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ПРАЖСКИЙ ПРОЦЕСС

# MIGRATION OBSERVATORY:

Collected Publications

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## Disclaimer

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## The Prague Process Migration Observatory

The Prague Process is an intergovernmental migration dialogue featuring 50 states of the European Union, Schengen Area, Eastern Partnership, Western Balkans, Central Asia, Russia and Turkey. Since its establishing in 2009, the Prague Process has engaged in gathering and sharing various data on migration and asylum through its Knowledge base, mainly by supporting the Prague Process states in the elaboration of their Migration Profiles (Light).

During the 3rd Ministerial Conference in 2016, the participating states agreed to establish the Prague Process Migration Observatory in order to further enhance information sharing among the Parties and better inform policy makers and experts from the migration authorities in their decisions.

The Migration Observatory has established a network of state and academic experts from the region who have undertaken systematic and ad hoc analyses of important migration policy developments at regional and national level, addressing contemporary migration challenges. The results of their work shall feed into the discussion of the key migration challenges among Senior Officials of the Prague Process states, informing their policy decisions.

The Migration Observatory aims to provide impartial, evidence-based analysis from across the Prague Process region and in line with the six thematic areas set out by the Prague Process Action Plan: illegal migration; return, readmission and reintegration; legal and labour migration; integration; migration and development; and asylum and international protection. All results and publications are available at [www.pragueprocess.eu](http://www.pragueprocess.eu) in English and Russian languages.

# ACKNOWLEDGEMENTS

Dear Reader,

This book is a collection of the publications produced within the Prague Process Migration Observatory in 2018. The ambition of these publications - policy briefs and analytical reports - is to inform migration decision-makers, migration specialists, scientists and academics, as well as the interested public about ongoing migration policy aspects in selected countries or regions of the Prague Process. The authors, representing the state services, academic sphere and other specialists, aim at raising awareness concerning migration issues and challenges that are not necessarily part of the European Union's mainstream, but nevertheless strongly resonate in the geopolitical area concerned, having a potential to influence the lives of individuals and societies. The curious reader may perceive these realities as close or more distant and consider their potential impact on his own life and home country. The professional reader can build upon the lessons learned and develop scenarios in terms of preventive planning or reactive actions.

Let me herewith thank the authors for sharing their views, analysing the phenomena addressed and providing with summaries and recommendations for the responsible entities on how to approach them. I would also like to acknowledge the hard work required for ensuring the quality of the publications in terms of the presented content, language and style on behalf of the two editors - Mr. Alexander Maleev, ICMPD Project Manager and Ms. Irina Lysak, ICMPD Project Officer – who have both been influential to the success of the Prague Process Migration Observatory.

Dear Reader,

Enjoy the reading and be invited to share your feedback by contacting us at [pragueprocess@icmpd.org](mailto:pragueprocess@icmpd.org). It will help us to improve and reflect upon your comments in future publications.

Sincerely yours  
Dr. Phil. Radim Zak  
Regional Coordinator for Eastern Europe and Central Asia



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ARMENIA

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# Assessing Armenia's Migration Strategy for 2017-2021

Haykanush Chobanyan

POLICY BRIEF

The migration policy switched from a passive and reactive to a proactive and foreseeable approach.

## BACKGROUND

This Policy brief<sup>1</sup> aims to analyse the 2017-2021 Strategy for Migration Policy of the Republic of Armenia and its Action Plan, identifying the challenges, gaps and obstacles for their implementation, and providing possible solutions in this regard. Taking into consideration the recent changes in the Armenian Government, the new approaches, challenges and solutions in the migration field have also been considered in the Policy brief.

The document will look into Armenia's overall experience in the development of migration policy documents and assess the new priority areas set out in the Migration strategy and its Action Plan for 2017-2021. Finally, it also provides an insight into recent and future migration challenges that should be further considered. The findings, new knowledge gained and recommendations proposed will be useful for the stakeholders involved in migration policy development.

Taking into consideration the previous gaps and lessons learned and aiming to ensure the actual implementation of the state migration policy, a new Concept Paper was adopted in 2010. For the first time, it was accompanied by an Action Plan (2012-2016) adopted in 2011. The main aim of the document was "to switch from a passive-contemplative and operative-reactive policy to proactive-foreseeable migration policy" (Concept Paper, 2010). The Action Plan provided grounds for aligning the national migration governance system with the one of the European Union in legislative and institutional terms. Notable progress took place in the cooperation on legal migration with the EU and other countries worldwide as well as in the fight against irregular migration and prevention thereof.<sup>2</sup>

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1. The research carried out entailed a review of the relevant policy documents and recent studies, as well as expert interviews with policy makers such as the Heads of the Migration Service, members of Stat Interagency Monitoring Committee or experts involved in the development of the migration strategy.

2. In 2015, with the support of Yerevan office of the "People in Need" Czech NGO, the assessment of the implemented migration policy was carried out (the 2012-2016 Action Plan), which was the first attempt in that regard. The assessment was intermediate and was also a prerequisite for submitting suggestions for the drafting of the new policy paper. It is noteworthy that already in the Migration Strategy for 2017- 2021 the recommendations of the evaluation report have been taken into consideration, in particular the inclusion of new priority directions.

# ARMENIA'S CURRENT MIGRATION STRATEGY(2017-2021)

Adopted in March 2017, the current **2017-2021 Strategy for Migration Policy of the Republic of Armenia** is the fourth document formulating Armenia's migration policy. The Strategy takes into account the outcomes of implementation of the 2012-2016 Action Plan, the related lessons learnt, as well as recommendations resulting from discussions with experts from civil society and international organizations. The 2017-2021 Action Plan for effective implementation of the Strategy was approved in 2017.

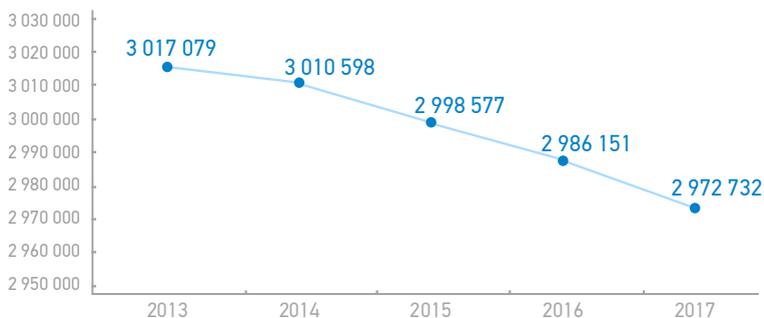
Overall, the document consists of an introduction and three chapters. The main challenges set out in the introduction include the decrease of the general population (see graph)<sup>3</sup>. However, no concrete policy response to this issue is prescribed in the Strategy.

The first chapter presents the long-term vision, fundamental principles and target groups (beneficiary) of the migration policy.

The second chapter sets out the following priority directions, corresponding to the main challenges currently facing Armenia:

1. Facilitation of legal migration;
2. Improvement of the international protection system;
3. Support to integration of long-term immigrants and refugees and re-integration of returning migrants;
4. Migration and development;
5. Protection of rights and interests of Armenian labour migrants;
6. Prevention of and fight against illegal migration;
7. Enhancement of international cooperation in the field of migration;
8. Further development of the migration management system.

## Total Armenian Population (end of year)



3. Source: National Statistics Service of Armenia.

Both, the Strategy and its Action Plan, were developed by the Migration Service of Armenia and do not cover the key objectives for border management and trafficking, since those are already set forth in separate strategic documents adopted by the Government.

Overall, the Strategy puts forward 23 topics and 78 mechanisms for achieving the goals set under each policy direction, as well as a comprehensive monitoring and assessment of the Strategy.

The Action Plan aims at enhancing regular migration and further improving the migration management system. It consists of 173 concrete activities for implementation of the concrete actions put forward by the Strategy. It also specifies the responsible implementing institutions and timeframes.

The Strategy is based on an internationally recognized approach. Its goals, objectives and priority directions were predetermined by the “approaches set forth in the migration complex governance framework (model)”. These were developed and received universal recognition on the basis of the requirements of the **Declaration of the High-level Dialogue on International Migration and Development by the UN (2013)**<sup>4</sup>. The Comprehensive Migration Management model categorizes the activities conducted for regulation of population movements into four basic areas of migration: “migration and development”, “facilitating the regulated movements of population”, “adjustment of population movements” and “forced migration” (Action Plan 2017-2021, p. 4).

It is worth to mention that some of the activities have been also included in the Roadmap and Action Plan of the new **EU-Armenia Comprehensive and Enhanced Partnership Agreement** (CEPA) signed on November 24, 2017<sup>5</sup>.

## NEW PRIORITY AREAS AND CONCRETE ACTIONS

New realities and their reflection in the new Migration Strategy.

### 1. Migration and development

Featuring among the policy priorities of the migration strategy for the first time, the main aim in this policy area is to direct the economic and human potential of Armenian emigrants towards the development of their country. The implementation of most of the activities foresees the support and expertise of international organizations.

Among the 23 concrete mechanisms specified in the Action Plan for this area are the following:

4. Declaration of the High-level Dialogue on International Migration and Development. Available at: <https://undocs.org/en/A/68/L.5>, accessed on 13 July 2018.

5. Article 14 and 15 of the CEPA relates to the Cooperation on migration, asylum and border management and Movement of persons and readmission. Document is available at: [https://eeas.europa.eu/headquarters/headquarters-homepage/37967/eu-armenia-comprehensive-and-enhanced-partnership-agreement-cepa\\_en](https://eeas.europa.eu/headquarters/headquarters-homepage/37967/eu-armenia-comprehensive-and-enhanced-partnership-agreement-cepa_en), accessed on 15 September 2018

- development of targeted programmes for ensuring the mobilisation of the skills, intellectual potential and experience of highly-qualified Armenian citizens residing abroad;
- increase financial literacy of emigrants and members of their families living in Armenia;
- widening of circular migration schemes;
- involving emigrant organizations in local community development programmes

The creation of the [www.sendmoneyarmenia.com](http://www.sendmoneyarmenia.com) website is also worth mentioning. This single integrated information system aiming to reduce remittance costs was designed in line with World Bank standards, providing Armenian emigrants with a reliable comparison of the available money transfer operators with regards to the transaction costs, speed of the transfer and other relevant parameters. According to estimates, even a 5% reduction in transfer fees could result in savings of approximately \$20 million USD<sup>6</sup>.

## 2. Improvement of legal framework and mechanisms for counteracting illegal migration

The state authorities work consistently towards preventing foreign citizens from entering Armenia with forged documents and from transiting the country illegally. It has become increasingly common for citizens of third countries to enter Armenia with their original passports and then attempt leaving the country with forged documents stipulating citizenship of a Schengen state. Amongst other measures, the Action Plan therefore envisages joint operations for the identification of illegal migrants and the storage of their fingerprints.

## 3. Cooperation within the EU and the Eurasian Economic Union

The Action Plan envisages the approximation of Armenia's legal and institutional framework for migration management to those of the EU and EAEU.

Since signing the EU-Armenia Visa Facilitation Agreement in 2012, the visa liberalization process has topped the agenda in terms of EU-Armenia cooperation on migration. In this respect, the Action Plan foresees the following concrete steps:

- a) Initiate the visa liberalization dialogue with the EU, developing a roadmap; ensure capacity- building for the government agencies represented in the negotiating team;
- b) Establishing the so-called 'Readmission case management electronic system' in order to fulfil the commitments set out in the readmission agreement concluded with the EU;

6. Report on feasibility study for improving money transfer services in Armenia, Grant Thornton, 2018, [http://smsmta.am/upload/Grant\\_Thornton\\_Report.pdf](http://smsmta.am/upload/Grant_Thornton_Report.pdf).

- c) Conduct negotiations aimed at signing implementation protocols for the readmission agreements signed with EU Member States;
- d) Enhance cooperation with the EU for the purpose of introducing the Integrated Border Management system based on the Single Window/One-Stop Shop concept;
- e) Negotiations with specific EU Member States on simplified conditions of entry and further stay for particular categories of migrants, including young and high-skilled professionals, university graduates, artists etc.;
- f) Negotiations with the appropriate agencies of specific countries on establishing reciprocal visa-free entry regimes. Mobilizing the respective experiences of Moldova, Georgia and Ukraine is considered beneficial in this regard.

Joining the **Eurasian Economic Union** (EEU) brought new challenges and opportunities for the Republic of Armenia in the migration sphere. Russia remains the main destination country of (seasonal) labour migration from Armenia with the share of departures to Russia increasing from 89.4% in 2013 to 94.6% in 2015<sup>7</sup>. Since January 2015, Armenian labour migrants enjoy the right to reside and work across the EEU Member States under the sole condition of having an employment contract but without having to meet the requirements applied for protection of the national labour markets. This has resulted in an increased number of Armenian citizens working in the Russian Federation. This increase is also linked to the legalization of many migrant workers previously employed in the shadow economy. As a result, the number of Armenian citizens working in Russia has almost doubled from 124,500 in 2014 to 232,247 in 2017<sup>8</sup>.

In order for the EEU Treaty to be fully operational, Member States still need to further regulate the free movement of labour, expand legal pathways and set preventive measures against irregular migration. Moreover, the required employment contract remains an important challenge to the protection of the rights and interests of migrant workers.

#### 4. Institutionalizing the collection of migration data

In the past, international organizations (i.e. ICMPD, IOM) developed the Migration Profiles<sup>9</sup> of Armenia with the support of the Government. The resulting documents were uniform but did not foresee any regular collection or updating of the indicators and data. The Action Plan aims at autonomously developing Armenia's Migration Profile, based on survey results and administrative statistical data. Adopted in 2017, the

7. Report on scientific-research work by government order: "Triennial Monitoring (2013-2015) of the External Migration Situation in the RA through Sampling Study", the Armenian-Russian (Slavonic) University, Social Demographic Research Center, Yerevan, 2016. Available at: <http://science.rau.am/rus/7/3557>, accessed on 20 July, 2018.

8. Number of citizens, who entered EEU member states for employment, available at [http://smsmtaam/?menu\\_id=187](http://smsmtaam/?menu_id=187), accessed on 15 July, 2018.

9. Republic of Armenia Migration Profile Light 2014, available at: <https://www.pragueprocess.eu/en/migration-observatory/migration-profile-light>, accessed on 15 July, 2018.

respective Government Decree<sup>10</sup> sets 144 indicators for the Extended Migration Profile, which is to be updated every three years starting from 2019. During these intervals, the complementary Basic Migration Profiles should provide the essential migration statistics.

## 5. Monitoring the implementation of the Action Plan

Enhancing of the institutional monitoring system represents another important goal of the Action Plan, which foresees an enhanced status of the Interagency Committee for Monitoring of the Migration Strategy and Action Plan (ICMAP), coordinated and chaired by the Head of Migration Service<sup>11</sup>. For the first time, the Minister of Territorial Administration and Development is assigned to oversee the Action Plan implementation.

# ADDRESSING CURRENT MIGRATION CHALLENGES

The recent change of government in Armenia (May 2018) brought significant expectations for policy changes in various policy areas, including the migration sphere<sup>12</sup>. Here is a brief overview of the most pressing priority areas:

## 1. Comprehensive integration policy approach:

Establishing a comprehensive approach and one single policy document on integration figures among the current policy priorities on migration. The revision of the previous Integration Concept<sup>13</sup> is ongoing with its scope being enlarged. The aim is to define specific target groups of immigrants and define separate Action Plans for their integration based on local experience and expertise (most recently, on integration of Syrian refugees) and international best practices. The organization of language courses, civil orientation trainings and the provision of temporary accommodation represent three key elements in this endeavor. As of 2018, new projects aimed at the integration of newly recognized refugees are financed from the state budget, which envisages more than 18 million AMD for this purpose.

Fostering return of Armenians living abroad represents one of the key priorities for Armenia

10. "Approving the structure and the list of indicators of Migration Profile of the Republic of Armenia" was adopted by the RA Government on 19 October, 2017 by N44 Protocol Decree. Available in Armenian at: [http://smsmta.am/upload/Migration\\_Profile\\_Decree.pdf](http://smsmta.am/upload/Migration_Profile_Decree.pdf), accessed on July 22, 2018

11. The ICMAP gathers representatives of all relevant ministries and departments, 3 independent experts, as well as representatives of five NGOs and international organizations (e.g. UNHCR, IOM, and ICMPD) as observers. The state executive bodies shall submit annual reports on the implemented actions, to be submitted to the Government by the Head of Migration Service within one month after the end of each year. The ICMAP convened twice in 2017 and already twice in 2018.

12. The members of the new cabinet and the high-ranking officials mention the issues raised.

13. So far, the only policy document is the "Concept Paper on Integration of Persons Recognized as Refugees and Granted Asylum in the Republic of Armenia as well as of Long-term Migrants" and its Action Plan, which were adopted by the Government in 2017. Before 2016 there was no specific policy aimed at integration of foreign nationals in Armenia.

## 2. Organizing return/repatriation to Armenia:

The new reality created by the Velvet Revolution shall result in attractive and favorable conditions for return and repatriation. Experts estimate that 1.2-1.5 million citizens left Armenia since its independence. This exodus was mainly caused by high unemployment rates, low-income levels and various other reasons. The political changes of 2018 have impacted the migration flows significantly as evidenced by the data on border crossings for three semester (January-September) 2018, which has seen 38.200 people less leave the country as compared to the same period of 2017. Representing a 70,9% decrease, this leaves the country with a negative migration rate of only 15,700 persons<sup>14</sup>. The first-time asylum applications filed by Armenian citizens across the EU countries also decreased substantially from January (660) to June (395) 2018<sup>15</sup>. Compared to 2017, the first-time applications thus decreased by nearly 1000 cases<sup>16</sup>.

The current promotion and rhetoric of return and repatriation to Armenia and the fostering of diaspora investments correspond to the political goals announced by the new government, as well as with expectations of the Armenian population and of many Armenians living abroad. The practical implementation of these goals remains challenging and requires further exploration of how to best mobilise the existing positive circumstances for return. A first reasonable step may consist in raising awareness and making practical information available on questions related to the acquiring of documents, establishing a business, education opportunities or the possible recognition of qualifications and degrees acquired abroad. Fostering an interest to return among the diaspora communities and supporting the actual return process represent key priorities of this government.

## 3. Reintegration Support:

The Readmission agreement between Armenia and the EU entered into force in January 2014. The number of readmission cases multiplied in 2017 as compared to previous years, with the share of positive responses remaining high at approximately 80%, once the citizenship of the concerned individuals has been confirmed<sup>17</sup>. While only Sweden and Poland filed readmission applications in 2014, ten EU Member States have done so in 2018. 598 persons returned to Armenia during 2015-2018 only through the return operations organized by the European Border and Coast Guard Agency (FRONTEX)<sup>18</sup>. Armenia is currently implementing several reintegration programmes, but those target mainly Armenian migrants willing to cooperate and return voluntarily<sup>19</sup>, rather than returnees

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14. Number of arrivals in Armenia and departures from Armenia by the means of transportation in 2018, available at: [https://www.armstat.am/file/article/sv\\_09\\_18a\\_520.pdf](https://www.armstat.am/file/article/sv_09_18a_520.pdf)

15. Source: EuroStat Database, Asylum and managed migration, Asylum and Dublin statistics, Applications. <https://ec.europa.eu/eurostat/data/database>

16. *ibid*

17. Annual Statistics on Readmission Cases, available at: [http://smsmta.am/upload/Dinamika\\_tot\\_ENG.pdf](http://smsmta.am/upload/Dinamika_tot_ENG.pdf). Accessed on August 15, 2018.

18. Source: FRONTEX official statistics

19. So-called Assisted Voluntary Return and Reintegration (AVRR) projects

forced to return under the readmission agreements for whom no specific initiatives are currently available. As their number is growing, certain reintegration measures need to be put in place, while also considering the development of a targeted Action plan on this matter. Such document shall establish a sustainable basis for successful reintegration, assessing the specific needs of forced returnees.

#### **4. Labor migration regulation in Armenia:**

The issuance of work permits to foreigners in Armenia is another important challenge that calls for an urgent solution. The Law on Foreigners (Chapter 4, Article 22) of 2006 stipulates that foreigners require a work permit in order to seek regular employment in Armenia. However, this provision was not in force as there was no competent authority assigned with its implementation. In 2015, an amendment introduced to the Law on Foreigners prescribed that the eventual employer has to file an application to the competent authorities in order to seek a work permit for his foreign labour force. In 2016, two further Decrees were issued - the first one officially launching the work permit issuance system; and the second one defining the competent state authorities. Three months later, however, both decrees were suspended until 1 January 2019 without making the reasoning for this decision public.

As a result, foreigners in Armenia continue to be employed without having an officially issued work permit. The current system thus remains very liberal, solely requiring from foreigners to be registered at their place of temporary residence in order to seek employment. As the foreign migrants workers are not obliged to register elsewhere or file any sort of application to enter the labour market, the exact number of foreigners working in Armenia remains unknown. The data currently available is solely based on expert estimations with the majority of foreign labour force believed to be citizens of Iran, India and Georgian citizens of Armenian origin. Installing a proper work-permit issuance system thus represents an imminent priority for Armenia, not least to protect the local labour market.

## **POLICY RECOMMENDATIONS**

### **1. Development of migration policy documents**

The development of high-quality migration policy documents requires an institutionalised policy development process. The Government could therefore consider installing a pool of experts for the development of new policy documents. It shall consist of renowned migration experts and be equipped with sufficient funding from the state budget in order to also ensure the sustainability of the process. When developing a policy document, the experts shall present targeted recommendations about its exact content and structure.

## 2. Monitoring and impact assessment of migration policy

Whereas the previous Action Plan (2012-2016) did not address the issue of its monitoring and evaluation, the current one (2017-2021) has dedicated a chapter to this topic without, however, setting any specific indicators or objectives. The document neither specifies the exact methodology for the impact assessment, nor the timelines and number of other details. The development of specific evaluation indicators thus remains a key priority.

As gaps concerning monitoring and evaluation remain a common challenge for many states, the development of a comprehensive manual or guidelines is highly recommended. Such manual could possibly serve the improvement of the governance system as a whole, rather than confining itself to the migration policy field.

## 3. Raising awareness on irregular migration

Since its independence, Armenia has foremost been seen as a source country of migration. Whereas migration remains a widely discussed and extremely sensitive issue for the Armenian society, further awareness raising and evidence is required to inform politicians, journalists, students and the public better on its various, implications, complexities and sub-areas. Against the background of a growing number of asylum claims received by the state, the urgency of this issue becomes ever more evident.

Moreover, the annual number of Armenian asylum seekers registered across the EU, which usually amounted to 4,000-6,000 persons in previous years, has increased to 8,000 since 2016<sup>20</sup>, thereby placing Armenia among the top 30 source countries of asylum seekers to the EU<sup>21</sup>. This trend also exemplifies the need for awareness raising campaigns, targeting potential migrants and the public. These campaigns should focus on the issue and inherent risks of irregular migration and also involve the media whose exchange with experts could result in a more balanced coverage on migration. This may involve the organisation of round table discussions among representatives of the competent authorities, civil society, media, bloggers, the private sector and others. A wide-reaching information campaign on legal migration and mobility (e.g. on Schengen rules) could complement these efforts and provide a positive input towards launching the visa liberalization dialogue with the EU.

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20. EUROSTAT statistics is available at: [http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum\\_statistics](http://ec.europa.eu/eurostat/statistics-explained/index.php/Asylum_statistics)

21. A part of this phenomenon was caused by some of the Syrians Armenians emigrating further to Europe

## RELATED PUBLICATIONS

Report on “Triennial Monitoring (2015-2017) of the External Migration Situation in the RA through Sampling Study”. Armenian-Russian (Slavonic) University, EU-funded “Support to Migration and Border Management in Armenia” (MIBMA) project, implemented by the International Centre for Migration Policy Development (ICMPD), Yerevan, 2016. Available at: [http://smsmta.am/upload/Survey\\_executive\\_summary\\_EN.pdf](http://smsmta.am/upload/Survey_executive_summary_EN.pdf)

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POLICY BRIEF

# Closing the policy gaps concerning an eventual mass influx of asylum seekers to Armenia

Petros Aghababyan

Since 2000,  
the Republic  
of Armenia  
has received  
3,339 asylum  
seekers

## EXECUTIVE SUMMARY

By acceding to the 1951 Geneva Convention Relating to the Status of Refugees and its Protocol in 1993, Armenia launched the creation of its asylum system, which eventually resulted in the adoption of the Law on Refugees in 1999. Ever since, Armenia has received some 3,400 asylum seekers, granting protection to 2,271 persons. Most of these people escaped from armed conflicts in the Middle East. Whereas Armenia thus received some 200 persons per year on average, this number in reality oscillated when hostilities or armed conflicts erupted in the regions of origin.

