HDR): Net international migration rate (1990-1995, 2005-2010, 2010-2015)
- Human Development Report of the Organization for Economic Co-operation and Development (OECD HDR): Total immigrant stock (2013)
- World bank (WB): Inward and outward remittance flows (2003-2010)

#### 3. Processed official national data:

##### *Kazakhstan*

- Ministry of Internal Affairs of Kazakhstan (MIA): Registered temporary residence of foreigners by citizenship, CIS and non-CIS nationals (2009-2013)
- Ministry of Internal Affairs of Kazakhstan (MIA): Registered permanent residence of foreigner by citizenship, CIS and non-CIS nationals (2011-2013)
- Ministry of Internal Affairs of Kazakhstan (MIA): Registered temporary residence of foreigners by citizenship, work and business purpose, CIS and non-CIS nationals (2009-2013)
- Ministry of Internal Affairs of Kazakhstan (MIA): Administrative violations of migration regulations, committed by CIS and non-CIS nationals (2009-2013)
- Ministry of Foreign Affairs of Kazakhstan (MFA): Number of visas issued for work, by country of application (2008-2013)

## *Kyrgyzstan*

- National Statistical Committee of Kyrgyzstan: Number of persons, legally crossing the border by section of the border (entries and exits) (2008-2013)
- National Statistical Committee of Kyrgyzstan: Number of persons, legally crossing the border by nationality (entries and exits) (2008-2013)

## *Tajikistan*

- Migration Service of Tajikistan: Countries of destination, gender of labour emigrants from Tajikistan (2011-2014)
- Migration Service of Tajikistan: Work permits by country of origin (2011-2014)
- Migration Service of Tajikistan: Sectors of foreign employment (2013-2014)

## **4. The International Organization for Migration (IOM) in Central Asia: Results of focus groups: Kazakhstan, Kyrgyzstan, 2 x Tajikistan (2014)**

- factors influencing labour migration,
- forecasts of labour and irregular migration flows,
- causes and consequences of irregular residence and employment status

## **Kazakhstan**

1. IOM Kazakhstan: Statistics for Assisted Voluntary Return and Reintegration (AVRR) and Assistance by IOM in Kazakhstan (2009- 2014)
  - 1.1. Statistics for Type of Application
  - 1.2. Statistics for AVRR
  - 1.3. Statistics for Refugee Movements
2. Federal Migration Services in Russian Federation: Inflows of foreign workers to the Russian Federation (1999-2011)
3. Committee of Migration Police, Ministry of Internal Affairs of Kazakhstan:
  - 3.1. Registered permanent and temporary residence of CIS and non-CIS nationals (2009-2013)
  - 3.2. Registered temporary residence of CIS and non-CIS nationals for work and business purpose (2009-2013)
  - 3.3. Administrative violations committed by CIS and non-CIS nationals (2009-2013)
  - 3.4. Permanent residence of foreigners in the Republic of Kazakhstan, CIS countries and non-CIS countries (December 2011 - December 2013)
  - 3.5. Report on the work of passport and visa issues, section 3 "On temporary stay of foreign citizens in the Republic of Kazakhstan and bringing them to the administrative responsibility" (December, 2010-2013)
  - 3.6. Information on foreign citizens temporarily staying in the Republic of Kazakhstan for the period of 12 months (2008)
4. Employment and Social Programs Department in Almaty and Astana: Data on inflows of the foreign force labor into Kazakhstan, (March 2012)
5. Agency of Statistics in the Republic of Kazakhstan:
  - 5.1. External migration of population in Kazakhstan (2008-2014)
  - 5.2. Statistics on Oralmans (2001-2007)
  - 5.3. "Tourism of Kazakhstan", Ethnodemographic yearbook of Kazakhstan (2013)
6. IOM Kazakhstan: Socio-economic and demographic data on Victims of Trafficking (VoTs) assisted by IOM in Kazakhstan (January 2004- June 2014)
  - 6.1. Destination country
  - 6.2. Source country
  - 6.3. Type of trafficking