To present, the Law on Refugees and its subsequent amendments have failed to set out a concrete policy for addressing an eventual mass influx of asylum seekers at the Armenian border. In this context, the Law on Refugees and Asylum of 2008 (amended in 2015) referred to the provision of temporary protection. Nonetheless, the standing legislation remains incomprehensive as it fails to set forth concrete measures to ensure an immediate emergency response, including the accommodation and support required by those in need, or clear provisions on their necessary documentation.

This Policy brief suggests amending the Law on Refugees and Asylum in a way to stipulate the elaboration of an Action Plan setting out the adequate steps to be taken by the competent authorities in case of a mass influx of asylum seekers. Such measures foremost relate to the construction of camps, the provision of emergency assistance and the granting of temporary protection at the very Border Crossing Points (BCP).

## CURRENT CONTEXT

Over the past half century, the mass influx of asylum seekers usually confronted the respective hosting countries with numerous challenges.<sup>1</sup> The international community has looked for ways to provide an adequate policy response for such scenarios, aiming to ensure the protection of those in need. During the 1990s, the military conflicts in Yugoslavia demonstrated the need for special procedures to respond properly to the mass arrival of persons displaced by armed conflicts.<sup>2</sup> As a result, the EU actively worked on establishing minimum standards for temporary protection. In 2001, it adopted the EU Council Directive 2001/55/EC On Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts between Member States in Receiving Such Persons and Bearing the Consequences Thereof. This Directive:

- sets up a scheme for EU Member States to deal with mass arrivals of foreign nationals who cannot return to their countries – in particular due to war, violence or human rights violations;
- puts in place immediate temporary protection for these displaced people;
- promotes a balance of efforts between EU countries in receiving these asylum seekers, however, without stipulating their compulsory distribution across EU countries.

In accordance with this Directive, all EU Member States have since granted temporary protection for a duration of one year, which can be extended by up to two years. When the temporary protection ends, EU countries must take steps to enable the voluntary return of protected people. EU countries must ensure that displaced people are willing to return to their home country. People must be able to file an asylum claim.<sup>3</sup> However, due to its complicated procedure, this Directive was never properly enforced.

Since acceding to the Geneva Convention and its Protocol in 1993, Armenia has adopted a policy ensuring the protection of asylum seekers and refugees in accordance with international standards.<sup>4</sup> The latter policy:

- allows immigrants appearing en masse to enter the national territory;
- applies the principle of non-refoulement to the concerned individuals by not returning them to countries where their lives or freedoms may be at risk;

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1. Examples include the arrival of Vietnamese asylum seekers to Hong Kong, Thailand and Eastern Asian countries, the arrival of Afghans to Pakistan and Iran, or the arrival of Iranians to Turkey.

2. European Commission, Migration and Home Affairs, Temporary Protection, [https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/temporary-protection\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/temporary-protection_en)

3. EUR-Lex, Access to European Union Law, document information "Temporary protection if there is a mass influx of displaced people"

4. The national asylum legislation encompasses 23 laws, 42 governmental decrees, 54 orders and 10 standard operating procedures on asylum adopted by the State Migration Service of Armenia.

- allows persons in need of international protection to stay legally on the national territory guaranteeing their basic human rights and freedoms.

Whereas the previous Law on Refugees<sup>5</sup> did not address an eventual mass influx of asylum seekers at all, the Law on Refugees and Asylum (2008) does so in its fourth chapter concerning the provision of temporary protection. The three respective articles specify that in cases of mass influx of foreign citizens or stateless persons to Armenia, the Government may grant them temporary protection by virtue of a governmental decree. These provisions apply if the concerned persons meet the requirements for refugee definition set forth in the national Law on Refugees and Asylum. Moreover, a temporary protection procedure is established along with the rights and obligations for holders of this status. The Law also defines the grounds for terminating the temporary protection. In 2009, a Governmental Decree established the procedure for issuing identity documents to persons granted temporary protection.<sup>6</sup>

In case of a mass influx, asylum applications are not subject to individual procedures or decisions by the State Migration Service. The limited resources of the Asylum Division (currently consisting of seven employees) are insufficient to handle individual examinations in case of increased numbers. Nonetheless, an eventual mass influx would require an immediate response in accordance with international standards.

Therefore, the government would first need to determine whether the concerned asylum seekers should receive temporary protection, which would equip them with rights equal to those of recognized refugees. In case of a positive decision, the police issues identity documents valid for one year. Unless the temporary protection is terminated within their validity period, the police replaces these identity documents by convention travel documents. Persons granted temporary protection neither enjoy political nor voting rights (except at local level). They can neither become members of a political party in Armenia, nor be elected or appointed to hold office in public administration bodies or local governments.

## POLICY OPTIONS

Considering recent events in the Middle East and Armenia's geographic proximity to this region, a mass influx of asylum seekers to Armenia remains a realistic scenario. In spite of its provisions on temporary protection, the standing legislation would certainly prove inadequate,

There is a need to establish a statutory requirement for the government to adopt a relevant plan of action.

5. The Law was adopted in 1999, amended in 2001, 2002 and 2004 and eventually revoked in 2009.

6. The Governmental Decree of the Republic of Armenia on Establishment of the Sample of Refugee ID Granting Temporary Protection and Procedures for Replacing the Said Document with a Convention Travel Document (November 26, 2009; No. 1367-N)

should a mass influx occur. Therefore, the adoption of an Action Plan to address the current policy gaps must be established on a statutory level. Where legislative grounds are absent, the state is unable to duly implement its policy.

The statutory powers granted to the State Migration Service are limited to the provisions of its legal status. As other governmental agencies retain jurisdiction over a number of issues relating to the legal status, a joint Action Plan applicable to all competent public bodies is urgently needed. It must ensure the necessary rights to asylum seekers, which remains impossible at present, due to existing legislative gaps.

The law requesting such Action Plan should also define the specific timeframe, within which the government is to approve the Action Plan. A period of six months following the entry into force of the respective law would seem adequate in this respect.

Moreover, it is essential to define the number of people constituting a ‘mass influx’, thereby triggering the implementation of such Action Plan. Neither the standing legislation in Armenia, nor the international treaties it adhered to, define what exactly amounts to a ‘mass influx’. The asylum legislation of the EU is also lacking an exact number. This number will necessarily differ from country to country. It is important to balance the size and speed of the influx against Armenia’s size and capacity to process the individual status determination. There is also a need for clearer, less equivocal recognition that the launching of a temporary protection regime is preceded by an actual mass influx.<sup>8</sup> A preparedness plan will enable a timely response to the mass influx.

In case of a mass influx of more than 2,000 asylum seekers to Armenia, the Action Plan should include the implementation of the following measures:

1. Measures at border crossing points (BCPs)
2. Measures to create/build a temporary accommodation (camp)
3. Provision of urgent medical and social assistance
4. Provision of temporary protection in Armenia

## 1. Measures at border crossing points

- Organization of the border crossing of the affected persons without delay
- Organization of trainings for the staff of the BCPs on entry procedure for asylum seekers
- Ensuring the daily operation of the police station to maintain public order and security
- Ensuring the daily operation of medical centers to provide medical care

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7. The previous legislation contained a provision limiting the right to temporary protection to asylum seekers from neighboring states. Since this restriction was lifted in 2015, all asylum seekers enjoy the right to asylum along with additional derivative rights (social, medical, educational, cultural, etc.).

8. Such approaches are set forth in UNHCR (2001) Protection of Refugees in Mass Influx Situations: Overall Protection Framework, Global Consultations ec/gc/01/74 on International Protection. See par. 14 in particular.

## 2. Measures to create/build a temporary accommodation (camp)

- Transfer of persons from the BCP to the camp
- Allocation of up to two hectares of land for installation of tents and creation of a camp. Allocation and installation of tents at their disposal (100 tents with 20 beds; or 70 tents with 30 beds)
- Provision of a separate tent for the staff members of the State Migration Service to deploy their activities
- Provision of a separate tent for the staff members of medical aid posts and for social workers to deploy their activities
- Provision of a separate tent for the police to deploy their activities
- Providing 6-8 potable water and sanitary facilities in the camp
- Ensuring power supply

## 3. Provision of urgent medical and social assistance

- Allocation of necessary food and shelter from the state reserves
- Involvement of social workers to provide food and accommodation
- Engaging with states, international organisations, international and foreign nongovernmental organisations concerning the provision of the necessary
- assistance to the concerned asylum seekers (financial assistance, medication, other necessary supplies)

## 4. Provision of temporary protection in Armenia

- Deployment of nine staff members of the State Migration Service to the BCP
- Establishing of 2 working groups
- Establishing a registry for the people received (including electronic registry maintenance)
- Assigning a registry number to each family, including a photographic record
- Taking a photography of each person (3x4cm) and ensuring its printing at the end of each day
- Elaboration of identity documents for asylum seekers based on the data filed in the electronic registry; issuance of identity documents within three days
- Enquiries addressed to the National Security Service and the Police
- If necessary, cooperation with representatives of the National Security Service, the Police and other public bodies, UNHCR and other NGOs
- Implementation of the Governmental Decree on Provision of Temporary Protection to Individuals Entering the Republic of Armenia within a Mass Influx
- Provision of identity documents and legal residence to persons enjoying temporary protection by the Passport and Visa Department of the Police.

# POLICY RECOMMENDATIONS

The current asylum legislation of Armenia lacks clarity regarding the rights deriving from the provision of temporary protection in mass influx situations. Ensuring these rights requires a clear policy and well-defined powers for the various responsible public bodies. The research conducted suggests the introduction of the following legislative changes:

To amend Article 61(4) of the Law on Refugees and Asylum by introducing therein the wording: “The Government of the Republic of Armenia approves the Action Plan in Case of Mass Influx of Asylum Seekers to the Republic of Armenia, which shall include the following measures to be implemented by all competent authorities: measures at the BCPs; activities related to the establishment of a temporary accommodation (camp); provision of urgent emergency assistance; granting of temporary protection in Armenia”.

To adopt a Governmental Decree on Provision of Temporary Protection to Individuals Entering the Republic of Armenia within a mass influx (see sample draft in the Annex);

The Action Plan shall be tested through practical exercises involving all competent authorities;

To propose to the State Migration Service to identify indicators for the definition of a “mass influx” (size of influx, non-feasibility to launch an individual examination procedure etc.).

Matching gaps in case of mass influx situations.

## Related Publications

Official website of the State Migration Service under the Ministry of Territorial Administration and Development of the Republic of Armenia: [www.smsmta.am](http://www.smsmta.am)

UNHCR (2001) Protection of Refugees in Mass Influx Situations: Overall Protection Framework, Global Consultations ec/gc/01/4 on International Protection: <http://www.unhcr.org/protection/globalconsult/3ae68f3c24/protection-refugees-mass-influx-situations-overall-protection-framework.html>

European Commission, Migration and Home Affairs, Temporary Protection: [https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/temporary-protection\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/asylum/temporary-protection_en)

International Journal of Refugee law, 01 September 1994, Morten Kjaerum, “Option Temporary Protection in Europe in the 1990s”, page 1

EUR-Lex, Access to European Union Law, document information “Temporary protection if there is a mass influx of displaced people”, link: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3A133124>

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Convention Relating to the Status of Refugees, Geneva, 28 July 1951

Council Directive 2001/55/EC of 20 July 2001 on Minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof

Law on Refugees, March 1999

Law on Refugees and Asylum, 29 November 2008

Law of the Republic of Armenia on the Amendments in the Law on Refugees and Asylum, 16 December 2015

Governmental Decree of the Republic of Armenia on Establishment of the Sample of Refugee ID Granting Temporary Protection and Procedures for Replacing the Said Document with a Convention Travel Document (November 26, 2009; No. 1367-N)





AZERBAIJAN

ANALYTICAL REPORT

# Building Comprehensive National Responses to Trafficking in Human Beings: The Experience of Azerbaijan

Report on the National Action  
Plan to Fight Trafficking in  
Human Beings of the Republic  
of Azerbaijan 2014-2018

Ivanka Hainzl

# GOALS OF THE REPORT

The report<sup>1</sup> analyses the structure and content of the third National Action Plan (NAP) to Fight Trafficking in Human Beings of the Republic of Azerbaijan for the period 2014-2018 in relation to the relevant international standards and practices. Specifically, the analysis focuses on the following questions:

1. Which areas of the fight against trafficking in human beings are covered by the NAP?
2. What areas of action would require further elaboration in the light of relevant international standards and guidelines?
3. How to enhance the efficacy of the next NAP of the Republic of Azerbaijan?

The report also presents successful practices in developing, monitoring and evaluating national action plans. These practices can be considered as helpful guidelines and can be adapted by anti-trafficking officials to any country context.

The information for the current report was collected through desk research in collaboration with the ICMPD office in Baku and the Main Department on Combatting Trafficking in Human Beings within the Ministry of Internal Affairs of the Republic of Azerbaijan.

## BACKGROUND INFORMATION

### **Brief overview of the situation of human trafficking in the Republic of Azerbaijan**

The Republic of Azerbaijan is a source, transit, and destination country for men, women, and children subjected to trafficking in human beings.

The main countries of destination for Azeri victims are Federation of Malaysia, Republic of Turkey, United Arab Emirates and Russian Federation, while the majority of foreign victims exploited on the territory of Azerbaijan are from People's Republic of China, Russian Federation, Republic of Uzbekistan, Ukraine and Republic of Turkmenistan<sup>2</sup>.

The main reported forms of trafficking in human beings are sexual and labour exploitation. The US State Department's Trafficking in Persons Report 2018 states that Azerbaijani men and boys are subjected to forced labour, and women and children become victims of trafficking for sexual exploitation within the country and abroad. The report adds Pakistan as a destination country for trafficking for sexual exploitation to the countries listed in the governmental report mentioned above<sup>3</sup>.

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1. This report is developed in response to an official request submitted to the International Centre for Migration Policy Development (ICMPD) by the Main Department on Combating Trafficking in Human Beings of the Ministry of Internal Affairs of the Republic of Azerbaijan. The Department requested a feedback on the National Action Plan for fight against trafficking in human beings of the Republic of Azerbaijan 2014-2018 as well as support and suggestions for the development of the next 2019-2023 plan.

2. Reply from Azerbaijan to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties, Second evaluation round (submitted on 1 July 2017), p.52

3. Trafficking in Persons Report 2018, Department of State, USA, July 2018

TIP Report also suggests that “children, including those of Romani descent, are subjected to forced begging and forced labour as roadside vendors and at teahouses and wedding facilities.”<sup>4</sup>

Azeri victims are trafficked and exploited in trade, construction, agriculture, food and packaging, restaurants and catering, domestic services, and oil extraction. There are some claims for trafficking for organ removal but cases have not been identified so far.<sup>5</sup>

In addition, Azerbaijan is used as a transit country for victims of trafficking from countries of Central Asia to the UAE, Turkey, and Iran.

### **National anti-trafficking legislation in the Republic of Azerbaijan and applicable international instruments.**

Establishing comprehensive national legal and policy frameworks constitutes the most basic requirement for effectively combating trafficking in human beings. The national anti-trafficking legislation of the Republic of Azerbaijan establishes the crime of trafficking in human beings, sets the administrative structure and coordination of the national anti-trafficking response, launches the national referral system and its key elements – victims’ identification, referral, support and protection, victims’ compensation, as well as tools for investigation and prosecution, prevention strategies and measures for international cooperation.<sup>5</sup> Similarly, the national legislation complies with the major international instruments in the field of combating trafficking in human beings and closely related issues.

The anti-trafficking legislation of the Republic of Azerbaijan incorporates a comprehensive human rights-based and victim-centred approach and promotes victims’ rights and non-punishment principle.<sup>7</sup>

### **National anti-trafficking stakeholders in the Republic of Azerbaijan**

According to the Law of the Republic of Azerbaijan on “Combating Trafficking in Human Beings”, the Main Department on Combating Trafficking in Human Beings is established within the Ministry of Internal Affairs in order to effectively execute the tasks indicated in the National Action Plan. It shall ensure the security of victims of trafficking in human beings, provide the victims of trafficking in human beings with professional aid, summarize and store trafficking in persons related information in a single centre and ensure that experienced and specially trained police officers and specially equipped police units combat trafficking in persons.

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4. Ibid.

5. Needs Assessment: Counter-trafficking Response in the Republic of Azerbaijan, IOM, 2016

6. GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Azerbaijan, 2014, p.12.

7. A list with the main documents that constitute the national anti-trafficking legislation of the Republic of Azerbaijan and the ratified international instruments is enclosed as Annex 1 to this report.

Along with the identification and protection of the victims of trafficking in human beings, the Main Department organises the activities of the Task force and the criminal prosecution of cases of trafficking in persons within the limits of their responsibility. The Main Department is directly subordinated to the National Coordinator for combating trafficking in human beings.

A working group on combating trafficking in human beings was established in 2004 to assist the National Coordinator and comprises representatives of the main anti-trafficking governmental stakeholders.

## INTERNATIONAL STANDARDS AND PRACTICES FOR DEVELOPMENT OF A COMPREHENSIVE NATIONAL ANTI-TRAFFICKING RESPONSE

There are only few international documents that exclusively focus on the development, implementation, monitoring and evaluation of national action plans and national strategies in the field of combating human trafficking.

- **IUNODC, Toolkit to Combat Trafficking in Persons, New York, 2000**

The Toolkit provides guidance, showcases promising practice and recommends resources in the following thematic areas: International legal framework, Problem assessment and strategy development, Legislative framework, International criminal justice cooperation, Law enforcement and prosecution, Victim identification, Immigration status of victims and their return and reintegration, Victim assistance, Prevention of trafficking in persons and Monitoring and evaluation.

- **SPTF, Guidelines for National plans of Action to combat trafficking in Human Beings, 2000**

The Stability Pact for South Eastern Europe Task Force on Trafficking in Human Beings created guidelines for establishing national anti-trafficking action plans. The guidelines address objectives, activities and achievement indicators and suggest entities that might assume responsibility for implementing action plans.

- **ICAT, Pivoting toward the Evidence: Building effective counter-trafficking responses using accumulated knowledge and a shared approach to monitoring, evaluation and learning, 2016.**

The Inter-Agency Coordination Group against Trafficking in Persons (ICAT) Issue Paper focuses on the state of evaluation in the anti-trafficking sector. It reflects the expertise and experience of six international organizations and entities forming the ICAT Working Group, namely the International Labour Organization (ILO), the International Organization for Migration (IOM), the United Nations Office of the High Commissioner for Human Rights (OHCHR), the United Nations High Commissioner for Refugees (UNHCR), the United Nations Children’s Fund (UNICEF), and the United Nations Office on Drugs and Crime (UNODC).

- **ICMPD, Guidelines for Development of a Comprehensive National Anti-Trafficking Response, Vienna 2006**

The Guidelines contain a comprehensive set of measures to be taken by anti-trafficking actors in order to counter human trafficking in the four main areas where action is needed – prevention, support and protection, investigation and prosecution, supporting framework.

- **ICMPD, Monitoring and Evaluation Handbook for National Action Plans against Trafficking in Human Beings, Vienna 2010**

The handbook complements the above Guidelines by providing easy-to-follow guidelines on how to monitor, review, and evaluate and report on the implementation of national action plans against trafficking in human beings.

A National Action Plan (NAP) against trafficking in human beings is an essential tool for sharing of responsibilities and coordination of action of anti-trafficking stakeholders such as governmental bodies, civil society, international organisations, etc. in a holistic approach.<sup>9</sup> NAP is an inseparable part of the overall national anti-trafficking policy.

The Guidelines for the Development and Implementation of a Comprehensive National Anti-Trafficking Response suggest that a comprehensive national anti-trafficking response should comprise two levels:

**Strategic level** – formulated in the National Anti-trafficking Strategy. It refers to WHAT shall be achieved in the long term. The strategy identifies the country’s anti-trafficking priorities and sets strategic goals and specific objectives.

**Operational level** – formulated in the NAP and refers to the HOW the strategic goals and specific objectives identified in the anti-trafficking strategy can be achieved. NAP identifies concrete measures / actions that should be implemented in the short term.



Thematically the national anti-trafficking response should correspond to **four components**:

1. Supporting framework
2. Prevention
3. Support and protection of victims and victim-witnesses
4. Investigation and prosecution of cases of trafficking in human beings.

While designing the goals and measures in the above areas, both the national strategy and the national action plan should reflect several **guiding principles**<sup>9</sup>:

- **GOVERNMENT OWNERSHIP** – state anti-trafficking actors assume full participation, responsibility and accountability in the process of development of the national anti-trafficking response. This involves adoption of a coordinated approach – establishment of a National Anti-trafficking Coordinator and multi-disciplinary national working group (group of experts).
- **CIVIL SOCIETY PARTICIPATION** – to involve civil society members in the decision-making process and to reflect adequately their opinions and advices in the design and the implementation of the national anti-trafficking response. Civil organisations should be part of the existing referral mechanisms for victims as well as of the national information exchange mechanism.
- **HUMAN RIGHTS-BASED APPROACH** – the national anti-trafficking response should be based on international human rights standards and should promote and protect human rights especially those of the victims. It asserts that the human rights of the victims are at the core of the national anti-trafficking legislation and response in general.
- **THE MOST IMPORTANT VIOLATED RIGHTS** related to trafficking in human beings are: the right to liberty and security; the right not to be held in slavery or servitude; the right to be treated with humanity and with respect for the inherent dignity of the person; the right to liberty of movement and freedom to choose residence; the right not to be tortured; the right to life; the right to health.

Detailed procedures to implement human rights-based approach are listed in the report of the UNHCHR to the Economic and Social Council “Recommended Principles and Guidelines on Human Rights and human trafficking” E/2002/68/.

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9. Guidelines for development and Implementation of a Comprehensive National Anti-Trafficking Response, ICMPD 2006, p.21-26

- **INTERDISCIPLINARY AND CROSS-SECTORAL APPROACH** – all aspects of trafficking in human beings must be taken into consideration simultaneously in order to ensure effective counter-strategies. The multidisciplinary approach is essential because the knowledge and expertise of different disciplines and their respective methods are combined to develop measures to prevent and counteract to trafficking. The measures/actions must be designed and implemented in a way to cover a wide range of sectors – judiciary, educational, health, labour market, etc. They must involve all relevant state and non-governmental actors and ensure a regular exchange of information between different actors.
- **SUSTAINABILITY** – the implemented system is able to endure and adapt to changing conditions over a long period. There should be no critical dependencies (such as one major donor) which could easily collapse the system. The sustainable approach and measures ensures that the use of existing resources (financial, human, administrative, etc.) is maximised and thus the “investments” into the national anti-trafficking response are not lost.

The sustainability can be ensured through implementation of all above mentioned principles together with periodical review of the NAP and parallel monitoring of its implementation, mainstreaming of some anti-trafficking measures (e.g. anti-trafficking trainings for police officials are included in the regular curriculum of the police academies), applying multiplier approach (e.g. train-the trainer), regular state budget allocations are ensured.

The basis of the national anti-trafficking response is the national **anti-trafficking strategy**<sup>10</sup>. The strategy begins with formulation of the foundation for its development – why the anti-trafficking response is needed. The overall purpose, the guiding principles and the state actors’ commitment to support and implement the national anti-trafficking response form the Preamble. The Preamble is followed by a detailed background analysis of the current situation in the country related to trafficking in human beings. The analysis helps to define problems and consequently the strategic goals. It should contain an analysis of the status quo in the four areas mentioned above: supporting framework, prevention, support and protection of victims and victim – witnesses, and investigation and prosecution of cases of trafficking in human beings. Lastly, the analysis should identify the anti-trafficking stakeholders with their roles and responsibilities.