- 6.4. VoTs referrals to IOM through local NGOs for reintegration assistance
- 6.5. Sources of referrals to IOM
- 6.6. VoTs gender
- 6.7. VoTs parenthood status
- 6.8. VoTs age
- 6.9. Exploitation at destination point
7. IOM Kazakhstan: Protection and Reintegration Data on Victims of Trafficking (VoTs) by IOM in Kazakhstan (2004-2014)
  - 7.1. Type of Assistance Provided
  - 7.2. Type of Vocational Training Obtained
  - 7.3. VoTs employment upon completion of the reintegration programme at IOM
8. Information-analytical center of Ministry of Labor and Social Protection of Population of Kazakhstan (MLSP): Labour market and labour migration information
  - 8.1. Proportion of foreign labor in the total number of employees in the Republic of Kazakhstan (2008-2009)
  - 8.2. Distribution of women migrant workers by specialties and localities (2009)
9. Statistics from Ministry of Foreign Affairs of Kazakhstan (MFA): Number of Issued Visas for Work, by Country (2008-2013)
10. IOM Kazakhstan: Reasons to Migrate to Kazakhstan (12/06/2014). [Focus Group]. Participants: Kyrgyz Migrant, Tajik Migrant, Advisor of Kyrgyzstan, Lawyer, Sociologist - Kairatbek Dzhamangulov, Candidate of Sociological Sciences, IOM consultant, Svetlana Bekmambetova
11. Border Service of Kazakhstan: Data on Cross-Border Movements of Kazakhstan (2012-2013)
12. Laws of the Government of Kazakhstan and Government Resolutions of the President of the Republic of Kazakhstan
  - 12.1. Law #204-I: „On Migration of Population” (13 December 1997)
  - 12.2. Law #477-IV: „On Migration of Population” (22 July 2011)
  - 12.3. Law #2337: „On legal status of foreign nationals” (19 June 1995)
  - 12.4. Resolution #45: „On approving the rules for setting quotas for attracting foreign work force to the Republic of Kazakhstan, terms and conditions for issuing work permits for employment to a foreign worker and to employers for attracting foreign work force and introducing changes to resolution #274” (13 January 2012)
  - 12.5. Resolution #294: “On setting quotas on attracting foreign labour force for the priority projects ‘Construction of the line C of the gas pipeline Kazakhstan-China’, ‘Construction of the linear part of the gas pipeline “Beineu-Bozoi-Shymkent”’ (2 April 2014)
  - 12.6. Presidential Decree of the Republic of Kazakhstan #399: Concept of Migration Policy for 2007-2015 (28 August 2007)
  - 12.7. Presidential Decree of the Republic of Kazakhstan # 466: „On further improvement of the government system of the Republic of Kazakhstan” (16 January 2013)
  - 12.8. Resolution #499: “On setting quotas on attracting foreign labour force for the priority project ‘Reconstruction and modernization of the Shymkent refinery’ for 2014 and approval of the terms and conditions of issuance of permits for attracting foreign labour force for execution of the priority project ‘Reconstruction and modernization of the Shymkent refinery’” (16 May 2014)
  - 12.9. Resolution #1347: Approving the Action Plan on Prevention, Prosecution and Protection related to Crimes of Trafficking in Persons for 2012-2014 (24 October 2012)
  - 12.10. Resolution #1593: Comprehensive plan on identifying migration problems, strengthening the control for migration flows from neighboring countries, the creation of favorable conditions for domestic qualified workers in order to prevent their excessive outflow to the foreign labor markets for the period 2014-2016 (31 December 2013)
  - 12.11. Order of the Minister of Internal Affairs #76: Rules of issuance, extension and withdrawal of work permit to a labor immigrant and also for registration, formation and maintenance of photo record of labor migrants (8 February 2014)
  - 12.12. Order of Ministry of Foreign Affairs #08-1-1-1/71: Rules on the issuance of visas of the Republic of Kazakhstan, extension and shortening terms of their validity (5 March 2013). Approved also by Ministry of Internal Affairs, Order #175 (7 March 2013)
13. IOM Kazakhstan: Overview on the issues of regulation and organization of readmissions in the Republic of Kazakhstan (2013)
14. IOM Publications: Investigation of the influence of internal and external migration has on the operational situation in the country
  - 14.1. External migration in Kazakhstan (2000-2010)

- 14.2. Internal migration in Kazakhstan (2000-2010)
- 14.3. Dynamics of the level of criminality of migrants and nationals of the Republic of Kazakhstan (2000-2010)
- 14.4. Dynamics of crimes in the sphere of drug trafficking committed by migrants and citizens of the Republic of Kazakhstan (2000-2010)
- 14.5. Criminological Coefficients (2000-2010)
15. Ministry of Labour and Social Protection (MLSP): Table 4. Allocation of quotas for the foreign labor force by regions (2006-2013)
  - 15.1. Table 1. Allocation of quotas for foreign workers (2005-2011)
  - 15.2. Table 2. Approved quotas for foreign workers by groups (2012)
  - 15.3. Table 3. Professions (specialties) for independent employment (2012)
  - 15.4. Table 4. Allocation of quotas for the foreign labor force by regions (2006-2013)
16. Bilateral agreements with the People's Republic of China
  - 16.1. Agreement on Good Neighborhood, Friendship and Cooperation between the Republic of Kazakhstan and the People's Republic of China (Beijing, 23 December 2002)
  - 16.2 Agreement on Trade and Economic Cooperation between the Government of the Republic of Kazakhstan and the People's Republic of China (Beijing, 17 May 2004)

## Kyrgyzstan

1. IOM Kyrgyzstan: Statistics of returns within the Assisted Voluntary Return and Reintegration (AVRR) Program, by IOM in Kyrgyzstan (2008-2014)
2. Rosstat, Federal Migration Service of Russia, Census (2002, 2010): Inflows of foreign workers to the Russian Federation (1999-2011)
3. IOM Kyrgyzstan: Socio-Economic and Demographic Data on Victims of Trafficking (VoTs) Assisted by IOM in Kyrgyzstan (2002-2014)
  - 3.1. Destination countries
  - 3.2. VoT referrals to IOM through Kyrgyz NGOs for reintegration assistance (2008-2013)
  - 3.3. Sources of referrals to IOM
  - 3.4. VOT gender
  - 3.5. VOT parenthood status
  - 3.6. VOT age
  - 3.7. Exploitation at destination point
4. IOM Kyrgyzstan: Protection and Reintegration Assistance by IOM in Kyrgyzstan (2002-2014)
  - 4.1. Type of Assistance Provided
  - 4.2. Type of Vocational Training Obtained
  - 4.3. VoT employment upon completion of the reintegration programme at IOM
5. IOM Kyrgyzstan: Prosecution in the Kyrgyz Republics (2008-2012)
  - 5.1. Number of crimes investigated by Law Enforcement Agencies in the field of Trafficking in Human Beings
  - 5.2. Number of cases received by Supreme Court (according to the statistics provided by supreme court)
  - 5.3. Number of convictions
6. IOM Kyrgyzstan: Causes and Dynamics of Migration from Kyrgyzstan. (23/07/2014) [Focus Group] Jalalabad, Jalalabad region, Kyrgyzstan. Participants: 8 migrant workers, including 2 men, 6 women, age 20 to 45. Organizer: PF "Blagodat" Osh city.
7. National Statistical Committee of the Kyrgyz Republic: Statistics on Cross-Border Movements (2008-2013)
  - 7.1. Legal border crossings: volume and crossing points
  - 7.2. Legal border crossings: by nationality
8. Laws and Resolutions of the Government of the Kyrgyz Republic
  - 8.1. Resolution on Regulating Migration processes for the years 2007-2010
  - 8.2. Law "On external labor migration" (13 January 2006)
  - 8.3. Law "On external migration" (17 July 2000)
  - 8.4. Resolution #735: On visa-free regime for nationals of Japan entering the Kyrgyz Republic (31 December 1999)
  - 8.5. Resolution #262: On the establishment visa-free regime for citizens of some countries of the World Trade Organization and the "Shengen Agreement" (04 June 2001)
  - 8.6. Resolution #515: on Combating Illicit Export and Trafficking in Persons (14 January 2008)
  - 8.7. Resolution #14: on Combating Trafficking in Persons (14 January 2013)