Building on that, the second part of the national strategy formulates the strategic goals of the national anti-trafficking response and the specific objectives needed for their achievement. The goals that are formulated at the strategic level are corresponding to medium and long-term objectives, which should be achieved within the next two to five years.



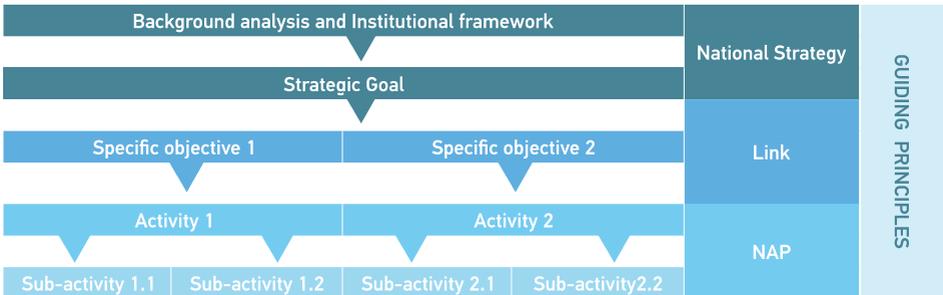
Each strategic goal should have a clear reference to the background analysis and be formulated in accordance with the guiding principles.

Each strategic goal is further divided into **specific objectives**. For each specific objective of the Strategy, corresponding **NAP measures** in the following categories should be assigned:

- **Outputs:** services and/or products that will be produced by the activities in order to achieve the desired outcomes.
- **Specific activity/s and sub-activities:** they should be formulated in a way to facilitate the achievement of the outputs. When needed, sub-activities can be formulated as part of a bigger activity.
- **Assigned responsibilities and time-lines:** Usually there are multiple stakeholders – different government institutions and NGOs – involved in the implementation of the NAP. Therefore the responsibilities for the different activities should be clearly defined.
- The same applies for the setup of an accurate **timeframe**. It should be as detailed as possible but also realistic for achieving.
- **Resource planning and budget:** every NAP needs financial and human resources for its implementation. Often a national action plan is co-funded by several state agencies or different external donors. It is, therefore, vital to draw an approximate and realistic budget in order to be able to estimate the resources needed<sup>11</sup>.

In addition, it is crucial for the successful implementation of the NAP, that monitoring and evaluation criteria and indicators are planned in advance and included into the NAP structure.

The chart below shows the functional connections between the strategic and operational levels of the national anti-trafficking response<sup>12</sup>:



11. Monitoring and Evaluation Handbook for National Action Plans against Trafficking in Human Beings, ICMPD, 2011, p.58  
 12. Guidelines for development and Implementation of a Comprehensive National Anti-Trafficking Response, ICMPD 2006, p.18

# ANALYSIS OF THE NATIONAL ACTION PLAN OF THE REPUBLIC OF AZERBAIJAN TO FIGHT TRAFFICKING IN HUMAN BEINGS 2014-2018 WITH REGARD TO INTERNATIONAL STANDARDS

The Plan was approved by order number 667 of the President of the Republic of Azerbaijan on 24.07.2014. The main coordination and implementation body of the NAP is the Ministry of Internal Affairs and its Main Department on Combating Trafficking in Human Beings. The NAP is developed as a continuation of the measures implemented under the previous national action plan 2009 – 2013 and is based on the understanding that human trafficking is a severe violation of human rights, an efficient response to which requires a joint approach and synchronised actions by all government and non-government stakeholders, as well as active international cooperation.

The National Action Plan as an anti-trafficking instrument was formulated in Art.6 of the Law on trafficking in human beings.

## Article 6. National Action Plan to combat trafficking in persons

**6.1.** The National Action Plan of the Republic of Azerbaijan to Combat Trafficking in Persons (hereinafter- National Action Plan), which has been approved by the relevant executive agency of the Republic of Azerbaijan, aims to provide an effective system to provide for mutual functioning of the relevant agencies to combat trafficking in persons.

**6.2.** The National Action Plan defines the basic tasks in combating trafficking in persons, the participation of different units (executive bodies, non-governmental organizations, international partners, and other organs) in implementing these tasks, the coordination of the activity of these units by the National Coordinator, and other measures in combating trafficking in persons.

**6.3.** In an effort to increase the effectiveness of National Action Plan as well as to ensure the safety of the people and to protect the information, the participants of National Action Plan shall implement their responsibilities based on the “only necessary information” principle. Implementation of this principle provides that participation of the parties to National Action Plan in the combating against trafficking in persons is limited to the realm of their responsibilities and aims at ensuring an effective protection of the parties to National Plan from being exposed to corruption and influence of criminals involved in trafficking in persons.<sup>13</sup>

13. Law of the Republic of Azerbaijan on trafficking in persons, adopted on 28 June 2005 and amended by Law No. 609-IVQD of 19 April 2013, available in English language at <https://mia.gov.az/?/en/content/336/>

The NAP consists of two prominent chapters. The first one provides information about the goals, principles of implementation and the relevant anti-trafficking actors. This information is followed by eleven thematic sections presenting detailed goals in different spheres of the national anti-trafficking response. The chapter is concluded by a section on the financial resources available for the implementation of NAP.

The second chapter is titled “Activity plan” and provides a detailed description of activities corresponding to the measures formulated in each of the above mentioned eleven thematic sections. Each activity has been assigned executive body(s) and implementation timeframe.

In the light of the above provided international standards, the two parts of the document have the characteristics of both a national strategy and a national action plan. The listed measures in the first chapter correspond to a great extent to the requirements of a national strategy. Likewise, the structure and information provided in the second chapter relate to the elements of a national action plan.

The further analysis will follow this assumption and will look in parallel to the suggested objectives, and measures in chapter 1 and the corresponding activities in chapter 2 of the document.

## GOALS AND PRINCIPLES OF IMPLEMENTATION OF NATIONAL ACTION PLAN

The first section (thematic area) of the third National Action Plan to Fight Trafficking in Human Beings of the Republic of Azerbaijan sets the goal of NAP: to ensure the duration of the measures taken in following several directions:

- Protection from all forms of trafficking in human beings
- Identification and prevention of the root causes of human trafficking
- Decreasing the risk of human trafficking and ensuring social protection for vulnerable groups
- Identification and prevention of all forms of THB
- Protection of victims
- Improving the living conditions for victims and potential victims of trafficking human beings.

Further the NAP sets the structure of the anti-trafficking stakeholders in Azerbaijan as well as the coordination body – National Coordinator for combating trafficking in human beings.

The first section concludes with the guiding principles of the NAP. The principles are aligned with the international standards.<sup>14</sup> The NAP follows the human rights-based approach by declaring non-discriminative attitude towards the victims, underlining their safety and wellbeing and highlighting the non-victimisation principle throughout all objectives and activities of the anti-trafficking response.

The cross-sectoral and interdisciplinary approach and the civil society participation principle are ensured by involving non-governmental organisations, as well as international organisations and representatives of a wide range of social, economic, legal, etc. areas related to the trafficking in human beings into the anti-trafficking response.

The principle of government ownership is applied through provision of a coordinated governmental anti-trafficking response and through harmonisation of legal definitions and procedures, while the overall goal of NAP channels the sustainability principle.

International standards	NAP 2014-2018 of the Republic of Azerbaijan
Government ownership	<ul style="list-style-type: none"> <li>▶ State executive power over the development and implementation of the anti-trafficking response in Azerbaijan;</li> <li>▶ State national anti-trafficking coordination body.</li> </ul>
Civil society participation	<ul style="list-style-type: none"> <li>▶ To attract non-governmental organisations to combat trafficking in human beings.</li> </ul>
Human rights-based approach	<ul style="list-style-type: none"> <li>▶ To prevent discrimination against the victims of human trafficking in the society;</li> <li>▶ To ensure security of the victims of human trafficking and polite behaviour towards them;</li> <li>▶ Execution of the duties only by being based on the principle of having necessary information.</li> </ul>
Interdisciplinary and cross-sectoral approach	<ul style="list-style-type: none"> <li>▶ Implementation of prophylactic measures of legal, political, socio-economic and organizational character;</li> <li>▶ Development of international cooperation in the field of combating trafficking in human beings.</li> </ul>
Sustainability	<ul style="list-style-type: none"> <li>▶ NAP Goal: "to ensure the durations of measures taken into several directions: /.../"<sup>15</sup></li> </ul>

14. The National Action Plan for the years 2014-2018 on combatting trafficking in human beings in Azerbaijan Republic, Section 2, The Goals and Principles of Implementation of the National Action Plan

15 Ibid.

## Recommendation:

- Consider preparing a full **background analysis**. Besides description of the guiding principles and list of the main anti-trafficking stakeholders, the analysis should provide information on the current anti-trafficking developments in the country in all thematic areas of the NAP. The new trends, urgent questions, unfilled gaps and emerging needs will help to set up the strategic goals of the next NAP.

The following ten thematic areas are developed in the NAP in accordance to the four components suggested by the international standards:

International standards	NAP 2014–2018 of the Republic of Azerbaijan
Components	Thematic areas
Supporting framework	Legislative measures in the field of combating trafficking in human beings Coordination of the activities of the participants of the NAP, the support and resources on combating in human trafficking
Prevention	Prevention of human trafficking and strengthening of its prophylactics Publicity in respect to combating trafficking in human beings
Support and protection of victims and victim – witnesses	Rehabilitation and Reintegration of victims of human trafficking Improvement of assistance provided to the victims and potential victims of human trafficking Protection of the victims of trafficking in human beings
Investigation and prosecution of cases of trafficking in human beings	Criminal prosecution of the crime of human trafficking
.....	Development of cooperation in the field of combating trafficking in human beings

Each of the recommended four components with corresponding thematic areas in the NAP are examined in more details below.

## SUPPORTING FRAMEWORK

The Supporting framework component describes the strategic goals, objectives and actions related to the national anti-trafficking set-up. It focuses on the coordination structures – who and how, and describes all stakeholders – governmental, non-governmental and international organisations. The component covers also the legal and regulatory framework – the harmonisation of the national anti-trafficking legislation and the adoption (if

necessary) of international legal documents. The information management and data collection is another aspect of the supporting framework. The focus is on the available and accessible data which is crucial to optimise the anti-trafficking response – what kind of information is collected, by whom, how it is stored, shared and analysed. Resource and budget mobilisation is the fourth area of this component focusing on the goals and activities related to the management of financial, human and technical resources. The last very significant and often underestimated element of the strategic framework is the review, monitoring and evaluation of the national strategy and NAP. By these activities, the success of the national anti-trafficking response can be determined and its adaptation to the emerging trends ensured.

**| Review |** means to determine, at regular intervals, the degree of the success of the national anti-trafficking response. The review focuses on the goals at both levels.

**| Monitoring |** is continuous collection and analysis of data. It aims at providing indicators of progress at both levels.

**| Evaluation |** is a systematic collection and analysis of predefined information in order to make judgements, improve programme effectiveness and/or generate knowledge to inform decisions about future programmes. It takes place at operational level.

The goals and objectives listed in NAP 2014-2018 of the Republic of Azerbaijan cover most of the elements mentioned above. It sets the main anti-trafficking legislation and formulates as goals the harmonisation of the national legal acts due to the obligations arising from the implementation of different international instruments ratified by Azerbaijan. The ongoing update of the national referral mechanism as well as other regulations related to victims support is also a focus. The NAP document describes the coordination structure of the Azeri anti-trafficking response – national anti-trafficking coordinator and its role and duties in the implementation of the NAP. It sets the financial resource mobilisation and the relation to external donors and non-governmental organisations.

In addition, the strengthening of the international cooperation is established as a separate thematic area - **Development of cooperation in the field of combating trafficking in human beings**. A detailed approach and specific focuses of the cooperation are chosen: law enforcement, legislation improvement, the welfare of the minors deprived of parental care and victims' support.

Emphasising a certain topic of the national anti-trafficking response within the strategic document gives possibilities to explore and achieve results where it is needed. The structure suggested by the international standards should be used as guidelines, but the national authorities should decide which problem or area of the response needs more attention and should set more strategic goals in order to achieve better impact, as it is done in the example above.

What is not covered in these two thematic areas are the goals and actions related to the

**data collection and exchange.** This is an issue which requires a dedicated institutional effort, coordination, commitment and trust between the anti-trafficking stakeholders as well as certain technical capacities. Setting up a national database for victims and/or perpetrators of trafficking in human beings is one of the pillars of the effective anti-trafficking response.

The information management and data collection are closely connected to monitoring. In the current NAP there are no strategic goals or specific activities related to its monitoring and evaluation. It is advisable for such actions to be envisaged during the development of the next NAP.



“To determine the success of the national anti-trafficking response, it is not enough to evaluate only the elements of the operational level by examining anti-trafficking activities or to concentrate on the strategic level by determining the achievements of the strategic goals. Instead, one has to look at all elements, namely: activities, expected outputs, specific objectives and strategic goals.”<sup>16</sup>

**The Activity plan** on the operational level of the anti-trafficking response, related to the thematic area **Legislative measures in the field of combating trafficking in human beings** has very clear and detailed activities that correspond to the areas of legislative improvement set in the strategic part of the document. The responsible bodies and the time frame are set.

The actions included in the other two areas – **Coordination** and **Cooperation**, thematically cover the strategic goals but the formulation needs to be more precise and more concrete. Some of the statements are framed as goals or specific objectives rather than concrete actions. It is advisable to have as specific as possible activities with concrete time frame and execution bodies<sup>17</sup>.

## Recommendations:

- **Prioritise** the strategic areas of the anti-trafficking response and define additional strategic goals and activities when needed.
- **Formulate precisely** the strategic goals and the corresponding concrete activities. The national strategy should not consist of actions but of strategic goals and specific objectives. The national action plan must be built only out of concrete achievable activities.
- Plan activities related to **data collection and exchange**
- Plan and include **monitoring and evaluation** of the national anti-trafficking response as regular activity. Learn more about it if needed.

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16. Guidelines for development and Implementation of a Comprehensive National Anti-Trafficking Response, ICMPD 2006, p.37

17. The National Action Plan for the years 2014–2018 on combatting trafficking in human beings in Azerbaijan Republic, Activity Plan, Section 13.1  
Legislative measures in the field of combating trafficking in human beings

# PREVENTION

Prevention is one of the central areas of any anti-trafficking response. The prevention activities address the root causes of trafficking in human beings, based on a multi-disciplinary coordinated approach. It is based on empowerment strategies (livelihood options, education, etc.) and strategies aiming at suppressing the phenomenon of trafficking in human beings. The international standards suggest that the preventive actions should be spread throughout the following areas:

- **Awareness-raising:** comprehensive awareness-raising activities that contain clear information and messages related to the phenomenon of human trafficking: risks, consequences, support for victims, etc.
- **Education:** tailor-made educational activities for anti-trafficking stakeholders as well as for different risk groups
- **Reduction of vulnerability:** decreasing the vulnerability to trafficking and re-trafficking and increasing the livelihood options for groups at risk. Include actions in socio-economic area, actions related to elimination of discriminatory practices and promotion of gender equality, actions related to the process of legal migration.

The prevention goals stipulated in the NAP 2014-2018 of the Republic of Azerbaijan cover all mentioned areas.

The public awareness about the phenomenon and the risks of becoming a victim are stated as a strategic goal.<sup>18</sup> The capacity building by training of representatives of anti-trafficking stakeholders, particularly professionals working directly with victims is also added. The education aspect of prevention is completed with commitment for sustainable training of professionals and implementation of scientific researches on different aspects of trafficking in human beings.

The thematic area of prevention puts in focus several risk groups and forms of THB – children, socially vulnerable families and individuals, victims of trafficking, child labour and child trafficking, trafficking for labour exploitation. Employment opportunities and social support are envisioned as tools to reduce the vulnerability of these risk groups.<sup>19</sup>

The Activity plan of the Prevention thematic area has 10 activities corresponding to the goals set in the strategy chapter. However, as mentioned in the previously discussed thematic areas, the formulation of some of the activities is vague. A reason for this could be that the listed activities have many responsible stakeholders for their implementation. The diversity of implementing agencies definitely makes it harder to obtain detailed description of the activities being planned. Nevertheless such effort should be made.

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18. Ibid, Section 2 The Goals and Principles of Implementation of the National Action Plan

19. Ibid, Section 4, Prevention of human trafficking and strengthening of its prophylactics

## Recommendation:

- Formulate precisely the **strategic goals** and the **corresponding concrete activities**. The national strategy should not consist of actions but of strategic goals and specific objectives. The national action plan must be structured only out of concrete achievable activities.

# SUPPORT AND PROTECTION OF VICTIMS AND VICTIM – WITNESSES

Victim protection and assistance should be the core of the anti-trafficking response. By implementing a victim-centred and human rights-based approach, a comprehensive protection system must be installed. The system must be flexible in order to respond to all forms of exploitation as well as to personal circumstances, to be as adaptable as possible to new trends and continually updated through monitoring. The referral of victims to the specialised services for assistance should be established and institutionalised as national referral mechanism or a similar practice.

In the national anti-trafficking response<sup>20</sup> support and protection measures should comprise:

- **Victim identification system:** common indicators for identification, 24/7 availability, crisis accommodation and intervention. The system must be adaptable to the emerging trends - new forms of trafficking and new risk groups of victims.
- **Reflection/recovery period and residence status** – provided to the victim in order to stabilise her/his physical and emotional condition, to receive immediate health and social support, to decide about her/his cooperation with the state authorities in criminal proceedings, to opt for immediate return home.
- **Social support and protection of victims, including access to labour market and education:** social support system in place to provide services tailored to the needs of the victims; safe accommodation, health care, financial assistance, psycho-social counselling, legal assistance, interpretation and cultural mediation when needed, facilitating the contact with the family, educational and vocational opportunities, access to the labour market.

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20. Guidelines for development and Implementation of a Comprehensive National Anti-Trafficking Response, ICMPD 2006, p.44-49

- **Access to civil procedure and compensation, witness protection and judicial treatment of victim-witnesses:** support to be provided before, during and after the criminal proceedings. Continuous risk assessment must ensure the safety of the victim-witness.
- **Return, (re)integration, social inclusion:** in case of return, the safety of the victim must be ensured. If the return is not possible or feasible, alternative solutions should be sought. State should promote reintegration and social inclusion for all victims of trafficking in human beings.<sup>21</sup>

The current NAP of the Republic of Azerbaijan suggests a variety of strategic goals to be achieved and measures to be undertaken in the field of victims' protection. The document adopts the principle of non-victimisation and gender sensitive approach, full acknowledgment of human rights of the victims, provision of assistance only with victim's consent, applying the best interest of the child principle in the cases of child trafficking<sup>22</sup>.

Victim protection is the largest and the most elaborated part of the action plan and consists of three distinct thematic areas.

**Rehabilitation and reintegration of victims of human trafficking** - sets as main strategic goal victims' recovery and restoration of their life through psychological and medical rehabilitation, social support, legal assistance, and by providing possibilities for education, employment and housing.

The specific objectives refer to the continuous training and capacity building of professionals in the field of combating human trafficking in order to ensure the best successful protection and services – law enforcement and criminal prosecution officers, social workers, psychologists, medical personnel, legal counsellors and other professionals who provide direct support (employees of the shelters and assistance centres for victims of trafficking). In addition the participation of civil society providers of specific services for victims will be encouraged.

One of the less explored topics in this chapter is the response to the special needs of foreign victims of trafficking identified on the territory of Azerbaijan. The reintegration and social inclusion programmes must be adapted for the immediate and long-term needs of these persons.

**Improvement of assistance provided to the victims and potential victims of human trafficking and their protection** - combines measures related to children as potential victims and children victims of trafficking in human beings. It sets the supporting structure based on protection of children rights and the principle of best interest of the child. It

21. OSCE/ODHIR, Guiding Principles on Human Rights in the Return of Trafficked Persons, Warsaw, 2014

22. TThe National Action Plan for the years 2014-2018 on combatting trafficking in human beings in Azerbaijan Republic, Activity Plan, Sections

stipulates close cooperation between anti-trafficking and child protection authorities in Azerbaijan and defines certain risk groups – children raised in institutions, neglected children and children who dropped out of school.

Monitoring measures are envisaged in cases of child adoption and cases of child protection and guardianship. An important strategic goal is the establishment of a new institution for provision of social support for children.

The third thematic area **Protection of the victims of trafficking in human beings** elaborates on the victim's security and protection especially during the criminal proceedings. In addition the chapter establishes the protection of victims who are Azeri nationals abroad by the diplomatic representatives and consulate offices of the Republic of Azerbaijan.

The total number of suggested goals and objectives under these three thematic areas is twelve. In the **Activity plan** these are translated into more than fifteen concrete actions. The coverage of the provisions in the area of social support and protection, as well as the (re)integration and social inclusion of victims is rather detailed. Children as vulnerable group receive special attention.

However some areas of victims' support remain uncovered. The **system for identification of victims** is rarely mentioned. Azerbaijan has in place common indicators for identification of victims. Activities related to ongoing monitoring of their implementation and potential update could be included.

The process of granting of **reflection period** and the related outcomes - cooperation with authorities, received support, residence permit for foreign victims - could have a larger representation in the strategy and the activity plan. For example concerns about cooperation exist very often during the reflection period and during the criminal proceedings. The cooperation between law enforcement authorities and the counselling centres and shelters could become tense. Thus it might need facilitation by development of an official procedure.

As already mentioned in the previously discussed thematic areas, the formulation of the goals and the concrete measures in both parts of the NAP are often imprecise. Setting strategic goals and corresponding objectives and concrete activities should be taken into account when developing the next national plan.

## Recommendations:

- Add specific goal(s) and activities related to **foreign victims** of trafficking: e.g. interpretation, cultural mediation, requirements for residence permit, etc.
- Add goals and measures related to the established system for **identification** of victims of trafficking in human beings

- Add goals and measures related to victims' support during the **reflection period** and the trial **proceedings**
- Formulate precisely the **strategic goals** and the **corresponding** concrete **activities**. The national strategy should not consist of actions but of strategic goals and specific objectives. The national action plan must be structured only out of concrete achievable activities.

## Commendation:

Dedicating a separate chapter on **children** as vulnerable group and as victims of trafficking in human beings allows the authorities to approach these problems in detailed and beneficiary-tailored manner. It is an outstanding example for the commitment of the Head Office for combating trafficking in human beings to implement adequate measures guided by the best interest of the child.

# INVESTIGATION AND PROSECUTION OF CASES OF TRAFFICKING IN HUMAN BEINGS

The first step to successful investigations and prosecutions of trafficking cases is the identification of victims. A clear definition and criminalisation of trafficking in human beings is crucial not only for the conviction of offenders but also for the investigations and international judicial cooperation.

The international standards suggest that the prosecution measures must be gender responsive and human rights oriented and should cover the following areas<sup>23</sup>:

- **Proactive and reactive investigations:** the investigation and prosecution of traffickers should not entirely rely on victim's cooperation and testimony. A balanced mix of proactive and reactive investigations is indispensable.
- **International law enforcement and judicial cooperation:** all states should take concrete steps in order to enable effective international law enforcement cooperation with neighbouring countries, with countries of destination and of origin of victims, with international law enforcement agencies. The cooperation could include bi- and multi-lateral treaties, international agreements for extradition and mutual assistance, etc.

23. Adapted from Guidelines for development and Implementation of a Comprehensive National Anti-Trafficking Response, ICMPD 2006, p.50-54, and UNODC Toolkit to Combat Trafficking in Persons, 2000, chapter "Law Enforcement and Prosecution"

- **Prosecution and conviction of offenders:** the crime should be clearly defined in the national criminal law. All forms of trafficking should be criminalised, the state's criminal justice system must target the offender and not the victim.
- **Legal redress and compensation for victims:** the victim should be entitled to legal redress and compensation for physical injuries, violation of her/his fundamental human rights and losses for suffering severe mental and physical stress. Comprehensive concepts include the provision of support and protection of victim-witnesses before, during and after the court trial.
- **Police and judicial treatment of victims and victim-witnesses:** victims and victim-witnesses shall be treated with dignity and respect, efforts should be made to prevent re-victimisation. Special procedures for victims who become court witnesses must be in place – regarding the method and frequency of statement collection, regarding the physical participation in the court, the contact with the trafficker, etc.
- **Anti-corruption measures:** As the human trafficking is often controlled by highly organised criminal networks, they are able to carry out high-level corruption and money laundering.

The NAP of the Republic of Azerbaijan sets the structure of the criminal prosecution of trafficking in human beings. It calls for enhanced response by the authorities and improved cooperation within the country and abroad. While looking into the proactive measures for identification and prosecution of organised criminal groups, for combating the legalisation of assets obtained through trafficking in human beings and other illegal activities, the document focuses also on the protection of witnesses and their support during the testifying process.

In addition the NAP sets specific focus on two types of trafficking - trafficking for labour exploitation and child trafficking<sup>24</sup>.

## Recommendations:

- More elaborated measures related to anti-corruption actions regarding the organised criminal groups could be added to the NAP.
- Formulate precisely the strategic goals and the corresponding concrete activities. The national strategy should not consist of actions but of strategic goals and specific objectives. The national action plan must be structured only out of concrete achievable activities.

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24. The National Action Plan for the years 2014-2018 on combatting trafficking in human beings in Azerbaijan Republic, Activity Plan, Section 5, Criminal prosecution against the crime of human trafficking

# FUNDING OF THE NATIONAL ACTION PLAN

The NAP is funded by the state budget of Republic of Azerbaijan. In addition grants and other financial sources that are not in contradiction with the legislation of Republic of Azerbaijan are provided.

## Recommendation:

- Consider drafting of a detailed budget for each activity describing all needed resources

## Successful practice

National resource plan – based on preliminary budget, the National Coordinator’s office prepares a national resource plan indicating the total resources needed for each area of the NAP (supporting framework, prevention, protection, etc.). It should also include a list of funds already awarded by external donors as well as an indication of priority funding needs in line with the National action plan.

## RECOMMENDATIONS

**The content** of the document complies in its majority with the relevant international standards. The recommended thematic areas are addressed. Specific focus corresponding to certain national specificities of the anti-trafficking actions can be observed. However **the structure and the phrasing** of the strategic goals, objectives and activities could be improved.

- The document could be officially separated and further developed as National Anti-trafficking strategy and National Action Plan.
- The information in these two sub-documents should be phrased according to each document’s function – the strategy consists of formulated strategic goals and specific objectives (WHAT should be achieved?). The action plan consists of corresponding objectives and concrete actions (HOW the goals can be achieved?), time-frame for implementation and responsible stakeholder(s).
- Both levels must have initially planned set of SMART indicators which refer to the intended change as a result of the taken action.
- Prioritise the strategic areas of the anti-trafficking response and set additional strategic goals and activities when needed.
- When planning the NAP, focus should be on the overall results and changes that must be achieved with the implementation. **DO NOT get lost in activity-based planning.**

- Consider planning and implementing review, regular monitoring and final evaluation of the next National action plan to combat trafficking in human beings.
- Draft a detailed budget for each activity including all needed resources

## Content related recommendations

Some specific areas of the anti-trafficking response could receive more focus in the next national anti-trafficking strategy and NAP:

- Add **Background analysis** to the description of the guiding principles and list of the main anti-trafficking stakeholders in the national strategy. The analysis should provide information on the current anti-trafficking developments in the country in all thematic areas of the NAP. The new trends, urgent questions, unfilled gaps and emerging needs will help to set up the strategic goals of **the next NAP**.
- Plan activities related to **data collection and exchange**.
- Foresee support for **foreign victims** of trafficking: e.g. interpretation services, cultural mediation, requirements for residence permit, etc.
- Include goals and activities related to the **national system for identification** of victims of trafficking in human beings. In the current NAP this area is not covered.
- Foresee measures related to victims' support during the **reflection period** and the **trial proceedings**. These areas are also not covered in the current **document**.
- Develop **anti-corruption measures** regarding the organised criminal groups controlling human trafficking.

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## Annexes

1. National anti-trafficking legislation of the Republic of Azerbaijan
2. Model template for National anti-trafficking strategy
3. Model template for National action plan against trafficking in human beings
4. How to develop SMART indicators for monitoring

The full publication incl. Annexes is available on the Prague Process website [www.pragueprocess.eu](http://www.pragueprocess.eu)







# CENTRAL ASIA

ANALYTICAL REPORT

# China's “Belt and Road” Initiative and Its Impact on Migration Flows and Policies in Central Asia

Yelena Sadovskaya

## ABSTRACT

The report focuses on analysis of China's "Belt and Road" Initiative (BRI) and more specifically on the Silk Road Economic Belt (SREB) project, representing the component aiming to build land transport corridors from China through Central Asia (CA) to Europe – and its impact on migration flows and policies in the CA region. The report analyzes the importance of SREB for the land-locked countries in the region, identifies the main migration trends that have developed in the context of the movement of capital, goods, services, and labor force from China; analyzes individual types of migrations by countries. Despite the increasing mobility in the region and the importance of regulating migration, the regional cooperation, including the harmonization of policies and information exchange, is not well established. Systematic research and forecast of the migration processes provoked by SREB/BRI are unavailable.

## 1.1. Context: China's «Belt and Road» Initiative: 2013-2018

PRC President Xi Jinping first announced the project for the joint construction of the Silk Road Economic Belt (SREB) on 7 September 2013. Together with the joint construction of the 21st Century Maritime Silk Road, proposed in October 2013, the mega project “One Belt, One Road” was developed, announced by Xi Jinping in March 2015.<sup>1</sup>

The Belt and Road Initiative (BRI) is a project to build land transport corridors from China through Central Asia (CA)<sup>2</sup> to Europe and to develop maritime routes through the seas of the Pacific and Atlantic oceans (Annex 1). The BRI strategic document identifies the following key cooperation priorities: political coordination, interconnection of infrastructure, uninterrupted trade, free movement of capital, and strengthening of proximity between nations.<sup>3</sup>

Today, the “Belt and Road” initiative has become a strategy for China’s internal and external development, a “brand umbrella” under which virtually all of China’s projects inside and abroad are implemented, addressing all areas of cooperation: investment, trade and economy, humanitarian, etc. The deep penetration of the BRI ideas into the PRC foreign and domestic policy is evidenced by the fact that in October 2017 the implementation of the Initiative was included into the Chinese Communist Party Charter.<sup>4</sup>

All types of cooperation in the framework of SREB – from trade and economic to humanitarian – are associated with the cross-border movement of people, i.e. migration. However, **the SREB/BRI documents pay minimal attention to migration and related issues**. Indirectly, they are covered in the section “Strengthening the proximity between nations”. The envisaged collaboration includes cultural and scientific exchanges, exchanges of personnel, contacts between young people and women, student exchanges, joint trainings, festivals, years of culture and other events in the countries along the Silk Road.<sup>5</sup>

The concept of “migration” is not mentioned in the document even once; “mobility” is used once; the concepts related to the labor market (workforce, labor market, employment) are used only five times, and “movement” is only used in the context of

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1. PRC MFA and PRC Ministry of Commerce, 2015

2. The Central Asian countries in this report are the five post-Soviet republics: Republic of Kazakhstan (RK), Kyrgyz Republic (KR), Republic of Tajikistan (RT), Turkmenistan (TM) and Republic of Uzbekistan (RU)

3. Ibid.

4. Silkroad.news.cn, 2018

5. PRC MFA and PRC Ministry of Commerce, 2015

movement of capital and resources.<sup>6</sup> The issues of **human mobility**, labor migration, visa regimes, and humanitarian cooperation in general were not properly addressed by the document at the time of its articulation.

Meanwhile, migration and visa issues are becoming ever more relevant today, including in the context of implementation of the SREB/BRI projects in Eurasia. The successful construction of some large and many local projects in the countries along the Silk Road testifies to positive prospects for BRI implementation<sup>7</sup>, including in the Central Asian countries. Several important infrastructure facilities were built or are under construction here,<sup>8</sup> which contributed to increased migration to the region, including labor migration.

The Central Asian republics vary considerably in their level of socio-economic development, demographic potential, history and dynamics of migration processes (Annex, Table 1). The complementarity of interests and needs of China in Central Asia and Central Asian republics in China (investments, natural resources, sales markets, labor market needs, etc.) determined the relative success of PRC economic progress in the region in the 2000s. At the same time, in the process of building SREB, risks in Central Asia increase, just like in other countries of Eurasia, where the project is being implemented. Because of Chinese loans, the national debt of Kyrgyzstan and Tajikistan, the two poorest countries in the region, is increasing. Negotiations and tenders are closed, while the migration of Chinese labor force increases the tensions in the local communities. SREB opens up new opportunities and prospects for mobility in the region, but the issue has not yet become an object of study.

## 1.2. Goals, objectives, and relevance of the research

Currently, there is a certain contradiction between China, its growing presence and scale of SREB projects. Currently, there is a certain contradiction between China, its growing presence and scale of SREB projects and the Central Asian countries, which have been witnessing numerous growing risks in the process of implementation, including uncertainty about the prospects of Chinese migration. The Central Asian countries have not yet modeled the medium- and long-term implications of SREB projects and have not developed a unified position to implement their national and regional interests in the way China does in Central Asia.

The issues of labor market, unemployment, labor migration, personnel training are relevant today for all the Central Asian countries, and against this background the problems of Chinese citizens' migration, Chinese business, labor immigration have

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6. Calculated by the author on the basis of the primary statistical analysis. In addition to the often repeated name of the "Belt and Road" Initiative and geographical names, the most frequent were: among the "Principles": cooperation – 118 times, establishment – 52, development – 50 times. Next come economic terms (construction, trade, investment, energy, etc.), the concepts of "culture" and "humanitarian exchanges" are used 19 times. Then in the descending order: tourism – 8, science and scientific cooperation – 7; education and students – 5; "visas" are mentioned once. (PRC MFA and PRC Ministry of Commerce, 2015).

7. China-trade-research.hktdc.com, 2017; Yamada & Palma, 2018

8. Large PRC projects in CA: the dry port of Khorgos at the border of Kazakhstan and China, where the International Center of Boundary Cooperation is located; a highway connecting China, Kyrgyzstan and Uzbekistan, a highway in Tajikistan; energy projects, e.g., the Turkmenistan-China gas pipeline and oil refineries in Kazakhstan, etc.

been acquiring not only economic but also social significance. Public discourse is complicated by the lack of information about Chinese migration and/or its unreliability, as well as deep-rooted sinophobia. The whole range of issues related to SREB influence on migration and policy has been poorly studied.

The purpose of this study is to determine the impact of China's "Belt and Road" Initiative and its land part, the "Silk Road Economic Belt" project, on migration flows and policies in the Central Asian countries. The tasks, inter alia, include: identification of the main types of migration that have developed in the context of PRC growing presence and SREB implementation in the region; analysis of labor migration and its impact on the labor market; study of socio-cultural types of migration – educational, tourism, their role in SREB implementation, and development prospects. Based on the analysis, recommendations are proposed. Kazakhstan is represented in the report more widely than other countries, owing to longer-term cooperation, geographical proximity and the longest borders with China.

### 1.3. Methodology and information sources

The analytical report is based on desktop research. Extensive use is made of reports and statistical data of the Central Asian republics' relevant ministries: Ministry of Labor and Social Protection of Population (MLSPP) of Kazakhstan, State Migration Service (SMS) under the Government of Kyrgyzstan, Ministry of Labor, Migration and Population Employment (MLMPE) of Tajikistan, Ministry of Employment and Labor Relations (MELR) of Uzbekistan, other ministries and agencies of the CA republics, as well as the People's Republic of China, UNDP and UN. Finally, use is made of secondary sources (data from earlier sociological surveys) and expert interviews.

## CAUSES AND TRENDS OF CHINESE MIGRATION TO CENTRAL ASIA IN THE CONTEXT OF SREB IMPLEMENTATION

Today, the PRC has become one of the largest financial donors and investors in development of the transport, communications, energy (oil and gas, uranium, coal, rare earth) infrastructure in the Central Asian countries.<sup>9</sup> The PRC is an important trade and

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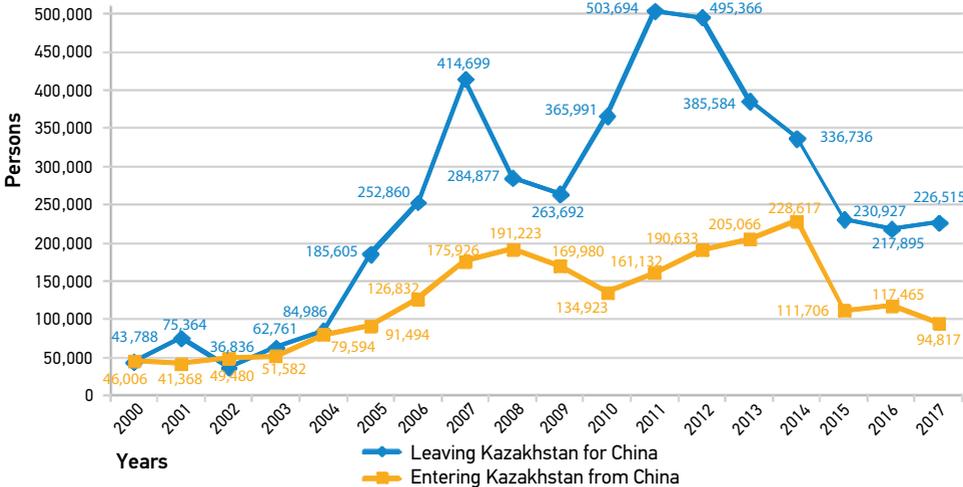
9. China's investment in the Central Asian republics cumulatively for 2005-2018 amounted to \$48.8 bln, of which: Kazakhstan – \$30.4 bln, Kyrgyzstan – \$4.7 bln, Tajikistan – \$1.6 bln, Turkmenistan – \$6.8 bln, Uzbekistan – \$5.2 bln (AEI, 2018)

economic partner and supplier of almost the entire range of consumer goods.<sup>10</sup> Trade for 25 years has been a source of bilateral small and individual trading business and migration in countries bordering the PRC. **China has also become a source of skilled labor force, which is lacking in the region.**

The influence of China and SREB on migration is, to a large extent, related to the revival of the historical traditions of trade, cooperation and migration along the Silk Road. Other factors conducive to migration over a large area of modern Central Asia and the Xinjiang Uygur Autonomous Region (XUAR) in western China, formerly known as Western and Eastern Turkestan, include **similarity of the language, religion, traditional lifestyle, cultural traditions, and availability of diasporas.**

Migration from China has been growing since the mid-2000s, as the economic cooperation developed: there was an increase in the number of industries and sectors of the economy with a growing Chinese capital, while the range of projects also expanded; within the framework of the PRC “soft power” policy, humanitarian cooperation developed. Despite increased public attention, **Chinese migration is not the largest migration flow in Central Asia.** For example, about 180,000 people from the PRC arrived annually to Kazakhstan from the middle of the 2000s, which is 10-20 times less than from neighboring Kyrgyzstan, Uzbekistan and Russia.<sup>11</sup> Arrival of Kazakh nationals into China significantly exceeds the entry of foreign citizens from China into the RK (Fig. 1) due to a large share of short-term trade (“shuttle”) migrants.

Fig. 1. Border crossings between China and Kazakhstan in 2000-2017 (persons)



Sources: RK NSC (2001-2015); RK MNE (2018).

10. According to the report of the PRC Ministry of Commerce, in 2017 China became the largest trading partner of Uzbekistan and Kyrgyzstan: trade with China amounted to \$4.961 bln or 18.4% of RU foreign trade and \$1.578 bln or 25.5% that of the KR. In 2016, the PRC was the main trading partner of Turkmenistan and the second of Kazakhstan. Although the PRC was the third largest trading partner in Tajikistan in 2017 in terms of volume, it has become the largest foreign investor. (Yang, 2018).

11. RK NSC, 2011-2015; RK MNE, 2018

**In the labor markets of the Central Asian countries, one of the most acute problems is the shortage of qualified personnel that emerged in the 1990s due to massive brain drain and large-scale emigration after the collapse of the Soviet Union.** Today, the labor market has great demand for highly qualified specialists and skilled workers. Therefore, attracting foreign workers, including Chinese, for construction of the SREB infrastructure facilities is a necessity.

**All the CA countries have been witnessing a rapid demographic growth of the local population, with youth accounting for up to 40% or more.** Due to the backlog of economic reforms and unemployment, young people leave their country to work abroad. In some countries, young people have been actively learning Chinese, seeing this as an opportunity for future employment at Chinese and joint ventures; such a “boom”, e.g., is observed in Tajikistan.<sup>12</sup>

Today, Chinese migration to the CA region has developed the following main trends:

- growth in the number of officially recruited Chinese labor force due to the growing number of Chinese and joint projects implemented in Central Asia; the main part of this flow is composed of ethnic Chinese (Han Chinese),
- labor immigration (hiring of labor force) and business (for the purposes of entrepreneurship) mainly composed of top- and middle-level managers, professionals and workers,
- bilateral small-scale and individual trade business and migration are declining; today they are directed towards China rather than originating from China, as they mainly consist of cross-border trips from neighboring Kazakhstan, Kyrgyzstan and Tajikistan,
- permanent migration from the PRC is predominantly of ethnic nature, since it is carried out within the framework of the state policy of repatriating ethnic Kazakhs to Kazakhstan and ethnic Kyrgyz to Kyrgyzstan,
- the migration flows from the PRC are ethnically diversified, involving not only Han, but also Kazakhs, Kyrgyz, Tajiks, Uigurs, Dungans (Huizu) and others who develop small and medium businesses in the receiving countries,
- regionalization and localization of cross-border migration between China and the Central Asian countries, i.e. the main share of migration occurs not between the PRC as a whole, but between the border-adjacent Xinjiang, in particular, the areas inhabited by ethnic diasporas in the XUAR, and Central Asia. The exception is Turkmenistan, focusing on the countries to the south and west – Russia, Ukraine, etc.
- steady growth of educational migration to China in the last 5-10 years, which allows training a pool of specialists and translators to serve Chinese projects in Central Asia,
- tourism – one of the potentially large and mutually beneficial sectors of cooperation and growth in the number of bilateral and multilateral visits – is at the initial stage of development,
- China’s gradual entry into the agricultural sector of the Central Asian countries – the most sensitive area of business cooperation - and the related migration of farmers and workers into countries such as Kazakhstan and Kyrgyzstan,
- intensified sinophobia in some countries of the region (Kazakhstan, Kyrgyzstan).

12. Sputnik, 2017

# CHINESE LABOR MIGRATION TO THE CENTRAL ASIAN COUNTRIES

## 3.1. Foreign Labor Policy

Chinese labor migration in the Central Asian countries includes trade migration, business migration, and hired labor force. Today, there is a steady presence of Chinese labor force and business. Chinese managers, engineering and technical personnel, other professionals and workers are employed in the PRC priority cooperation sectors in each of the countries. They work mainly for large Chinese and joint ventures, companies, contractors in the energy, construction and service sectors.

**Labor immigration is regulated by national legislations, which establish specific categories of invited workers (CEOs, unit managers, specialists, skilled workers, etc.) as well as their overall numbers and timeframe for their stay in the country.**

To this end, in Kazakhstan, Kyrgyzstan, Tajikistan and Turkmenistan, the state annually establishes a quota for attracting foreign labor force and/or regulates the ratio of local and foreign workers in enterprises.<sup>13</sup> The quota is aimed at attracting the most sought-after professionals and at the same time at protecting the internal labor market. Foreign workers have the right to work temporarily: in Kazakhstan, e.g., for up to one year, with the right of extension. Highly qualified specialists, including Chinese professionals, have the opportunity to work under a contract for up to 3-5 years.<sup>14</sup>

Earlier in Uzbekistan, legal regulation was limited to organization of labor activities of Uzbek nationals abroad and foreign nationals in the RU, whereas employers had to obtain a license for using foreign labor force. In November 2018, President Sh. Mirziyoyev signed a decree on creating favorable conditions for employment of qualified foreign specialists in Uzbekistan.<sup>15</sup> As of 1 December 2018, the requirement to obtain permits to attract foreign personnel no longer applies. They can work for up to three years with the right to an unlimited number of three-year extensions; additional benefits and preferences are offered as well.<sup>16</sup> Turkmenistan has been developing its migration legislation, but the law on migration and its implementation do not fully meet international standards.<sup>17</sup>

**Labor immigration to the Central Asian countries is also regulated by international agreements in the framework of the Eurasian Economic Union (EAEU, 2015), whose members include Kazakhstan and Kyrgyzstan, and the Commonwealth of Independent States (CIS, 1991), whose members include all the Central Asian countries, except for Turkmenistan.** The membership of the Central Asian countries does not always coincide, which affects the migration processes and policies.

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13. The migration and labor legislation of the Central Asian republics requires a certain share of local personnel, i.e., the ratio of the national and foreign personnel. For example, in Turkmenistan, since 2003, the number of foreigners should not exceed 30% of the total number of employees; in 2018, the ratio was 10% to 90%. EC and IOM, 2005: 56; anonymous expert from Turkmenistan, Almaty, June 2018)

14. RK MFA, 2018

15. Polpred.com, 2018

16. Ibid.

17. Ministry of Justice of TM, 2018

Within the framework of the Shanghai Cooperation Organisation (SCO), Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan, together with Russia, closely cooperate with China in matters of trade and economic cooperation, security and prevention of illegal migration. Apart from the SCO instruments, China primarily cooperates with the Central Asian states in a bilateral format, signing agreements to ensure security and combating the “three evils”: terrorism, separatism and extremism on the western borders of China.

**In China, labor emigration and development of business abroad have a solid international legal framework** developed during the formation years of China’s “Going Out” global foreign policy strategy. Implementation of SREB in Central Asia is also becoming a continuation of China’s Western Development Program, launched by the government in 2000 and aimed at turning the neighboring Xinjiang into a regional trade, economic and logistics center.

The national development programs are being gradually aligned to SREB in the process of its implementation. Hence, in 2016, Kazakhstan started “conjunction” of the state infrastructure development program “Nurly Zhol” for 2015–2020 and SREB; **in 2017, Tajikistan confirmed its readiness to “connect” its National Development Strategy for 2016–2030.** In May 2018, China signed a cooperation agreement with the Eurasian Economic Union, which approximates BRI projects to the EAEU development strategy. Migration issues may be discussed in the future as part of the “conjunction” policy.