## Tajikistan

1. IOM Tajikistan: Statistics of returns within the Assisted Voluntary Return and Reintegration (AVRR) Program by IOM in Tajikistan (2013-2014)
2. Rosstat, Federal Migration Service of Russia, Census (2002, 2010): Inflows of foreign workers to the Russian Federation (1999-2011)
3. Migration Service of the Republic of Tajikistan; Federal Migration Service of the Russian Federation: Statistics on internal and external labor migration (2011-2014)
  - 3.1. Table statistics on labor migrants from Tajikistan since the establishment of the Migration Service of the Republic of Tajikistan in 2011
  - 3.2. Table statistics on the number of migrants expelled from the territory of the Russian Federation for administrative offenses according to the Federal Migration Service of the Russian Federation represented by the Migration Service of Tajikistan
  - 3.3. Tajikistan, quotas for foreign labor force
  - 3.4. Tajikistan, number of foreign citizens granted permission for work
  - 3.5. Number of foreign citizens working in the Republic of Tajikistan, by sector of employment
  - 3.6. Statistics from the Ministry of Internal Affairs (MIA) of Tajikistan: Number of persons granted the refugee status, in accordance with the legislation of the Republic of Tajikistan (2000)
  - 3.7. Number of stateless persons in the territory of the Republic of Tajikistan
  - 3.8. Number citizenship applications of refugees and stateless persons including the number of rejected applications.
4. IOM Tajikistan: Socio-economic and demographic data on Victims of Trafficking (VoTs) assisted by IOM in Tajikistan (January 2004- June 2014)
  - 4.1. Destination country
  - 4.2. Type of trafficking
  - 4.3. VoTs referrals to IOM through local NGOs for reintegration assistance
  - 4.4. Sources of referrals to IOM
  - 4.5. VoTs gender
  - 4.6. VoTs age
  - 4.7. Exploitation at destination point
5. IOM Tajikistan: Protection and Reintegration Assistance by IOM in Tajikistan (2005-2013)
  - 1.1. Type of Assistance Provided
  - 1.2. Type of Vocational Training Obtained
6. IOM Tajikistan: Prosecution in the Republic of Tajikistan: Number of cases prosecuted by Law Enforcement Agencies in the field of human trafficking (2009-2013)
7. IOM Tajikistan: Tajik Migrants views on the Migration Process to Russia (04/07/2014). [Focus Group]. IOM Office of Dushanbe. Participants: 6 Migrants, M. Yarbabaeva, D. Turakhanova, K. Kluczevska, M. Bahovadinova, M. Azizova, U. Avezov, N. Majidov
8. Statistical Agency under the President of the Republic of Tajikistan:
  - 1.1. Duration of permanent residence of migrants in the Republic of Tajikistan (2013)
  - 1.2. Situation of the Labour Market in Tajikistan (June-July, 2009)
9. National Statistical Committee of the Republic of Tajikistan: Analytical report on the Labour Force (July-August, 2004)
10. Government Resolutions and Laws of the Republic of Tajikistan on Immigration:
  - 10.1. Government Resolution #218 of the Republic of Tajikistan: Residence Regulations for Foreign Citizens in the Republic of Tajikistan (May 15<sup>th</sup> 1999)
  - 10.2. Government Resolution #122 of the Republic of Tajikistan: Rules of Procedures and Issuance of Tajik Visas for Foreign Citizens and Stateless Persons (February 27<sup>th</sup> 2009)
  - 10.3. Government Resolution #599 of the Republic of Tajikistan: Regulations on the Implementation of Immigration Control (December 2<sup>nd</sup> 2008)
  - 10.4. Law #230 of the Constitution of the Republic of Tajikistan: On the Legal Status of Foreign Citizens in the Republic of Tajikistan (February 1<sup>st</sup> 1996)

# ANNEX II: Sample Statistical Questionnaires

## CROSS-BORDER MOVEMENT

### Segment 1. Legal cross-border movement: volume and by section of the border

1. Please insert the total number of persons legally crossing the border into and out of Kazakhstan/Kyrgyzstan/Tajikistan
2. Please insert the total number of persons legally arriving and departing **by land**
3. Please insert the total number of persons legally arriving and departing **by air**
- 4-7. Please insert the total number of persons legally crossing the border with the neighboring countries

### Segment 2. Legal cross-border movement: by citizenship

8. Number of persons legally **entering** Kazakhstan/Kyrgyzstan/Tajikistan by citizenship (own nationals, citizens of other countries of the region and top 10 other countries of origin)
9. Number of persons legally **leaving** Kazakhstan/Kyrgyzstan/Tajikistan by citizenship (own nationals, citizens of other countries of the region and top 10 other countries of origin)

### Segment 3. Refusal of entry

10. Please insert the total number of persons (including nationals of third countries) who were refused entry into Kazakhstan/Kyrgyzstan/Tajikistan on the border with the neighboring countries
11. Number of persons who were refused entry into Kazakhstan/Kyrgyzstan/ Tajikistan by citizenship (top 10 countries of origin)
12. Number of persons who were refused entry into Kazakhstan/Kyrgyzstan/ Tajikistan by reason of refusal (provide categories listed in the legislation/border statistics)

### Segment 4. Apprehensions

- 13-14. Please insert the total number of persons apprehended at the borders of Kazakhstan/Kyrgyzstan/ Tajikistan with the neighboring countries
15. Number of foreigners who were apprehended at the border by citizenship (citizens of other countries of the region and top 10 other countries of origin)
- 16-19. Total number of own nationals/foreigners/citizens of other countries of the region apprehended at the border, by gender
20. Please insert the total number of persons apprehended at various types of border
21. Please insert the total number of persons who were apprehended at the border with the neighboring countries
22. Number of persons who were apprehended at the border by reason of apprehension