## 3.2. Chinese labor and business migration

**Kazakhstan** has been attracting Chinese labor force under a quota since 2003. In 2017, 9,087 workers were recruited or 39.1% of the total foreign labor force (Fig. 2). Nationals of China are engaged in construction, mining and manufacturing industries, in the services sector in almost all the RK regions, primarily western (in the oil and gas sector), in Astana and Almaty.<sup>18</sup>

According to the PRC Embassy in the RK, Kazakhstan intends to implement 51 projects worth over \$27 bln within the framework of the SREB/BRI. In accordance with the Cooperation Program, 20,000 new jobs will be created in transport and logistics enterprises, oil and gas and chemical industries, construction and agriculture.<sup>19</sup> The economic contribution of major Chinese and joint ventures is complemented by programs of corporate social responsibility (CSR) of business.<sup>20</sup>

In **Kyrgyzstan**, in 2017, 14,768 work permits were issued to foreign specialists, including 1,017 to individual entrepreneurs.<sup>21</sup> PRC nationals, as a rule, make up the majority, in 2017 – 78.5% or 11,593 specialists (Fig. 2). The predominant sectors of economy include

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18. RK MLSP, 2018

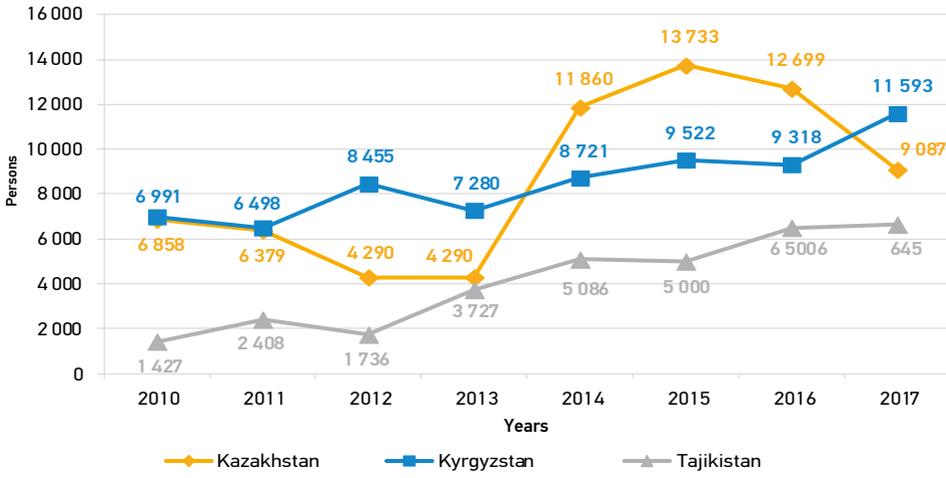
19. Zhumadilov, 2018

20. For example, the Atyrau Oil Refinery, built in Atyrau for the loans of Eximbank of China of \$1.130 bln. During periods of increased loads, the Atyrau Oil Refinery employs 700 foreign, including Chinese, specialists and four thousand local residents. 115 local youth received higher education in Chinese universities and work in Atyrau as engineers or translators (Surganov, 2017). The CSR policy is followed by the joint venture JSC CNPC-Aktobemunaygas, PetroKazakhstan, JSC Turgai Petroleum Shymkent Refinery and many others.

21. KR SMS, 2018

industry, construction and transportation, energy, mining, catering and other services; there are 470 Chinese and joint ventures. The largest projects: Kyrgyz-Chinese gas pipeline in the Osh Region, Ring road in the Issyk-Kul Region, oil refinery in the Chui Region, reconstruction of a thermal power plant in Bishkek, etc.<sup>22</sup>

Fig. 2. Chinese quota-based labor force in Kazakhstan, Kyrgyzstan, and Tajikistan in 2010-2017 (persons)\*



\* In Tajikistan – the total number of foreign labor force in 2017, according to the Ministry of Labor, Migration and Population Employment of the RT

Sources: Sites of relevant ministries of the CA republics: RK MLSPP (2011-2018); KR SMS (2011-2018); RT MLMPE (2011-2018); expert interviews (2016-2018).

In **Tajikistan**, labor immigration of specialists and workers, according to the foreign labor force quota for 2018, amounted to 7,500 people, and this quota is mainly intended for PRC nationals.<sup>23</sup> (Fig. 2). At the same time, when investing in projects, Beijing makes participation of Chinese workers an imperative requirement. However, the Government of the RT also sets forth its conditions: a foreign company in exchange for one of “its” employees must provide employment to nine Tajik nationals (ibid.). The PRC nationals are engaged in industrial production, construction, trade, public catering, and agriculture.

Today, China is the main foreign trade partner and a major investor in the energy sector of **Turkmenistan**. According to official data, 1,300 Chinese and Turkmen specialists and workers participated in construction of the largest project – the Turkmenistan-China gas pipeline.<sup>24</sup> Today, 30 Chinese enterprises in the country employ about 2,000 staff.<sup>25</sup> Recently,

22. Ibid.  
 23. Ashurov, 2018  
 24. Sadovskaya, 2012: 49  
 25. Turkmeninform, 2017

Turkmenistan has been reported to face financial, economic and social challenges and increasing emigration. Analysts directly associate the currency crisis in TM with the fall in prices on the world oil and gas market since 2014 and excessive dependence of Turkmenistan's economy and energy sector on China, calling it "multidimensional".<sup>26</sup> The response to the crisis was a growth in labor emigration to Turkey, Russia, Ukraine and Azerbaijan. The authorities are trying to block the labor force outflow through an unofficial ban on traveling abroad for nationals under 40 years of age.<sup>27</sup>

After the change of the political leader in 2016, **Uzbekistan** has been stepping up cooperation with China for two years. For the landlocked country, the establishment of a new interregional transport system within the framework of SREB is crucial, since it contributes to job creation and employment growth among the local population. According to official data, the unemployment rate in 2017 was 5.8%, thereby amounting to 837,000 persons.<sup>28</sup> In reality about 3 mln Uzbek nationals<sup>29</sup> work in the RF and RK, constituting 9.4% of the total population and 20.9% of the entire workforce.<sup>30</sup>

In 2017, 19,749 Chinese citizens entered Uzbekistan, of which 4,257 came to work, 2,739 for business and official purposes and 3,590 for commercial purposes.<sup>31</sup>

According to the PRC Ambassador in the RU, as of August 2018 the country already had over 900 enterprises with Chinese capital.<sup>32</sup> Judging by the growth rate of business migration and tourism from the PRC to Uzbekistan and given the new policy of facilitating attraction of foreign staff, the RU can be predicted to witness an increase in immigration of Chinese professionals and entrepreneurs.

### 3.3. Impact of labor migration from China on local labor markets

The Central Asian countries are concerned about "excessive" migration from the PRC and that Chinese workers are creating "competition" in the local labor markets (Table 1). However, labor force from the PRC is employed, as a rule, in Chinese or joint ventures or on a rotational basis in remote areas in construction of gas and oil pipelines, or in a specific national business – Chinese restaurants and medical centers, which often serve PRC nationals. **The share of Chinese in the total workforce of the CA countries is small.** In Kazakhstan in 2017 it was 0.10%, in Kyrgyzstan – 0.49%, in Tajikistan – 0.28%, and did not significantly impact the labor market.<sup>33</sup>

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26. Today, China receives more than 90% of Turkmen gas exports, while its average price fell from \$503 per ton in 2014 to \$266 in 2017. According to Chinese data, imports from TM increased in 2014-2017 by 33%, but the total revenue fell from \$9.4 bln to \$6.5 bln, or by 31%. This led to a dramatic reduction in foreign exchange earnings in Turkmenistan and led to subsequent imbalances in the financial, economic, and social sphere, up to the commodity and food deficit. (Jakóbowski & Marszewski, 2018)

27. Jakóbowski & Marszewski, 2018

28. RU State Committee for Statistics, 2018b

29. Aqparat.info, 2018

30. Calculated by the author using the national data, see Annex 2 and Table 1

31. RU State Committee for Statistics, 2018b

32. PRC Embassy in Uzbekistan, 2018b

33. Calculated by the author using the labor market statistics of the CA republics and data on attracting of the Chinese labor force. (Interstate Statistical Committee of the CIS, 2017: 36-42).

Table 1. Labor market indicators in the Central Asian countries in 2017 (thousands of people and percentage)

Country	The number of economically active population/workforce (people)	Number of employed population (people)	Employment rate (percent)	Number of unemployed (people)	Unemployment rate (percent)	Youth unemployment rate (percent)
Kazakhstan	9,027.4	8,585.2	73.7	442.3	4.9	3.8
Kyrgyzstan	2,525.2	2,351.2	59.3	174.0	7.0	14.8
Tajikistan	2,460.2	2,407.0	42	155.8*	7.0*	11.4*
Turkmenistan	2,463.6	2,218.4	...	245.2	...	...
Uzbekistan	14,357.0	13,520.0	60.2	837.0	5.8	...

\* Data for 2016

Source: Interstate Statistical Committee of the CIS, (2018): 37-44.

**Chinese enterprises sometimes get delayed with their opening and/or operation, but this is largely the receiving party’s fault; several such cases were recorded in Kazakhstan.**<sup>34</sup>

Kyrgyz experts emphasize the economic opportunities of SREB in the KR, but also express fears about lack of “common points” between society and investors who, “pursuing their own interests ... get in conflict with the population”.<sup>35</sup> The Tajik economist S. Nosirov speaks of the negative effects of Chinese presence: in his opinion, by investing in various projects in the RT, PRC simply transfers money from one of its pockets to another.<sup>36</sup> With these funds, “Chinese companies buy Chinese-made equipment and materials, ... [projects] are mainly implemented by Chinese specialists and workers. Thus, most of the allocated funds return to China. Tajikistan remains in debt, which must be repaid with interest”.<sup>37</sup>

As shown above, with availability of information, some fears in the host communities about “uncontrolled” labor migration from the PRC and its “pressure” on the local labor markets can be assuaged. However, many other aspects such as credit debt and financial dependence on China, issues of youth unemployment, prospects for Chinese migration, etc., ought to be studied by local experts to prevent the risk of negative development scenarios.

34. For example, in Kokshetau in northern Kazakhstan the oil processing enterprise “Tainysha May” planned to attract eleven highly qualified personnel from the PRC: director general, managing staff and engineers, and employ 60 RK nationals as workers (Surganov, 2017). However, Chinese nationals could not enter the RK because they were denied long-term working visas. None of the Kazakh workers could operate Chinese equipment, because Chinese engineers did not provide training to the local staff; a number of other technical issues were not resolved, so the plant was idle for many months. (Ibid.)

35. Israilova, 2016

36. Ashurov, 2018

37. Ibid38. RK NSC, 2018

**Illegal migration from China to the CA republics is insignificant**, since the PRC government encourages Chinese entrepreneurs to strictly comply with the laws in the receiving countries. There are individual cases of illegal border crossing, but more often violations concern internal migration and labor legislation. According to the RK National Security Committee (NSC), over 400 violations of the rules of stay in Kazakhstan were recorded in 2015-2017. Some Chinese workers without qualifications provide fake higher education diplomas, false invitations and contracts to get a work permit or visa in the RK.<sup>38</sup> Corruption in the host countries creates risks linked to the presence of Chinese nationals. For instance, Kazakhstan mass media reported on illegal employment channels for Chinese nationals: two transnational criminal groups, through 85 registered Kazakh companies, organized channels of mass illegal entry from the PRC to Kazakhstan.<sup>39</sup>

## SOCIO-ECONOMIC MIGRATION IN THE CONTEXT OF SREB

### 4.1. Educational migration

In recent years, China has been increasing its cultural influence in Central Asia: within its “soft power” policy, the PRC has been investing in education, research, television and radio broadcasting, cultural and sports events, and exhibition activities. In the educational sphere, China has been increasing admission of CA students to its universities and colleges, sending students to study at CA universities, opening Confucius Institutes, and actively promoting learning of Chinese.

Over the past ten years, the number of CA students in China has increased dramatically. In terms of countries, Kazakhstan has the lead: since 2008, it has been among the top ten nationalities of foreign students in China (5,666 students); in 2017, their number reached 13,996.<sup>40</sup> According to the Ministry of Education and Science of Tajikistan, more than 3,000 Tajik students are currently studying in the PRC, and according to experts – 5,000.<sup>41</sup> For the students of the SCO member states, China has allocated 20,000 educational quotas for five years from 2016 to 2021.<sup>42</sup>

Today, the number of graduates from Chinese colleges and universities and numerous Chinese language courses at Confucius institutes and language training centers in the CA countries amounts to several thousands in Kyrgyzstan. In the near future, this number

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38. Ashurov, 2018

39. Tengrinews.kz, 2018

40. IIE, 2018

41. Sputnik, 2017a

42. PRC Embassy in Uzbekistan, 2018

is expected to increase to tens of thousands in Kazakhstan. Hence, the PRC is preparing linguistic and technical personnel for serving on SREB projects and consistently involves CA in the orbit of its socio-economic interests.

The education received in the PRC allows replenishing the labor market of the CA countries with qualified personnel, increases competitiveness of specialists in local labor markets, and contributes to their professional and career growth as well as human capital development in general. However, attracting young people to the PRC higher education institutions creates risks of "brain drain" from CA not only to the west, but also to the east. Temporary student migration has a global tendency towards transforming into a permanent one, which creates risks of irretrievable emigration and reduction in the working-age population in the countries of origin.

## 4.2. Tourism and visa policies

Tourism has great potential in the relations between China and the Central Asian republics. According to a representative of the PRC Ministry of Culture and Tourism, with the development of the "Belt and Road" Initiative, Chinese tourists have been showing an increasing interest in Central Asia, which is located along the main route of the ancient Silk Road.<sup>43</sup> According to the ministry, in 2017, 200.000 PRC nationals visited Kazakhstan. However, the quite complicated visa procedures become an obstacle to tourism development.<sup>44</sup>

The CA countries, realizing the importance of developing tourism in the region and assessing the potential of the tourist flow from China, are taking the first steps to simplify the visa regime for PRC nationals who are holders of a regular passport. Tajikistan introduced an electronic visa in 2017; Uzbekistan introduced a simplified procedure for issuing tourist visas to PRC nationals<sup>45</sup> at the beginning of 2018 and an electronic visa in July of the same year. This immediately led to an increased tourist flow: within 50 days after the introduction of electronic visas, 9,073 visas were issued, with tourists from China in the lead – 2,043 visas (22.5%).<sup>46</sup> In 2017, Uzbekistan was visited by almost 20.000 Chinese nationals, and in the first half of 2018 – already by more than 15.000.<sup>47</sup>

In Kyrgyzstan, on the contrary, a proposal by a local deputy to introduce a visa-free regime for tourist groups from China provoked a heated public reaction. A stand against it was taken by law enforcement agencies (they fear an influx of migrant workers under the guise of tourists and "appearance of undesirable elements"), some experts and the public.<sup>48</sup> According to an online survey, 77% of respondents fear that in the case of a visa-free regime, Chinese will migrate to the KR in large numbers.<sup>49</sup>

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43. Wang, 2018

44. Ibid

45. Yidayili.gov.cn, 2018

46. Regnum, 2018

47. RU State Committee for Statistics, 2018; PRC Embassy in Uzbekistan, 2018

48. Kaktus.media, 2018

49. Ibid

The current visa situation between Kazakhstan and China also negatively affects business cooperation and mobility. Despite the Year of Chinese Tourism in Kazakhstan in 2017, the RK limited itself to introduction of a three-day visa-free regime for tourists from the PRC for a short period from 9 June to 12 September 2017, i.e. for the period of EXPO-2017 in Astana.<sup>50</sup> According to official data, the number of tourists who arrived to Kazakhstan from the PRC was 94,000,<sup>51</sup> i.e. less than in the previous years. Therefore, the potential of the tourist flow from the PRC was not used effectively.

### 4.3. Sinophobia as an obstacle to economic and cultural cooperation

In recent years, sinophobia has become a significant factor influencing the mobility policies and prospects in the CA countries, in particular, in Kazakhstan and Kyrgyzstan. Prejudices towards Chinese (Han) migration and its “mythologization” represent a specific and complex phenomenon, that is both rooted in history and contemporary, because it is based on the population’s poor knowledge of the history, culture and traditions of the Chinese people or social and political realities of the PRC. This is confirmed by representative polls in Kazakhstan, according to which only 9% of respondents are familiar with Chinese culture and traditions, 40% with the foreign policy and 49% with the economy of the neighboring country.<sup>52</sup>

In addition to cases of local labor disputes in Kazakhstan, Kyrgyzstan and Tajikistan, in the spring of 2016 the RK witnessed public mass protests in large cities against land lease by foreign companies, which immediately acquired anti-Chinese character.<sup>53</sup> Sinophobia increases ethnic tensions, slows down and even hinders legal reform and the implementation of projects for development of Kazakhstan’s agriculture. The lack of information regarding SREB can further exacerbate sinophobia and create risks for project implementation.

## MAIN FINDINGS

► Influenced by the SREB and BRI in Central Asia, migration flows between the PRC and the CA countries since launching the Initiative in 2013, predominantly have continued the trends established in the 1990s-2000s. Labor, business, trade, educational and other types of migration to CA persist, because China in the SREB framework continues the projects started earlier in the region.

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50. Zakon.kz, 2017

51. RK MNE, 2018: 12-14

52. Sadovskaya, 2014: 297

53. Pannier, 2016

- ▶ The recent trends influenced by SREB/FDI include a reduction in trade migration and an increase in hiring Chinese labor force for construction of infrastructure facilities and enterprises. Both the number and the share of Chinese workers among the recruited foreign labor force has been growing.
- ▶ A new phenomenon in the region are the migration and visa reforms introduced by Uzbekistan since 2017, in the context of the wider political and economic reform. The country has been witnessing significant changes in its legislation and institutional setup, as well as increased migration. Business migration and tourism from China to Uzbekistan has been growing rapidly. The Chinese migration to the RU was not analyzed because of the relatively small numbers in the past.
- ▶ In Turkmenistan, there is no access to migration and demographic statistics and analytics in general. Therefore, it is difficult to determine the reforms needed in the migration sphere. Information on studies assessing the impact of SREB/BRI projects on the economy and migration is not available, although the current challenging socio-economic situation in TM evidences the need to analyze the role and consequences of China's infrastructure projects in Turkmenistan.
- ▶ Educational migration to China has increased in all CA countries since the beginning of the 2010s, providing SREB with professionals and translators on-site. This positively affects the educational level of the labor force, but creates risks of "brain drain" to China and other Asia-Pacific Region countries.
- ▶ Socio-economic cooperation and exchanges ("promoting proximity between nations") are proclaimed as priorities in the BRI documents, but have not become as important in reality.
- ▶ The contribution of Chinese companies, Chinese business and labor to the economic development of CA is significant. In addition, large companies implement a CSR policy: roll out professional and vocational training, address social issues, which increases the competitiveness of enterprises and workers. To date, no comprehensive applied research on China's and the SREB impact on the development of human capital in CA has been undertaken.
- ▶ Chinese migration to CA will continue in the future, as each CA country features a number of attractive factors: natural resources, land, opportunities for employment and business development, etc. The lack of qualified personnel and workers in CA will be one of the decisive factors for Chinese labor immigration.
- ▶ Despite the increased public attention to the challenges linked to the Chinese presence, migration and prospects for its further growth of influence in CA, migration issues are neither sufficiently addressed in the SREB/FDI strategic documents nor in the actual PRC migration policy for the region, representing, apparently, a "deferred" interest for the PRC.
- ▶ Migration issues, including labor migration, migration and visa policies, labor market protection, etc., are important primarily for the CA republics and cover all the aspects, from statistics, access to information, improving legislation, and research to regional and international cooperation.

# CONCLUSIONS

According to most global forecasts, the vectors of economic and technological development and social modernization have been shifting to Asia. China in the 21st century will play a key geopolitical role as the new center of a multi-polar world. New migration processes will take place here, differing from the ones witnessed in the 19th and 20th centuries: China will be a country of emigration, transit and increasingly also of immigration considering its aging population. The rise of China and the implementation of the SREB/FDI project will influence international policies, including migration, in the Asian and European Union (EU) countries. **This is a new challenge that international organizations specialized in migration policy should accept by including China in their work.** Since SREB connects East Asia with Europe through Central Asia, a “transfer” of migration policy expertise from the EU to Asia may be useful.

Currently, **expert and analytical cooperation** in the conceptual design of migration policies and legislation, in accordance with international standards, may in particular be beneficial for Turkmenistan and Uzbekistan.

Assisting states **in their efforts to establish institutions and mechanisms for orderly, organized and legal (labor) migration between the CA countries may be equally important.**

Operational support is required for the **prevention of illegal migration. Moreover, the EU should further extend the BOMCA project on border management in the CA region, targeting specifically** the joint external borders of Kazakhstan, Kyrgyzstan and Tajikistan with China. This is relevant because of the political risks in the neighboring Xinjiang province and considering that a significant part of the CA republics' borders with the PRC lies in the highlands, thereby requiring additional resources.

In CA, there is a need for further research, both applied and fundamental, concerning all the aspects of Chinese migration, including its impacts on the CA labor markets and youth employment, economic development, socioeconomic migration and its consequences and risks, the design of migration policies, as well as the overall regional and international cooperation with the PRC.

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GEORGIA

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# Circular Migration Schemes in Georgia: Lessons Learned and Ways Forward

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POLICY BRIEF

Georgia is in a particularly advantageous position regarding developing circular migration schemes.

## EXECUTIVE SUMMARY

The current socio-economic and policy context in Georgia combined with the European Union's (EU) high demand for labour puts Georgia in a particularly advantageous position regarding developing circular (labour) migration schemes (CMS). Two pilot CMS implemented by Georgia in the past illustrate the potential for the implementation of further CMS, which remained unused by the state until today. This policy brief provides a comparative analysis of the two pilot CMS, explores lessons learned from these projects and defines certain conditions under which future CMS could succeed. The main priority for the state in this regard should be the establishment of appropriate institutional conditions for the implementation of CMS and the improvement of legal frameworks. Future CMS should target semi-skilled and underemployed workers in Georgia with the objective of improving their qualifications and ensuring their social and labour rights are prioritized.

Implementing CMS should be an inclusive and transparent process, in which all stakeholders, including the state, partner countries, migrants, private, and non-governmental sectors have realistic and well-informed expectations and share mutually agreed responsibilities and goals. Moreover, along with creating strong return and reintegration mechanisms, effective monitoring and evaluation practices need to be set for measuring progress and impact of CMS.

# DEFINING CIRCULAR MIGRATION

Definitions of circular migration differ by country and organization. Its broader definition refers to repeated movement between two or more countries involving more than one migration and return (Hugo, G. 2013). This includes all the spontaneous or naturally occurring circulatory flows across borders, which have always existed in some form and are difficult to track or control. According to the EU definition, however, circular migration is “a form of migration that is managed in a way allowing some degree of legal mobility back and forth between two countries” (COM, 2007). CMS, which are organized, regulated, and controlled by states are often viewed as a „triple win situation” in which destination countries respond to their labour market needs; countries of origin reduce labour market pressure and benefit from remittances as well as transfers of knowledge and skills; and individual migrants and their families improve their socio-economic conditions and acquire new skills (Prague Process, 2014). Managed circular migration can be characterized as “temporary, renewable, circulatory, legal, respectful of the migrant’s rights, and managed in such a way as to optimize labour markets at both ends, in sending and receiving countries” (Fargues, F., 2008).

This policy brief is solely concerned with formalized managed CMS that are explicitly designed to maximize the developmental impact, which other forms of ad-hoc or spontaneous forms of labour migration may lack.

## SOCIO-ECONOMIC AND POLICY CONTEXT

Over the past decade, Georgia has remained a country of net emigration, with migration being increasingly driven by economic factors. An OECD/CRRC study (2017) showed that the high level of unemployment and poorly functioning labour market are the biggest push factors for emigration. Although exact numbers on the number of Georgians living abroad are not available, according to the 2017 Migration Profile of Georgia, the largest numbers of emigrants are in Russia, Greece, and Turkey, followed by Italy, Germany, and the USA. Moreover, the 2017 Caucasus Barometer survey shows that only a small share of Georgia’s population (8%) is interested in permanent emigration, while more than half (55%) of Georgians are interested in temporary emigration.

The visa-free regime with the EU, which made travelling to the EU/Schengen area significantly easier for Georgian citizens, increased the need to provide alternatives to irregular migration by offering migrants legal means to migrate and become employed in EU member states.

The two key policies designed to address the high unemployment rate are the “Strategy for the Socio-Economic Development of Georgia – Georgia 2020” (Government of Georgia,

2014) and the “Strategy for the Development of Vocational Education and Training for 2013-2020”. The former led to the establishment of 69 employment support centres across Georgia and to the creation of WorkNet – an online service that connects job seekers and employers. Although the employment support centres assist job seekers in drafting a proper CV and in registering onto WorkNet, they have very limited human resources which neither allows them to reach out to employers and job seekers locally, nor to provide professional consultation and evaluation needed by most job seekers registered in the system. Most jobs available through WorkNet are low-skilled and the number of employers using this service remains limited to date. Moreover, the system relies on self-reported skills and qualifications, meaning that it is not yet possible to verify the qualifications of registered job seekers. Thus, WorkNet still requires further improvement in order to complete its objectives.

The key challenges faced by the vocational education system derive from the fact that the offered programmes do not correspond to the present and future labour market needs of Georgia’s growing and diversifying economy. On the one hand there is great demand for technical workforce (especially in agriculture and trade), who do not need higher education, and on the other the biggest part of unemployed workforce are highly educated individuals (Amashukeli, M. et al, 2017). Moreover, vocational education as such is not perceived as overly attractive due to the low quality of qualifications awarded and their lack of recognition by employers, both locally and internationally (Ministry of Education and Science Georgia (MoES), 2013).

The shortcomings of both vocational education and employment systems contribute to their low levels of attractiveness and popularity among the general population. In short, they currently do not help potential migrants meet their employment needs at home (OECD/CRRC, 2017).

These findings explain the demand for temporary labour migration, an issue that requires a better understanding and more effective policy responses from the government of Georgia. Not surprisingly, the development of CMS figures among the priorities of the current national migration policy.

The migration and development approach is part of Georgia’s migration strategy 2016-2020 with the facilitation of circular migration listed as one of its explicit objectives (SCMI, 2016). Moreover, the Working group on Migration and Development, consisting of representatives of all relevant agencies, was established under the State Commission on Migration Issues (SCMI) in order to facilitate inter-agency coordination and cooperation in this policy area, including on the issue of circular migration.

In 2014, an agreement on circular migration was signed between Georgia and France, although it has not yet been ratified by France. The government of Georgia is presently working to establish similar agreements with Israel, Austria, Romania, Greece, Poland, and Qatar. A structural unit within the Ministry of Labour, Health, and Social Affairs (MoH) is now being established which, among other labour migration related tasks, will be primary responsible for planning and implementing CMS.

# PRIVATE EMPLOYMENT AGENCIES

The aforementioned socio-economic and policy conditions along with a labour shortage in many European countries reveal the need for, and enormous potential of, CMS for Georgia. Nevertheless, private employment agencies remain the main mediators between local job seekers and foreign employers, leaving the question of migrant workers' rights up in the air. The limited information available about these companies and the absence of control mechanisms raises significant doubts in this respect.

Private employment agencies remain the main mediators between local job seekers and foreign employers, leaving the question of migrant workers' rights up in the air

While the Law on Labour Migration of 2015 outlines certain obligations for private employment agencies (Including public registration, annual reporting duties, etc.), the resources and mechanisms for state control remain insufficient. The only sanctions issued to date consist of fines for registered companies that fail to submit annual reports to the responsible Ministry. Due to the lack of control mechanisms, the actual number of such employment agencies and migrant workers sent abroad is unknown.

Most private companies operating in Georgia are believed to violate the ILO Convention on Private Employment Agencies ratified by Georgia, which precludes them from charging fees or costs onto workers (ILO, 1997). Anecdotal evidence indicates that migrants are not properly informed about their envisaged jobs, salaries, and rights abroad (Batumelebi, 2018). Moreover, they are deprived of the opportunity to meet their future employer in person or electronically before departure, which sometimes results in migrant workers not finding any actual employer upon arrival in the destination country or their rejection at the border when their supposed employer cannot be reached by border authorities. The lack of regulation and control over private employment agencies represents a serious danger for individual migrants and ultimately harms both the sending and receiving countries.

## TWO PILOT CMS IMPLEMENTED BY GEORGIA

In the recent past, two pilot CMS were implemented by Georgia in cooperation with Germany and Poland. The EU-funded project "Strengthening the development potential of the EU Mobility Partnership in Georgia through targeted circular migration and diaspora mobilisation" was implemented from 2013 to 2016 by the Centre for International Migration and Development (CIM/GIZ) on the German side and the Public Service Development Agency (PSDA), the Secretariat of the State Commission on Migration Issues (SCMI) and

Two recent pilot projects with Germany and Poland reveal some challenges and lead to some important lessons learned that need to be considered in future CMS.

the Georgian Small and Medium Enterprises Association (GSMEA). The project featured a CMS in which 27 Georgian nationals working in the hospitality and health care sectors were employed in Germany. By the end of the project, 24 participants (14 from the hospitality sector and 10 from the healthcare sector) were in the course of completing or had already completed the circular migration cycle. Nine out of fourteen hospitality professionals were granted employment upon return by their former employer in Georgia. The majority of the nurses have passed the recognition exam in

Germany and prolonged their employment in the country (Goos, A. 2016). Since then, most hospitality professionals (five) remain in Germany and only one nurse returned and got employed in Georgia.

The second project “Temporary Labour Migration of Georgian Workers to Poland and Estonia” was implemented by the International Organization for Migration (IOM) in cooperation with the MoH from 2015 to 2017. The project was informed by the lessons learned from the pilot CMS with Germany. Some 30 welders, construction workers, and truck drivers were employed in Poland, with additional workers to follow in the near future. Negotiations and cooperation with Estonia due to quota related obstacles proved to be lengthier and more problematic resulting in no one being employed in Estonia within the framework of this project. This project continues now within the framework of the EU funded project “Sustaining Border Management and Migration Governance in Georgia” (2017-2020). As a result, the return statistics are quite dynamic and exhibit some circularity between Georgia and Poland.

These two projects share a few important commonalities such as being based on the principle of legal, voluntary mobility and avoiding forced return mechanisms, relying on labour market studies in Georgia and partner countries for selecting sectors and professions and ensuring pre-departure and professional trainings of participants.

Despite that, they also differ significantly in terms of their aims and approaches. The CMS implemented with Germany was the very first initiative on circular migration, thereby aiming at creating and testing a theoretically “perfect” model, based on research and existing best practices. The project tested a complex model of CMS, involving a very developed economy of Germany, with a language which is not commonly spoken in Georgia and regulated professions which need certification in the destination country. Meanwhile, IOM took a slightly different approach and sought to create a simple, flexible and low-cost model, avoiding language training costs and regulated professions, to be handed over to the government in an easy and uncomplicated way.

These two recent pilot projects reveal some challenges and led to important lessons learned that should be considered in future CMS.

At the recruitment level it was difficult to meet employers’ high expectations in terms of language proficiency and work experience. Thus, in the case of Germany, all migrants

were full-time employed in Tbilisi before departure and had well-established positions. Ideally future CM projects should feature underemployed or less experienced workers with a special focus on rural areas of Georgia where unemployment and poverty is especially high. To address this challenge IOM cooperated with private employment agencies who helped them recruit candidates. To offer employers a less experienced but well trained workforce IOM set a positive precedent, by training a vocational education and training (VET) provider in Georgia. This VET school now offers specific welding technology (which is demanded by Polish employers) courses to Georgian workers. This is a positive experience which, if possible, should be replicated in future CMS projects.

Another challenge faced by these projects was achieving circularity. In most cases the pilot CMS with Germany involved single departure and one-time return. The return and reintegration of nurses proved to be difficult, since they are much better-paid in Germany compared to Georgia. Even though the private sector (a private clinic) supported this project from the beginning by offering all returned nurses guaranteed employment and although participants of the CMS with Germany were offered top-ups on top of their salaries in Georgia by GIZ (currently 5 returned migrant benefits from this assistance), most nurses still work in Germany. The CMS with Poland is quite recent and it might be too early to talk about circular migration, but it is worth noting that a few workers have returned from Poland after 6 months. This experience shows the importance of return and reintegration measures in CMS and indicates the need to discuss the maximum duration of circular migrants contracts with employers.

Finally, the impact of CMS on all stakeholders is insufficiently researched, since both projects were evaluated right after the official end of the projects, when most migrants were still in destination countries.

## POLICY RECOMMENDATIONS

Circular migration seems a desirable option for the sending state, the individuals involved and destination countries. The key precondition for implementing successful CMS is a sustained political commitment on the part of Georgia and partner countries. Based on the experiences of the two past migration schemes described above, the following prerequisites seem essential for future CMS to succeed:

- **Establishing a well-organized institutional setting for implementing CMS.** Besides strengthening intergovernmental cooperation regarding temporary labour migration, MoH should systematically cooperate with other agencies: e.g. with the Ministry of Education and Science on strengthening the VET system and recognition of acquired qualifications and with the Ministry of Foreign Affairs on serving as a contact point for protecting the rights of circular migrants in foreign countries. The Migration and Development working group, which already functions as a platform for the cooperation of all relevant state agencies, can continue playing a coordinative role between all stakeholders including non-governmental and private sectors.

The most essential precondition for implementing successful CMS is a sustained political commitment both on the part of Georgia and partner countries.

- **Amending and improving Georgia's labour migration law.** It is important that the law includes effective mechanisms for tracking and controlling labour emigration flows as well as protecting migrants' social and labour rights. Regarding private employment agencies, transparency and compliance with international norms and standards concerning migrants' rights need to be ensured. However, instead of just imposing strict regulations, which in the long-run would lead to closing these agencies, the state may consider them as partners after agreeing on a common policy and terms of operations.
- **Maintain a certain flexibility regarding the duration of circular migrants' contracts.** All stakeholders, including partner countries should see CMS as a means for legal voluntary mobility and, therefore, most aspects of CM projects including the duration of contracts should be kept flexible, albeit within a certain range. If there are high risks that circular migration becomes permanent (e.g. case of nurses), along with strengthening reintegration measures for returned migrants, the implementer may consider limiting the contract period to 2 or 3 years, in order to ensure circularity and prevent brain-drain.
- **Focus on underemployed but well-trained workforce.** It is important that partner countries agree on hiring less-experienced but well trained workforce. Georgia from its side should invest in the VET system so that it produces well-trained workers who are capable of meeting employers' requirements. MoH should improve recruitment mechanisms and the state employment agencies should ensure that people especially in rural areas, where the unemployment rate is higher, are involved in CMS. Moreover, WorkNet's technical abilities should be developed further in order to make it a useful tool for recruiting circular migrants.
- **Ensure common, transparent objectives between all stakeholders.** It is important that all parties agree on the specific goals and objectives of a particular project, which should ideally coincide with the interests of policy makers. Improving the qualification of migrants and ensuring their social and labour rights should be a top priority of the agreed objectives. Employers as well as the state should be committed to invest in the training (language and/or professional) of migrants, which will benefit all stakeholders.
- **Ensure realistic and well-informed expectations of all involved actors before departure.** Personal meetings of employer and employee as well as extensive pre-departure trainings tailored to the needs of each CM project are an important means to achieve this goal. Involving circular migrants (returned or still abroad) as trainers in this process is highly desirable. This will ensure that individuals take informed decisions about migration and employers will not be disappointed by the new hires, which in the long run will contribute in increased trust in CM projects.

Implementing CMS should be an inclusive and transparent process, in which all stakeholders have realistic and well-informed expectations and share mutually agreed responsibilities and goals.

- **Strengthen return and reintegration measures.**

Return and reintegration proved to be especially difficult when the migrants do not have specific job offers before return or when paid considerably less compared to their salaries abroad. Close cooperation with the private sector at all stages of CMS, recognition and harmonization of qualifications acquired abroad and involving returned migrants in VET system as teachers are some ways for improving return rates and reintegration.

- **Ensure effective monitoring and evaluation mechanisms.**

The employment conditions of circular migrants should be systematically monitored, especially during the first months of migration, in order to prevent exploitation. The existing evaluation is often fragmented and only covering the period of the program duration, before return and reintegration are achieved. Evaluations of future CMS should be more systematic and longitudinal, including constant monitoring and follow-ups and assessing the impact of CMS on individual migrants and their households as well as on local labour markets.

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RUSSIA

# Addressing the Challenges of Labour Migration within the Eurasian Economic Union

ANALYTICAL REPORT

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## ABSTRACT

The Eurasian Economic Union (EAEU) is based on the Treaty signed by the leaders of Belarus, Kazakhstan and Russia on 29 May 2014 and came into force on 1 January 2015. Armenia and Kyrgyzstan joined the EAEU in 2015. The EAEU represents an integrated single market of 183 million people characterized by the free movement of goods, capital, services and people as well as common policies in various spheres. Nevertheless, the labour market integration among the five Member States is far from complete and the significant labour migration amongst them remains hampered by various factors that shall be further analysed in this report. The main aim of the report is to assess the efficiency of labour migration and its management within the EAEU and to identify the respective opportunities, risks and challenges for migrant workers.

The resulting policy recommendations propose a simplification of the administrative procedures for migrant workers, the introduction of a monitoring system, the harmonization of the national pension systems as well as an improved access to medical services for migrant workers and their families whose fundamental rights need to be properly protected. The establishing of a dedicated financial instrument and a vocational training program would represent further important steps. In the long term, the establishment of concrete strategic objectives of EAEU integration would be paramount.

# INTRODUCTION

The Eurasian Economic Union (EAEU) composed of Russia, Belarus, Kazakhstan, Armenia and Kyrgyzstan<sup>1</sup> has operated since 2015. The Russian Federation clearly represents the main destination country for labour migrants from within the EAEU. In 2017, the country received 377.000 labour migrants from Kyrgyzstan, 232.000 from Armenia, 125.000 from Belarus and 88.000 from Kazakhstan<sup>2</sup>. For comparison, Kazakhstan, being the second important country of destination, received 4.500 labour migrants from Russia, 3.000 from Armenia, 1.500 from Kyrgyzstan and 1.000 from Belarus. Kyrgyzstan has been the main catalyst for a swift elaboration of common migration policies within the EAEU, which will not only shape the (labour) migration processes throughout the region but also determine the further expansion of the EAEU. To date, the EAEU migration policies remain only partial, with the already developed mechanisms not always properly applied.

Assessing the labour migration within the EAEU remains difficult due to the lack of up-to-date statistics. Despite the experience accumulated at national level, the statistical coordination among the Member States in the field of migration is underdeveloped<sup>3</sup>. The website of the Eurasian Economic Commission features some limited statistics on temporary labour migration or educational migration within the EAEU<sup>4</sup>. Meanwhile, existing studies addressing labour migration within the EAEU have a narrow circle of users and are rarely reflected in the media<sup>5</sup>. In short, both the proper monitoring of migration within the EAEU and the dissemination of the established data require further improvements.

## 1. OVERVIEW OF RIGHTS OF LABOUR MIGRANTS WITHIN THE EAEU

Along with the free movement of goods, services and capital, the freedom of movement

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1. In 2018, Moldova joined the EAEU as an observer country, while Vietnam, Iran, China and Cuba adhered to the free trade zone.
  2. State Migration Service of the Ministry of Territorial Administration and Development of the Republic of Armenia; Ministry of Internal Affairs of the Republic of Belarus; Ministry of Education and Science of the Republic of Kazakhstan, Ministry of Health and Social Development of the Republic of Kazakhstan; Ministry of Internal Affairs of the Republic of Kazakhstan (information on the Union member state nationals who stated "employment" as their purpose upon entry); State Migration Service under the Government of the Kyrgyz Republic (has no data after accession of the Kyrgyz Republic). [http://www.eurasiancommission.org/ru/act/finpol/migration/Pages/statistical\\_data.aspx](http://www.eurasiancommission.org/ru/act/finpol/migration/Pages/statistical_data.aspx)
  3. Website of the Eurasian Economic Commission <http://eec.eaeunion.org>
  4. Analytical review "Labour markets in the Eurasian Economic Union" [http://eec.eaeunion.org/ru/act/integr\\_i\\_makroec/dep\\_stat/econstat/Documents/labourmarket\\_2017.pdf](http://eec.eaeunion.org/ru/act/integr_i_makroec/dep_stat/econstat/Documents/labourmarket_2017.pdf); Socio-economic statistics of the Eurasian Economic Union [http://eec.eaeunion.org/ru/act/integr\\_i\\_makroec/dep\\_stat/econstat/Pages/population.aspx](http://eec.eaeunion.org/ru/act/integr_i_makroec/dep_stat/econstat/Pages/population.aspx); Report "Barriers, Seizures and Restrictions of the Eurasian Economic Union" - "White Book" <http://www.eurasiancommission.org/ru/Documents/BARRIERS,%20DEROGATIONS%20AND%20RESTRICTIONS%20IN%20THE%20EURASIAN%20ECONOMIC%20UNION%20ANNUAL%20REPORT%202017.pdf>
  5. See <http://www.eurasiancommission.org/ru/Documents/Forms/AllItems.aspx>, e.g. Labour Migration and Social Security of Workers in the Eurasian Economic Union: <http://www.eurasiancommission.org/ru/Documents/spreads.pdf>

of EAEU nationals forms an integral part of the EAEU Treaty (Section XXVI)<sup>6</sup>. The Treaty also provides the freedom to work across the member states and obliges the parties to cooperate on the harmonization of their labour migration policies. It further facilitates the recruitment and employment of EAEU nationals across the Union and ensures the portability of social benefits, health care and pension rights accumulated by the migrant workers. The Treaty also equips migrant workers and their family members with access to free emergency health care, regardless of their insurance status, including their possible evacuation<sup>7</sup>. The mutual recognition of educational degrees and certificates without additional procedures represents another important EAEU provision, as does the free access to education and pre-school institutions on behalf of the children of migrant workers.<sup>8</sup>

## 1.1. Right to Temporary Residence

The EAEU is currently discussing the possibility of granting migrant workers in possession of a long-term employment contract (minimum of one year) and their family members the right to temporary residence<sup>9</sup><sup>10</sup>. Such solution would bring the following advantages:

- It would improve the registration of EAEU migrant workers, as well as the related statistical coverage at national level;
- It would contribute to reducing the volume of undocumented labour migration, establishing more favourable conditions for the concerned migrant workers;
- It would facilitate the collection of tax, insurance and other payments linked to their employment.

Whereas the EAEU Treaty provides for the freedom of movement of EAEU nationals and their families, for equal and dignified employment conditions, as well as social security on a par with the local population, other important aspects remain unresolved:

1. Holders of a temporary residence permit are checked at each border crossing, even though the conditions of their stay did not change;
2. Social security (social insurance) for workers temporarily residing in the member states has not been fully implemented and access to medical care has not been harmonized;

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6. The documents regulating labor migration in the EAEU include: Section XXVI "Labor Migration" of the Treaty on the Eurasian Economic Union and Appendix 30 "Protocol on Provision of Medical Assistance to Workers of the EAEU Member States and Their Family Members"; Agreement on Cooperation in Countering Illegal Labor Migration from Third Countries of 19 November 2010; Concept of the Draft International Agreement on Cooperation in the Field of Pension Security (approved by the Council of the Eurasian Economic Commission on 12 November 2014, No. 103). Documents developed for regulation of pension security for nationals of the EAEU member states: Draft "Agreement on Pension Security for Workers of the Eurasian Economic Union Member States"; draft "Agreement between the Authorized Bodies of the Member States on Implementation of the "Agreement on Pension Security for Workers of the Eurasian Economic Union Member States"; Regulations for information interaction on implementation of the "Agreement on Pension Security for Workers of the Eurasian Economic Union Member States" and "Agreement between the Authorized Bodies of the Member States on implementation of the "Agreement on Pension Security for Workers of the Eurasian Economic Union Member States".

7. Aliyev, Labor Migration and Social Welfare of Workers in the Eurasian Economic Union, 2016, p. 10

3. Compared to the local population, migrant workers still face limitations with regards to business activities, financial services, loans or credits.

## 1.2. Access to Health Care

The issue of the access of labour migrants to the medical services in their country of employment has not been fully resolved by the Union. EAEU citizens legally working in Russia, with a valid employment contract and taxes duly paid by an employer, in principle have equal access to the compulsory health insurance (CHI) as Russian nationals. However, the competent authorities neither promote nor distribute systematically any information about free CHI among the EAEU migrant workers. For their part, the Russian insurance companies do not inform them about the possibilities of free medical care either. Studies show that migrants from Kyrgyzstan, for example, have little awareness of their right to get CHI in Russia. Whereas the information about free medical services spread rather quickly through the migrant community in the past, this has so far not been observed concerning CHI<sup>11</sup>.

Overall, the access to medical services is not equal across the different EAEU Member States. There is no compulsory health insurance system in Belarus or Armenia. In Russia, only the migrant workers have access to CHI, but not their family members. In Kazakhstan, the compulsory social health insurance system will become operational as of 2020<sup>12</sup>. In the Kyrgyz Republic, the CHI system is in fact dysfunctional and a share of the costs of CHI is to be borne by the patients<sup>13</sup>.

## 1.3. Access to Education and Vocational Training

The EAEU Treaty does not contain provisions envisaging concrete cooperation in the field of education, which was neither included in the list of service sectors that form the EAEU

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8. Section XXVI "Labor Migration" of the Treaty on the Eurasian Economic Union, Appendix 30 "Protocol on Provision of Medical Assistance to Workers of the EAEU Member States and Their Family Members"; Agreement on Cooperation in Countering Illegal Labor Migration from Third Countries of 19 November 2010; Concept of the Draft International Agreement on Cooperation in the Field of Pension Security (approved by the Council of the Eurasian Economic Commission of 12 November 2014, No. 103).

9. Speech by O.V. Artamonov, Deputy Director of the Department for Labor Migration and Social Protection of the Eurasian Economic Commission "Labor Migration in the Eurasian Economic Union: Single Labor Market Prospects" at the Fourth Forum of Kyrgyz Compatriots Mekendeshter in Cholpon-Ata, Kyrgyzstan, 8 August 2018.

10. The European Union had similar experience when, in accordance with Council Directive 68/360/EEC of 15 October 1968 "On the abolition of restrictions on movement and residence within the Community for workers of Member States and their families", a special residence permit document was introduced for migrant workers, which was issued and extended under a simplified procedure – "Residence Permit for a National of a Member State of the EEC" shall be issued (Para 2, Article 4). Further development of integration within the EU resulted in adoption of Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004, abolishing the obligation to obtain a residence permit and replacing it with a simpler address registration system (Article 8) and a possibility of exercising the right of permanent residence (Chapter IV).

11. Poletayev D., Zlobina T. Monitoring observance of the rights of Kyrgyz Republic labor migrants and current risks of irregular labor migration of Kyrgyz labor migrants in the Russian Federation (RF) and the Republic of Kazakhstan (RK) in accordance with the conditions of accession to the EAEU Protocol. Bishkek 2018

12. The rights of workers and their family members for medical care. EAEC 2016 [http://www.eurasiancommission.org/kk/act/firpol/migration/social\\_security/Documents/права%20трудящихся%20и%20членов%20их%20семей%20на%20получение%20медицинской%20помощи.pdf](http://www.eurasiancommission.org/kk/act/firpol/migration/social_security/Documents/права%20трудящихся%20и%20членов%20их%20семей%20на%20получение%20медицинской%20помощи.pdf)

13. Memo of a citizen of the Kyrgyz Republic in obtaining medical services under the State Guarantee Program, the Compulsory Medical Education Fund under the Government of the Kyrgyz Republic <http://foms.kg/page/pamyatka#1>; About the Compulsory Health Insurance Policy <http://foms.kg/page/polis-OMS>

common market. Nevertheless, the EAEU countries agreed on the mutual recognition of education certificates without the need for diploma recognition<sup>14</sup> and on the right of migrant workers' children to receive education in the country of employment<sup>15</sup>.

Under the terms of the Treaty, academic titles and degrees require recognition in accordance with the legislation of the state of employment. Consequently, the regulation on mutual recognition of academic degrees and titles is applicable only between Russia and Belarus<sup>16</sup>. Kazakhstan has been most cautious regarding EAEU integration in the field of education considering the EAEU only in economic terms. Belarus also adopted a cautious position and did not support a number of proposals by the Ministry of Education and Science of Russia to expand bilateral cooperation. This position arose from the significant outflow of recent school graduates and enrolees to Russia, especially from Kazakhstan. According to the Russian Federal State Statistics Service, the number of Kazakh nationals studying in Russian universities at the beginning of the 2016/17 academic year amounted to 67.400 students and thus increased by 50% compared to the beginning of the 2013/14 academic year.

## Rights of nationals of EAEU Member States

**Labour market:** Right to work without facing the restrictions arising from the protection of the national labour market. No work permit required. Employment based on a civil contract.

**Migrant registration:** Migrant workers and their families have the right to stay in another EAEU state without registration for up to 30 days. The duration of their labour or civil contract determines the duration of their residence permit.

**Social portability:** Periods of employment, social security and insurance contributions are accounted for. Nationals of the EAEU Member States are covered by the national social security regime of their hosting state. An agreement on mandatory pension contributions and the right to carry over accumulated pension contributions upon departure is currently under development.