### Segment 5. Return and expulsion of illegally resident migrants FROM Kazakhstan/Kyrgyzstan/Tajikistan

23. Number of successfully implemented **voluntary** returns from Kazakhstan/Kyrgyzstan/Tajikistan by country of destination, number of persons

24. Number of successfully implemented **forced** returns from Kazakhstan/Kyrgyzstan/Tajikistan by country of destination, number of persons

### Segment 6. Voluntary and forced return INTO Kazakhstan/Kyrgyzstan/Tajikistan

25-26. Number of successfully implemented **voluntary and forced** returns of own nationals into Kazakhstan/Kyrgyzstan/Tajikistan by country of origin, number of persons

27-28. Number of successfully implemented **voluntary and forced** returns of foreigners into Kazakhstan/Kyrgyzstan/Tajikistan by country of origin, number of persons

## VISAS & RESIDENCE

### Segment 1. Visas issued by type (MFA)

1. Total number of Kazakhstani/Kyrgyz/Tajik visas issued
2. Number of Kazakhstani/Kyrgyz/Tajik visas issued, by period of validity
3. Number of Kazakhstani/Kyrgyz/Tajik visas issued, by number of entries
4. Number of Kazakhstani/Kyrgyz/Tajik visas issued, by purpose. Please fill in the categories of visas, starting from the most popular (e.g. tourist, family visit, work, business, official, study)
5. Please list the main reasons for refusals of visas, by purpose

### Segment 2. Visas issued: by citizenship of recipients (MFA)

6. Total number of all types of visas issued, by citizenship of recipients
7. Number of **transit** visas issued, by citizenship of recipients
8. Main countries of destination for top **transit** visa holders, by citizenship, 2012/2013
9. Number of **work** visas issued, by citizenship of recipients
10. Number of **study** visas issued, by citizenship of recipients

### Segment 3. Registration of stay (Interior Ministry/OVIR)

11. Please insert the total number of non-nationals who registered their stay in Kazakhstan/Kyrgyzstan/Tajikistan
12. Number of foreigners who registered their stay in Kazakhstan/Kyrgyzstan/ Tajikistan, by citizenship
- 13-15. Number of foreigners who registered their stay in Kazakhstan, by region, 2008, 2010, 2012. Top five regions–top three nationalities in each.

**Segment 4. Long-term residence (Interior Ministry/Migration Police)**

16. Please insert the total number of non-nationals who received all kinds of residence permits in a given year, 2008-2013
17. Please insert the number of non-nationals who received residence permits, by type of permit
- 18-20. Please list the top nationalities of permit recipients, 2008, 2010, 2012

**Segment 5. Violation of migration regulations (Interior Ministry/Migration Police)**

21. Please insert the total number of foreigners who were detected and to whom decisions were issued with regard to violation of migration regulations
22. Number of foreigners detected in connection with violation of migration regulations by citizenship (citizens of Kazakhstan/Kyrgyzstan/Tajikistan and top 10 other countries of origin)
23. Please insert the total number of persons detected for various types of violations of migration regime. If necessary, provide a description of the type of violation
24. Please list the top nationalities of foreigners accounting for specific types of violations, 2012 or last available year (\_\_\_\_) (by number of detected persons)



# ANNEX III: Focus Group Sample Questions

## Causes and dynamics of migration

1. What are the initial reasons attracting migrants from Tajikistan and from Kyrgyzstan to choose Kazakhstan as a destination?
2. In what circumstances do some migrants decide to come here regularly or live here for an extended period of time?
3. Do you expect the number of migrants from Tajikistan and Kyrgyzstan to rise, decline or remain stable over the next two years? What could be some of the reasons for such a change?

## Problems, information and assistance

4. What official requirements in the procedure for entry, stay or work are most difficult to meet for migrants? What are the specific difficulties?
5. How, from whom and when do migrants learn of the requirements for entry, stay or work in Kazakhstan (as well as of sanctions for violation)? Are there problems with getting the needed information?
6. What problems do migrants report most often when requesting aid from the embassy, non-governmental or international organizations?
7. What kind of activities of the embassy, non-governmental or international organizations do migrants find most effective and needed?

## Irregular status

8. How common, in your view, is among migrants employment without proper authorization? What practical consequence does this produce? For example, with regard to working hours, payment of wages, conditions of work, access to medical care?
9. What are the reasons why some migrants do not comply with the rules of residence or employment in Kazakhstan? For instance, failing to register, exceeding the allowed period of stay or taking up work without proper permit?
10. Do you expect the number of migrants from Tajikistan and Kyrgyzstan, who do not comply with the rules of residence or employment in Kazakhstan, to rise, decline or remain stable over the next two years? What could be some of the reasons for such a change?

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