**Taxation:** The income tax for migrant workers is equal to the one for local workers.

**Education:** Mutual recognition of diplomas and qualifications among the EAEU Member States. The children of migrant workers are entitled to access pre-school institutions on an equal footing.

**Health care:** Emergency health care services are available to migrant workers and their families on an equal footing (free of charge), regardless of insurance status.

14. Exceptions include education documents in the pedagogical, legal, medical and pharmaceutical areas.

15. Art. 97 and 98 of the EAEU Treaty

16. Agreement between the Government of the Russian Federation and the Government of the Republic of Belarus on Mutual Recognition and Equivalence of Education Documents, Academic Degrees and Titles (Moscow, 27 February 1996) // Federal State Budgetary Institution "Main State Expert Center for Educational Evaluation". URL: [http://nic.gov.ru/ru/docs/foreign/confirmation/idokb\\_3247\\_225515](http://nic.gov.ru/ru/docs/foreign/confirmation/idokb_3247_225515), free (access date: 12.04.2017).17. In accordance with the Federal Law "On the Procedure for Exiting the RF and Entering the RF" of 15 August 1996, No. 114-FZ (effective 2016 edition).

## 2. RISKS AND CHALLENGES FOR LABOUR MIGRATION WITHIN THE EAEU

### 2.1. Black lists in Russia: once in, never out?

The informally called “black lists” represent an electronic database of the Russian MIA containing the data of foreign nationals whose entry to Russia has been restricted. The list includes individuals who had no work permits, overstayed, or violated the Russian migration legislation in any other form<sup>17</sup>. Among the citizens of the EAEU States, the biggest number of entry bans was issued to Armenian and Kyrgyz nationals still prior to the accession of both countries to the EAEU Treaty. Quite often, the blacklisted EAEU nationals would discover the entry ban only while attempting to (re-) enter Russia. To lift the entry ban, one needs to establish the reason behind this decision by filing a request to the Russian MIA. In some cases, blacklisted nationals could request migration authorities to lift the ban, in other cases the issue would have to be resolved through court. However, even in the best-case scenario, the lifting of the entry ban could last for up to three months. Such entry bans represent a significant risk and challenge for the free movement of labour force across the EAEU.

To date, the situation with ‘black- and whitelisting’ of EAEU migrant workers remains volatile and acute. In this regard, the case of Kyrgyz nationals is illustrative<sup>18</sup>. In the period 2014-2016, the Russian Ministry of Internal Affairs first imposed 145,218 entry bans on Kyrgyz nationals, of which 55,018 were lifted in the same period. For 51,578 Kyrgyz nationals from 90,200, who remained blacklisted, the ban could only be lifted through an appeal in court. Since November 2018, following bilateral negotiations between the Presidents of Russia and Kyrgyzstan, Kyrgyz nationals banned from entering Russia can check their respective status in the online database of the RF MIA and can return to Russia. Kyrgyz nationals who had violated the Russian immigration legislation but continued to reside on its territory had the opportunity of leaving and returning to the RF unimpeded between 16 October and 10 December 2018. In September 2018, the “black list” contained about 70,000 Kyrgyz nationals, of which only some 20,000 individuals expected amnesty<sup>19</sup>. Finally, in April 2019, another “migration amnesty” for blacklisted Kyrgyz nationals took place. In both cases, Kyrgyz nationals whose entry bans were issued by the court or subject to deportation decisions remained blacklisted.

### 2.2. Health risks among EAEU migrant workers

Since 2015, nationals of Armenia and Kyrgyzstan do not require a patent for employment in Russia. Therefore, a physical examination, including chest X-ray and HIV tests, is no

18. Report on monitoring the implementation of the law of the Kyrgyz Republic “On the Principles of the State Policy for Support of Compatriots Abroad”, Bishkek 2018

19. Karimov D. Illegals have been amnestied.

longer mandatory for them. Considering that these migrants often share apartments in great numbers, this novelty has clearly increased the risks to their health.<sup>20</sup> Since the access to health services for migrant workers from the EAEU countries in Russia remains limited, it complicates the control over the spread of dangerous diseases, such as HIV and tuberculosis, amongst them.

## 2.3. The gap between Education and Labour Market Needs

The quality of education in the EAEU sending countries often does not correspond to the labour market demands of the destination countries. Studies show that the quality of education (rather than its quantitative indicators) is decisive in determining whether students acquire the skills actually required by employers. It ultimately also affects economic growth overall<sup>21</sup>. The following example of Kyrgyzstan is interesting in this regard.

### Education outcomes in Kyrgyzstan

The percentage of completed education is generally high: only 4% of the population aged 25-29 years have no secondary education while 39% have higher education.<sup>22</sup> Within the overall working-age population, 27% have a higher education degree, which is even slightly higher than the average for the OECD countries (23%).<sup>23</sup> However, the degrees awarded by Kyrgyz universities frequently manifest a discrepancy between the competencies acquired and the actual labour market demands in Kyrgyzstan itself as well as in Russia or Kazakhstan. Kyrgyz students mostly specialize in services, health care, social welfare or education. Meanwhile, the labour markets rather require specialist in social sciences, business, law, humanities, design, manufacturing or construction, and other knowledge-intensive fields.<sup>24</sup>

Moreover, the increase in the share of higher education in Kyrgyzstan has resulted in fewer students opting for a **specialized secondary education**.<sup>25</sup> While this trend corresponds to the dynamic expansion of the service sector, it is holding back industrial growth. The vocational education system in Kyrgyzstan has lost touch with the needs of the national production sector. The standards and teaching materials in specialized secondary schools are often outdated, of little relevance and poor quality, thereby further contributing to the destruction of the national vocational education system.<sup>26</sup>

20. see Poletayev D.V. Florinskaya Yu.F. (2015); Poletayev D.V. (2016) Analysis of the Labor Market Situation in the RF for Effective Employment of Migrant Workers from the KR and the RT

21. Hanushek, Eric A., and Ludger Woessmann (2008). The Role of Cognitive Skills in Economic Development. *Journal of Economic Literature* 46 (3): 607–68

22. World Bank (2013)

23. Ajwad et al. (2014)

24. Arias, Omar S. (2014)

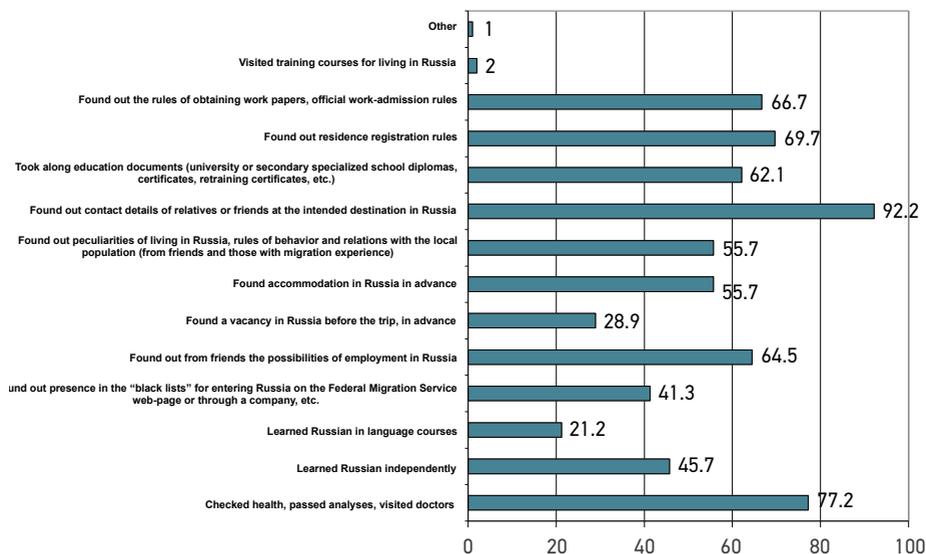
25. In 2010, only 12,800 graduates were registered. In 2013, their number increased slightly to 17,900.

26. Baumann, Arne and others (2013)

Findings from the Russian labour market show that migrants would rather benefit from the skills and competences newly acquired in Russia than from the knowledge gained during their education back home. Only 62% of the Kyrgyz migrant workers in Russia presented an education certificate, which evidences their skepticism about the usefulness of their education for employment in Russia<sup>27</sup>.

In reality, the social networks of their fellow compatriots in Russia are far more decisive for Kyrgyz migrant workers than their skills and education (Fig. 1). Only 2% completed pre-departure courses, while 20% of them completed a specialized Russian language course. At the same time, about half of the polled labour migrants studied Russian independently.

Fig. 1. Distribution of Kyrgyz respondents by forms of preparation for leaving to work in Russia (% , 2016, N=1001)



Source: "Analysis of the Labour Market Situation in the Russian Federation for Effective Employment of Migrant Workers from the Kyrgyz Republic and the Republic of Tajikistan", Tian Shan Policy Centre, American University of Central Asia, 2016.

27. Hereinafter, when it comes to the 2016 study, the data from the "Analysis of the Labor Market Situation in the RF for Effective Employment of Migrant Workers from the KR and the RT" research is used. Tian Shan Policy Centre AUCA. 2016. The total sample size in Russia is 1001 respondents. This includes 501 respondents in Moscow, 250 in St. Petersburg, 250 in Yekaterinburg. The sample was built by the following parameters: age (34% – between 18 and 25 years old; 33% – between 26 and 35 years old; 33% – between 36 and 60 years old); gender (70% are men, 30% are women); country of origin (50% from Kyrgyzstan, 50% from Tajikistan); experience in Russia (50% – with experience of 1-2 years, 50% – with experience of 3 years or more), and the main areas of employment (the maximum possible diversity). The survey was conducted in different areas of selected cities of Russia – central and peripheral. The survey covered labor migrants from Kyrgyzstan and Tajikistan in Russia aged 15 to 60 years old. At one survey point, no more than 2 people were polled.

The question whether Kazakh and Russian secondary vocational education institutions are ready to offer training to substantial numbers of foreign nationals is assessed by experts with a great deal of skepticism. While such training has already become attractive for young migrants in Russia, due to the excellent opportunities for integration, employment and even for citizenship that it offers to them<sup>28</sup>, vocational education of EAEU nationals in Kazakhstan is still of little relevance and of an ad-hoc nature. However, this may change in the near future when the need for well-trained workforce in Kazakhstan will increase. Meanwhile, Russia is facing a lack of quality teachers who can ensure that the training in secondary vocational schools remains competitive at international level. Securing a sufficient number of well-trained teachers and remodelling of existing vocational education institutions that comply with modern global standards will require major investments in this field.

Another important challenge in both countries relates to the **necessary reimbursement of the training costs**. Providing the training at the expense of the Russian and Kazakh employers would suggest adopting a law that would oblige the trainees to fill the vacancies offered to them by the employers who paid for their training. This should also apply to costs arising from partial (re)training. Should the costs for the vocational training of migrant workers be borne by the recipient state, there is no guarantee either that such investment would translate into an eventual employment of the trained migrants at state-owned enterprises, which are in need of the respective specialists. The latter could instead return to their homeland or leave to work in another country upon completing their education.

Russia is already experiencing a persistent shortage of medium-skilled workforce, which has led to conflicting views between the state and the large enterprises. The private sector has not been ready to invest in the vocational training of migrants. One possible compromise concerning the coverage of the costs would consist in collecting the necessary funding from both the states of origin and destination. Such approach could be applied when concluding international agreements within the EAEU. The family of the concerned migrant worker could potentially also vouch for the related costs (e.g. by using its property as a guarantee), a practice that has been successfully tested in Kazakhstan's "Bolashak" program<sup>29</sup>. Moreover, the process of training, retraining and certification of labour migrants does not correspond to the standards of the receiving states. The availability of short-term pre-departure courses, which would equip the migrant workers with the necessary certificates, would make sense. Such approach would be mainly supported by large companies in Russia. However, the involvement of small and medium-sized businesses remains doubtful. Internships represent another challenge for foreigners undergoing vocational education. Currently, this issue is mostly addressed at local level. The 'mass education' of foreign workers would require a more systematic approach.

Finally, there is also a need for states to offer adequate support programs to facilitate educational migration towards the appropriate secondary vocational institutions. Information campaigns across the EAEU sending countries, including the organization

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28. Dryga S.V., Poletayev D.V.

29. See the "Bolashak" program website – JSC "International Programs Center" [bolashak.gov.kz](http://bolashak.gov.kz)

of exhibitions and fairs on the possibilities available in in the destination countries could be more efficient when actively supported by the receiving states. Moreover, awareness raising among potential migrant workers in the countries of origin, promoting pre-departure language courses and the secondary vocational education, are of particular importance to improve their professional and language skills, and increase employment. As the labour migration to Russia and Kazakhstan is increasingly originating from rural areas of Kyrgyzstan<sup>30</sup>, where people have had little experience of living abroad and especially in urban areas, efforts in this direction can be hardly overestimated. While the mutual recognition of diplomas among the EAEU member countries is already in place, further improvements in this area shall also be pursued.

## 2.4. Portability of pension rights across the EAEU

The insufficient legislation on the portability of pension rights across the EAEU represents a significant deterrent in the formation of a common labour market and its overall integration.

While the harmonization of the pension funds and legislation across the EAEU has already began<sup>31</sup>, the pension systems among the Member States still differ significantly, especially regarding the national approaches to the funding of the pension system and distribution of pension funds. In Belarus and Russia, the law obliges the employer to pay the insurance premiums to the State Pension Fund. Through its contribution, the present working population finances the pensions of the previous generation. Kazakhstan has a mandatory funded pension system, where each employee makes own individual contributions equal to a certain percentage of his/her salary. Armenia and Kyrgyzstan have a mixed model. Interestingly, various degrees of mixed pension system models are slowly appearing across the EAEU, with Belarus remaining the sole exception.

The transfer and retaining of pension rights while working in another EAEU Member State represents another significant challenge. On 19 December 2016, the Eurasian Economic Commission (EAEC) approved a draft Agreement on Pension Security for Workers of the EAEU Member States<sup>32</sup>. The document provides for equal rights between migrant workers and nationals of the state of employment. In addition, each EAEU Member State shall ensure EAEU nationals with their right to a pension and secure the pension contribution for the periods of employment in its territory according to its national legislation and the norms of international treaties. The work experience acquired in the EAEU is added up and pensions are exported between the EAEU states. The draft Agreement was submitted to the Member States but is still pending approval.

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30. Masaliyeva Zh. Kyrgyzstan identified the regions from which most people leave for work, 30 November 2018

31. The following have been developed: a draft "Agreement on Pension Security for Workers of the Eurasian Economic Union Member States" (under development); draft "Agreement between the Authorized Bodies of the Member States on Implementation of the "Agreement on Pension Security for Workers of the Eurasian Economic Union Member States"; Regulations for information interaction on implementation of the "Agreement on Pension Security for Workers of the Eurasian Economic Union Member States" and "Agreement between the Authorized Bodies of the Member States on implementation of the "Agreement on Pension Security for Workers of the Eurasian Economic Union Member States".

32. See EAEC board approved a draft Agreement on Pension Security for Workers of the EAEU Member States, 20.12.2016

## 2.5. Access of migrant children to education: dependence on registration and legal employment of parents

Adequate statistics to estimate the number of children of migrant workers from the EAEU countries in Russia and Kazakhstan are extremely scarce. This is also the case for Kyrgyzstan, Armenia and Belarus, but the numbers of children of migrant workers there have been rather insignificant.

According to a recent poll, 51% of the Kyrgyz and 26% of the Armenian parents have signed up their children to public kindergartens<sup>33</sup>. The admission has proved challenging for 67% of the children from Armenia, 58% from Kyrgyzstan and 67% from Kazakhstan. In most cases, the parents still managed to solve the admission on their own.

Even though the schools in Moscow are easier to access than the kindergartens, some 12% of Kyrgyz children do not attend school. This is mainly due to the missing registration at the place of residence, the lack of vacant places<sup>34</sup> or missing medical insurance (medical card). Due to insufficient language skills of foreign children or the mismatch between their knowledge and the level of the envisaged grade and age group, the enrollment procedure into Russian schools may result in a loss of 1-2 years of education. The admission of Kyrgyz children to schools in Kazakhstan has also proved challenging. Upon concluding their secondary education, 31% of migrant children from Kyrgyzstan in Kazakhstan plan to pursue university studies, 26% want to support their families back home, 21% plan to start working, and only 16% would like to enter into college studies.

In terms of higher education, most parents would like to see their children enrolled into a university or college upon concluding their secondary education. In fact, 63% of parents from Kyrgyzstan and 59% of parents from Armenia would prefer their kids to study at a college, which seems the most promising educational pathway in view of Russia's acute shortage of specialists with secondary qualifications and the "overproduction" of specialists with a higher education<sup>35</sup>, especially in the humanities.

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33. 2017 study: Issues of protecting the rights of children who do not have the Russian Federation citizenship in Moscow. - Moscow: Commissioner for Human Rights in of Moscow, NGO "Center for Migration Studies", 2018. The survey covered 529 migrant workers – parents aged 18 to 60 years old who have children aged 0 to 17 years old who do not have the Russian citizenship and stay in Moscow. Respondents were selected from among those residing in 11 administrative districts of Moscow. A representative sample was used, based on the data from the Main Migration Office of the RF MIA on the number of migrants in Moscow. The sample was represented by the following parameters: gender, age, time of stay in Moscow.

34. In 63% of parents from Kyrgyzstan and in 33% of parents from Armenia children were not admitted to school due to lack of vacancies.

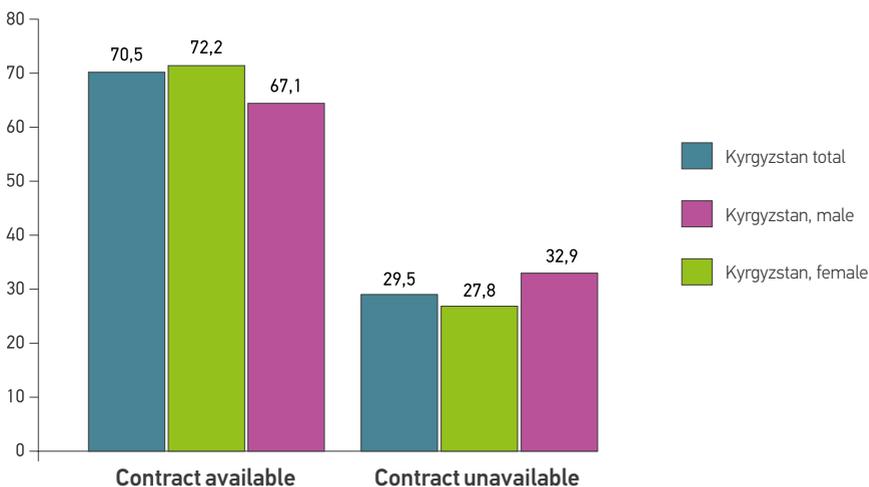
35. D. Poletayev, Migration and Qualification Issues in North and Central Asia ESCAP 2016

## 2.6. Protection of EAEU migrants' rights in Russia and Kazakhstan

To date, Russia and Kazakhstan have neither an organized labour recruitment system, nor any data exchange on available vacancies or a unified labour exchange office for EAEU nationals. Further challenges relate to the licensing of private employment agencies (PEA), or the renting of an apartment as property owners are usually reluctant to register foreign labour migrants who consequently fail to register officially. Moreover, the EAEU has no systematic alignment of trade unions, which generally fail to address the issue of local and migrant workers' rights.

A 2016 survey showed that 71% of Kyrgyz migrants working in Russia (Fig. 2) had a formal (written) employment contract with their employer but only 43% of them received their salary in an official manner (Fig. 4). This implies that almost half of the labour migrants abstained from formally registering their contracts. As similar studies have repeatedly shown,<sup>36</sup> the lack of a formal employment contract largely results from the migrant's own decision. In this vein, a 2016 study (Fig. 3) showed that only 45% of migrant workers without a formal contract claimed that their employers refused to issue such document.

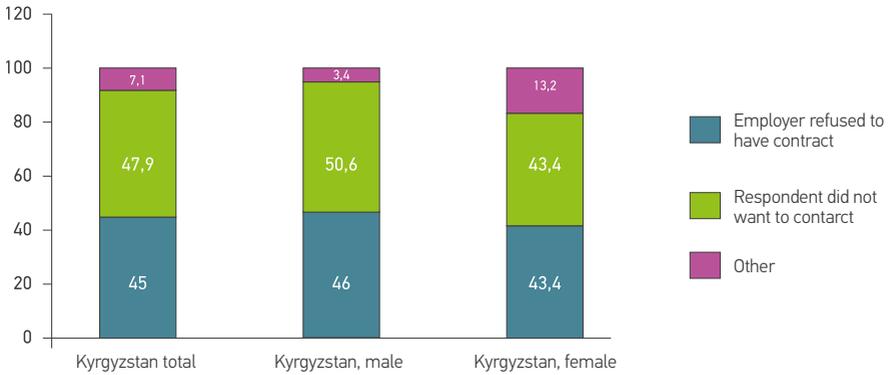
**Fig. 2. Availability of a formal employment contract among Kyrgyz labour migrants (in %, 2016, N=1001)<sup>37</sup>**



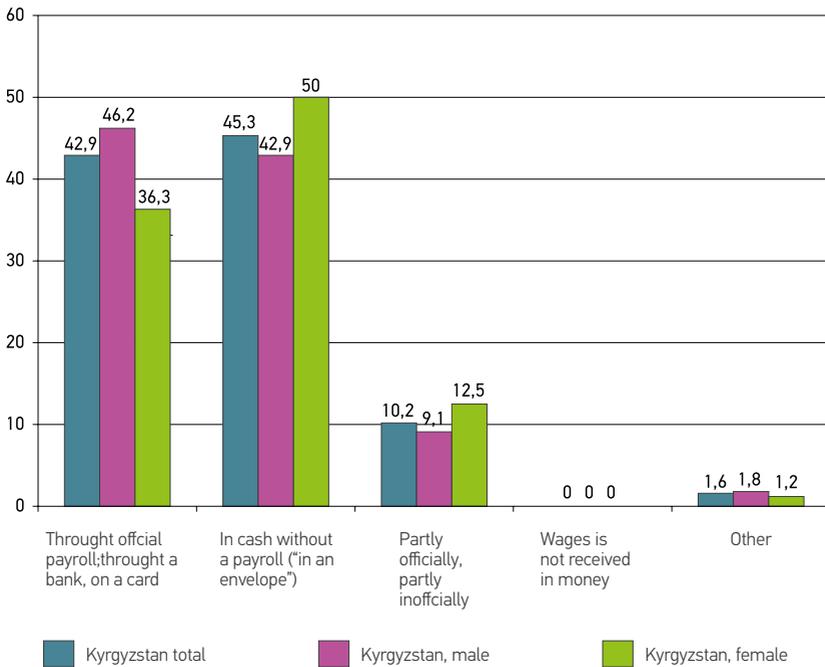
36. See Tyuryukanova Ye.V. et al. (2011); Zayonchkovskaya Zhanna et al. (2014)

37. Analysis of the Labour Market Situation in the Russian Federation for Effective Employment of Migrant Workers from the Kyrgyz Republic and Republic of Tajikistan, Tian Shan Policy Centre AUCA. 2016.

**Fig. 3. Reason for absence of formal employment contract (in %, 2016, N=1001)<sup>38</sup>**



**Fig. 4. Form of salary receipt (in %, 2016, N=1001)<sup>39</sup>**



38. Ibid  
39. Ibid

## 3. POLICY RECOMMENDATIONS

### 3.1. Short Term Measures

The possibility of a further EAEU expansion makes the issue of the documentation needed for the **formal registration** of migrant workers ever more important, especially for the destination countries within the Union. In particular, the Russian system of residence registration, which has replaced the Soviet residence permit, seriously hampers the migration processes within the EAEU, as well as the free circulation of labour force within Russia itself. Changing the registration system to a notification-based one and the issuing of individual tax identification numbers for migrants workers could solve this problem while also strengthening the control over tax payments. Such focus on the payment of taxes rather than the address of residence may also represent a viable solution for Kazakhstan. In a broader perspective, such approach would also make the migration management system within the EAEU more transparent and comprehensive in terms of its economic and financial implications. This may eventually contribute to a better understanding of the economic benefits of migration. Most importantly, the EAEU needs to establish a continuous and comprehensive **migration monitoring system**, the results of which should be publicly available (online) and continuously reflected in the media.

There is a need to harmonize the **calculation of pension benefits** across the Member States and to record the work experience acquired in another Member State. An **integrated EAEU pension system** would be even more advisable as it would establish common rules concerning the documentation needed (e.g. common template for certification of pension contributions across the EAEU, common recognition procedures). The introduction of a standardized document reflecting individual employment records may further enhance the control mechanisms in this area. However, this would again require the establishing of a proper monitoring system, which would oblige the private sector to file all employment records.

The **protection of migrants' rights** within the EAEU requires further negotiations among the Member States. It relates closely to social protection issues covered by other EAEU agreements, ranging from migrant workers' access to basic social services, to social security and social insurance. The EAEU Member States shall further involve local NGOs dealing with migrant workers and human rights in their efforts and define their role in the policy-making process. The protection of migrants working in the informal economy and legalization of their work is of particular importance.

Although the **fight against xenophobia (or so-called migrant-phobia)** represents a long-term objective, efforts in this direction must begin immediately. Possible actions include capacity building for journalists of the EAEU countries and a stronger engagement of mass media, as well as targeted educational programs addressing xenophobia across the EAEU. Destination countries such as Russia and Kazakhstan are of particular relevance in this context. However, the source countries equally need to address the challenges of xenophobia and minority rights.

The **blacklisting of migrant workers from within the EAEU** intending to work in Russia persists in case of committing two administrative offenses. The Russian authorities could consider a liberalization of the related legislation and amnesty for those EAEU nationals blacklisted for minor administrative offenses.

A harmonized health insurance system across the EAEU and the availability of suitable and effective **health insurance programs** for migrant workers and their families, as well as for students and other types of migrants should be further sought and supported by the Member States. Not only would it contribute to improving the overall quality of health care but also to the gradual elimination of the informal market of medical services offered to migrants. Whereas Russia has already introduced free medical insurance programs for legal labour migrants, these do not cover their family members. Meanwhile, there is hardly any evidence that insurance companies across the EAEU would make a coordinated effort to promote health insurance programs for migrant workers. For example, in Kazakhstan and Belarus, migrant workers, like any foreigner, can only count on free emergency medical care. A strategic decision on behalf of Member States to ensure a proper medical insurance for migrant workers and their family members (and other types of migrants) would represent an important step in the right direction.

Improving the **legal and social protection of the most vulnerable family members** of labour migrants (e.g. women in unregistered or early marriages, children left behind) and the provision of free legal and advocacy services are equally important. Should the parents of children left in the country of origin remain abroad for a longer period, the custody should be transferred to the responsible caretakers. More generally, the monitoring of EAEU Member States' compliance with existing international standards for the protection of vulnerable population categories needs to be ensured. The work of the CIS Inter-Parliamentary Assembly on harmonization of the legislation of the CIS countries<sup>40</sup> could be valuable in this regard. States should also involve civil society representatives in order to develop mechanisms for the prevention of early and forced marriages. The partnership between the governmental and non-governmental organizations operating in this field shall be formalized. Providing equal educational opportunities for boys and girls in the EAEU is another key requirement as are the measures needed to prevent any form of gender-based violence against women and girls and to ensure their security and respect of their rights and interests.

## 3.2. Mid-Term Measures

The establishing of an **EAEU fund** for addressing issues relevant to the Union would represent an important step forward. Such fund could be mobilised for:

- addressing persisting challenges in the field of labour migration;
- monitoring of migration flows and processes within the EAEU;

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40. Inter-Parliamentary Assembly of the CIS Member States <http://iacis.ru/about/index.php>

41. Russian-Kyrgyz Development Fund <http://rkdf.org/ru/>

- enhancing the efficiency of interaction between the national labour markets of the Member States and partner countries;
- advancing the harmonization of professional and educational standards;
- improving the EAEU statistical support.

The Kyrgyz-Russian Development Fund<sup>41</sup> has operated in Kyrgyzstan, aiming to accelerate the economic cooperation between both countries as well as the overall modernization and development of the Kyrgyz economy in the context of Eurasian economic integration. A similar fund could be expanded throughout the EAEU. Moreover, involving successful labour migrants who want to support their homeland and the overall diaspora of the EAEU Member States could be beneficial in this context.

The EAEU strategic objective to strengthen the joint economic projects within the Union points to **the need of preserving, mobilizing and further expanding the skills and competences of migrant workers**. The role of student mobility and educational migration is also key in regard, in particular concerning primary and secondary vocational education. Such training and retraining could facilitate the implementation of joint projects within the EAEU. It could therefore be organized within a single unified EAEU program, financed the aforementioned EAEU fund. The educational programs could focus on new disciplines, whereas the training and retraining could serve to raise the skills relating to new technologies and innovative products. Meanwhile, remittances spent on the education of migrants' children could be used in a more targeted way and bringing higher economic return by focusing on professions relevant for the EAEU labour market.

There is also a need to establish a special **pre-departure training program** for potential migrant workers in Kyrgyzstan and Armenia. Such program could entail language training and short courses on the legal, cultural and other country-specific aspects required for a smooth start in the new environment.

### 3.3. Long Term Measures

Eventually, the EAEU would need to determine the prospects for the maximum possible integration among its Member States in the following policy areas: labour markets, education, medical services, migrant registration, statistics, protection of labour rights and pensions. This would require strategic decisions, long-term planning and a reliable monitoring system to steer the implementation of the agreed measures.

An effective and cost-efficient migration policy should build on scientific evidence, which could be established through regular studies, expert and public discussion, the implementation of pilot projects and proper analysis of their results and impacts. Eventually, these pilots shall result in the implementation of full-fledged programs producing the desired results.

## 4. CONCLUSIONS

Migration policy and regulation within the EAEU has been gradually evolving, with Kyrgyzstan being the main proponent of further advancement in this sphere. Some of the mechanisms agreed among the Member States remain to be properly applied (e.g. the compulsory health insurance for migrants legally employed in Russia). Others are still under development (e.g. accumulation of pension years collected abroad).

Labour migration within the EAEU is of particular importance given the great number of migrant workers within the Union. Their significance as destination countries obliges Russia and Kazakhstan to modernize their migration regulation in order to remove existing barriers and facilitate mobility. Reliable statistical information and a sustainable migration monitoring system are key in this respect.

The protection of the rights of migrant workers and their family members in the EAEU has not received sufficient attention. Xenophobia and corruption have hampered the development of the EAEU. Their systematic countering remains a priority task for the EAEU. Meanwhile, the establishing of a functioning common labour market would require a restructuring of the trade union system, taking into account the best practices of independent trade unions, including foreigners' trade unions (e.g. Trade Union of Migrant Workers in Moscow).

The introduction of a differentiated approach to the different types of migration flows (e.g. labour migration, educational migration, seasonal migration) and the development of gender-sensitive policies linked to family migration in general and the (most vulnerable) family members of migrant workers in particular represent further key policy priorities.

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UKRAINE

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# Ukraine: One year of EU visa-free regime (Successes, challenges and lessons learned)

POLICY BRIEF

Katerina Ivashchenko-Stadnik

The visa liberalisation contributed to important changes, among others, improved the image of Ukraine in the EU, and popularized the EU in Ukraine.

## EXECUTIVE SUMMARY

Based on documents, reports and interviews with experts, this analytical note analyzes the context and the main quantitative indicators of the first visa-free year between Ukraine and the EU. It should be noted that due to an uncoordinated system of monitoring the regular passenger traffic, the actual number of visa-free travels from Ukraine to the EU probably significantly exceeds the current estimates of the Ukrainian side. Based on the most complete data available to date from the European Border and Coast Guard Agency (Frontex), it was concluded that, despite the fears that circulated in the Ukrainian and European media before introduction of the visa-free travel, a dramatic increase in migration activity from Ukraine to the EU did not occur. Although Ukraine remains in the top three in terms of the total number of entries into the Schengen zone, the total passenger traffic from Ukraine in 2017 decreased slightly and the level of recorded illegal crossings and crossings on forged documents decreased significantly.

Visa liberalization contributed to implementation of comprehensive security reforms, enhanced cooperation in the area of integrated border management, increased the prestige of the Ukrainian passport and citizenship, developed the transport and tourism infrastructure on the routes between Ukraine and the EU, boosted tourist and business travel, facilitated structural changes in the flow of travelers, improved the image of Ukraine in the EU, and popularized the EU in Ukraine.

Ukraine is recommended to address the findings of the First Report under the Visa Suspension Mechanism. The task of ensuring the security of all Ukraine's borders, including the border with the Russian Federation, requires attention of the European partners. It is recommended that the border crossing accounting methods be synchronized, including between the EU countries, and the awareness-raising campaign to explain the principles of responsible visa-free travel be continued. It is noted that the visa-free travel is a basic step for transforming Ukraine into a safe, reliable and developing Eastern partner of the EU.

# CONTEXT

On 11 June 2017, in accordance with the EU plan for development of managed and safe mobility with the Eastern Partnership countries, visa-free travel of Ukrainian citizens with biometric passports for a short-term stay in Europe came into effect. Introduction of the visa-free travel was a direct result of a visa liberalization dialog between the EU and Ukraine, launched on 29 October 2008, as well as the outcome of successful implementation of the Visa Liberalization Action Plan (VLAP) presented to Ukraine on 22 November 2010.

The VLAP, which is a common procedure for the Eastern Partnership countries, includes four blocks of standards to be met by a partner country, including: 1) document security, including biometrics; 2) border management, migration, and asylum; 3) public order and security; and 4) external relations and fundamental rights. The benchmarks discussed in the plan are intended to guarantee effective and sustainable achievement of the target standards not only through political decisions, but also through development of the necessary legislative and institutional framework for their implementation.

After publication of six VLAP Progress Reports (2011-2015), Ukraine was included in the list of third countries whose nationals are exempt from visa requirements to visit the Schengen countries. Thus, Ukraine became the third country after Moldova, which implemented the visa-free travel in April 2014, and Georgia, where the visa-free travel became effective in March 2017, whose nationals have the right to take advantage of the visa-free travel to all the EU member states<sup>1</sup> (except Ireland and the UK, which are EU members but are not part of the Schengen zone) and stay in the Schengen zone for up to 90 days during any 180-day period for tourist or business purposes (excluding employment), as well as to visit family members.

To prevent abuses of the visa-free travel and to ensure that the political situation does not pose a threat to further development and security of the partner country, on 20 December 2017, the European Commission developed and published the First Report under the Visa Suspension Mechanism which provides for a possibility of temporary return to visa requirements in case of non-compliance with the liberalization criteria. The Report remarks that on the whole Ukraine continues meeting the visa liberalization benchmarks, however, a number of requirements need to be addressed<sup>2</sup>, in particular ensure further fulfilling of anti-corruption reforms. In addition, as part of the EU policy to strengthen border control by the end of 2021<sup>3</sup>, a cross-checking through the ETIAS European Travel Information and Authorisation System will be introduced to identify those who pose a security threat<sup>4</sup>: every three years, nationals of the countries which enjoy the visa-free travel with the EU will need to complete an online application and pay an authorization fee

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1. The visa-free travel with Ukraine also extends to Iceland, Liechtenstein, Norway, and Switzerland, which are not EU members but are Schengen zone associated members. The EU members Bulgaria, Croatia, Cyprus, and Romania, which have not yet completed their Schengen zone accession process, are also included in the list of countries which have a visa-free travel with Ukraine.

2. First Report under the Visa Suspension Mechanism, Brussels, 20.12.2017 COM (2017) 815 final, p. 13, 14.

3. Security Union: Commission welcomes the European Parliament's adoption of the European Travel Information and Authorization System (ETIAS) and a stronger EU-LISA Agency, European Commission Press release, July 5, 2018. Available at: [http://europa.eu/rapid/press-release\\_IP-18-4367\\_en.htm](http://europa.eu/rapid/press-release_IP-18-4367_en.htm), access date 21 August 2018.

4. Border security: screening travelers before they arrive in the EU // European Parliament News, July 4, 2018. Available at: <http://www.europarl.europa.eu/news/en/headlines/security/20180628ST006868/security-screening-travellers-before-they-arrive-in-the-eu>, access date 25 July 2018.

(€7 for each application, except applicants younger than 18 and older than 70, who are exempt from the fee).

Visa free travel is perceived by the partners as a mutually beneficial solution to facilitate people-to-people contacts and strengthen business, social and cultural ties between the EU and Ukraine (Association Implementation Report on Ukraine SWD (2017) 376).

Ukraine continues meeting the visa liberalization benchmarks, but, a number of requirements remain to be addressed.

In the context of implementation of the visa-free travel between the EU and the Eastern Partnership countries, Ukraine is a unique case for two main reasons: 1) it is the largest of the Eastern Partnership countries in terms of population (42 mln)<sup>5</sup>, territory (557.5 sq. km)<sup>6</sup> and the length of external borders (6,993 sq. km)<sup>7</sup>, including borders with the EU (Ukraine borders Hungary, Poland, Romania and Slovakia), with the European Partnership countries (Moldova and Belarus) and with Russia; 2) it is the only country with two unresolved conflicts in its territory (the territory of the Crimea annexed by the Russian Federation in the south and the conflict in the Donetsk and Lugansk Regions in the east). Difficult geopolitical conditions determine the challenges and risks associated with both border management and implementation of the reforms necessary to continue the visa-free travel. Nonetheless, Ukraine continues to seek sustainable solutions to ensure security and to carry out structural reforms in the priority areas. According to public opinion polls, granting of the visa-free travel to Ukraine remains one of the country's tangible achievements in the period after the Euromaidan, the most significant political event of 2017<sup>8</sup>, and can be used as a powerful incentive for reform and development of Ukraine as one of the EU largest and most reliable Eastern partners.

## MAIN INDICATORS OF THE FIRST VISA-FREE YEAR

**Accounting issues.** An analysis of the visa-free statistics shows that as of June 2018, the quantitative estimates of the visa-free results has discrepancies due to different approaches to monitoring of the regular passenger traffic: presumably, the share of visa-free travels from Ukraine to the EU far exceeds the estimates of the Ukrainian side.

From January 2015 to June 2018, the State Migration Service of Ukraine issued 9 million biometric passports, including 5 million since 2017, when the visa-free travel entered into force<sup>9</sup>.

5. Excluding the temporarily occupied territories of the Autonomous Republic of Crimea and the city of Sevastopol. Evaluation by the State Statistical Service of Ukraine as of 1 January 2018. Available at: [www.ukrstat.gov.ua](http://www.ukrstat.gov.ua), access date 25 September 2018.

6. This refers to the controlled territory of Ukraine in 2017. In 1991, the controlled territory of Ukraine was 603.7 sq. km.

7. "Length of Ukraine's borders". The State Border Service of Ukraine response to the NGO "Europe without Barriers" request dated 5 November 2018. Available at: <https://europewb.org.ua/protyazhnist-kordoniv-ukrayiny/>, access date 13 November 2018.

8. Most Ukrainians named visa-free travel with the EU the main political event of the year. "Democratic Initiatives" Foundation survey data // Ukrainian Pravda, 27 December 2017. Available at: <https://www.euointegration.com.ua/news/2017/12/27/7075547/>, access date: 5 September, 2018

9. Interview with Sergey Gunko, Head of the Communication and Electronic Services Department of the State Migration Service of Ukraine // Hromadske Radio, 11 June 2018. Available at: <https://hromadske.com/news/2018/06/11/rik-bezvizu-popyt-na-biometrychni-pasporty-zalyshayetsya-pidvyshchenym>, access date 20 July 2018.

The State Border Guard Service of Ukraine reports 20.3 mln border crossings between Ukraine and the EU from 11 June 2017 to 11 June 2018. During the period, 4.8 mln crossings on biometric passports were recorded, including 555,000 visa-free<sup>10</sup>, which evidences that only 2.7% of all the EU border crossings were visa-free. In practice, this means that a passenger traveling on a biometric passport can cross the EU border using various types of valid visas (e.g., student, working, family within the Schengen zone and a visa for short-term visits outside the Schengen zone).

The number of visa-free crossings recorded by the Ukrainian side is underestimated.

The number of visa-free crossings recorded by the Ukrainian side is underestimated for two main reasons: 1) the Ukrainian border guards keep track of the visa-free travels only for those passengers who cross the border on a biometric passport for the first time; 2) the available data of the State Border Guard Service of Ukraine do not include transit border crossings between Ukraine and the EU through other countries, e.g., to Poland or Lithuania through Belarus, to Romania or Bulgaria through Moldova, and also to other European countries via Turkey (this route is popular due to developed transport links from Istanbul to other destinations in the EU). In addition, the visa-free passenger traffic does not take into account entrances to the EU of the Ukraine nationals temporarily residing in third countries<sup>11</sup>, as well as visa-free movement of Ukraine nationals using passports of third-countries (despite the fact that the Ukrainian legislation does not recognize dual citizenship, people who reside in the border regions massively use Hungarian and Romanian passports).

The challenges of Ukrainian registration of visa-free movements in the first visa-free year will be revealed in February–March 2019 after publication of the data of the EU Directorate General for Migration and Internal Affairs (DGHome). The statistics will take into account all entries registered by the member countries throughout the year from January 2018 to January 2019.

**Passenger traffic**<sup>12</sup>. The Frontex report<sup>13</sup> states that for three months after implementing of a visa-free travel with Ukraine (from July to September 2017)<sup>14</sup> the passenger traffic increased by 15% over the same period in 2016. However, the total passenger traffic from Ukraine in the reporting year decreased by 2.6% (from 14,695,622 to 14,318,281 crossings).

9. Interview with Sergey Gunko, Head of the Communication and Electronic Services Department of the State Migration Service of Ukraine // Hromadske Radio, 11 June 2018. Available at: <https://hromadskeradio.org/news/2018/06/11/rik-bezvizu-popyt-na-biometrychni-pasporty-zalyshtetsya-pidvyshchenym>, access date 20 July 2018.

10. Information of the State Border Guard Service of Ukraine, 11 June 2018. Available at: <https://dpsu.gov.ua/ua/news/Za-rik-bezvizu-prikordonniki-oformili-555-tisyach-ukrainciv-za-sproshchenoyu-proceduroyu/>, access date 10 July 2018.

11. Interview with Irina Sushko, Executive Director of the NGO "Europe without Barriers", 22 August 2018. The organization is engaged in advocacy for reforms in the field of security, freedom of movement and migration and continuously cooperates with the Ministry of Foreign Affairs, the State Migration Service, the State Border Guard Service of Ukraine. Interview with David Stulik, Press Attache of the EU Delegation to Ukraine, 31 August 2018. The interviews were conducted in preparation of the analytical note by the International Center for Migration Policy Development (ICMPD).

12. Frontex Risk Analysis 2018: 17, 52.

13. For technical reasons, the Frontex report does not reflect statistics for some countries, in particular for Italy, Cyprus, Malta, and Portugal for individual months. See note in Frontex Risk Analysis 2018, p. 52. However, until publication of the DGHome annual report, the Frontex data is the most comprehensive data available to date.

On the whole, Ukraine remains in the top three in terms of the total number of entries to the Schengen zone (for comparison, in 2017 there were 11.2 mln entries from Morocco, 9.7 mln from Russia, 1.9 mln from Moldova, and all of the mentioned countries, in contrast to Ukraine, demonstrate a tendency to a rise in the annual passenger traffic). According to the State Border Guard Service of Ukraine, 36% of the visa-free travels are made through air border crossing points<sup>15</sup> (i.e., most of the crossings are made through land border crossing points).

**Refusals of entry<sup>14</sup>.** According to Frontex, Ukraine leads the list of countries whose citizens most often were refused entry in 2017 (37,117 non-admissions, which is 34% more than in 2016). For comparison, Russia ranks second in the number of entry refusals (36,342 non-admissions, but the number of refusals decreased by 55% since 2016), Moldova ranks sixth (5,953 non-admissions, with a decrease in the number of refusals since 2016 by 57%). The three most common causes of EU entry refusals to Ukraine nationals include: lack of documentary evidence of the purpose of the trip (44% of the total number of refusals), lack of a valid visa or residence permit (21%), lack of the necessary funds for the period of stay in the EU or for return and transit (12%). At the same time, the number of recorded illegal border crossings<sup>17</sup> has decreased by 24% and the number of crossings on forged documents, including fake visas, decreased by 34%<sup>18</sup>. It should be noted that the data concern the total passenger traffic, therefore the conclusions regarding the issues arising during visa-free entries are estimations: e.g., according to the experts interviewed, the most frequent reasons for refusal of the visa-free entry may be overstay in the EU or other violations committed during the passenger's previous entries and recorded in the system<sup>19</sup>.

Frontex notes that competent authorities should focus specifically on monitoring the movement of individuals who pose an increased risk to public security (in 2017, 134 such cases were recorded and 2,267 nationals from Ukraine were denied entry because of national alert lists banning their entry), while movement of bona fide travelers should be facilitated.

Ukraine leads the list of countries whose citizens most often were refused entry in 2017. At the same time, the number of recorded illegal border crossings has decreased by 24% and the number of crossings on forged documents, including fake visas, decreased by 34%.

14. The passenger traffic from June to September is usually the most intense, which is related to increased tourism during the period. In the subsequent months, the intensity of the passenger traffic decreases.

15. Information of the State Border Guard Service of Ukraine, 11 June 2018. Available at: <https://dpsu.gov.ua/ua/news/Za-rik-bezvizu-prikordonniki-oformili-555-tisyach-ukrainciv-za-sproshchenoyu-proceduroyu/>, access date 10 July 2018. It should be noted that the share of the air passenger traffic in the structure of all the movements across the EU borders in 2017 was 57% (Frontex Risk Analysis 2018: 52).

16. Frontex Risk Analysis 2018: 9, 18, 19, 23, 48, 43, 49.

17. The total number of recorded illegal crossings of the border of Ukraine and the EU in 2017 was 105. It is primarily about land crossings with the EU member states bordering Ukraine.

18. The total number of the recorded uses of forged documents for EU border crossing by nationals of Ukraine in 2017 was 801, of which 519 (i.e., about 65%) were registered when crossing the border with Poland.

19. There is an issue related to operational data collection and analysis of information on refusals of entry to the EU from Ukraine at the air border crossing points, because the State Border Guard Service of Ukraine officers learn about entry refusals only if the passenger reports this when crossing back. Interview with Vasyl Servatyuk, First Deputy Chairman of the State Border Guard Service of Ukraine // *Ukrainska Pravda*, 11 June 2018. Available at: <https://www.eurointegration.com.ua/rus/news/2018/06/11/7082929/>, access date 5 September 2018.

# ASSESSMENT OF SUCCESSES AND CHALLENGES OF THE FIRST VISA-FREE YEAR

According to Ukrainian and European experts, introduction of the visa-free travel comes with it a number of positive and complex image-related, political, and economic results for both Ukraine and the EU, namely:

- Visa liberalization **evokes in-depth security reforms**, providing new benefits not only for the individuals who travel visa-free, but also for those who do not leave Ukraine (e.g., expanded network of centers for rendering administrative services to the population<sup>20</sup>, enhanced document security and personal data protection, improved control over border processes, in particular, the operation of the phytosanitary and customs services). At the same time, Ukraine has failed to raise public awareness about biometric identifiers (namely, alternatives, such as electronic signature, retina, facial oval resorted to where biometric identifiers cannot be used), therefore, part of the population have retained a biased opinion against biometrics and lack awareness of its benefits.
- The prestige of the Ukrainian passport and citizenship is increasing (in the Quality of Nationality Index, Ukraine has risen from 99th position in 2016 to 80th in 2017: this is a general trend for the Eastern Partnership countries that have been granted visa-free travel with the EU<sup>21</sup>), including for the Ukrainian nationals living in the uncontrolled territories in the Crimea and Donbass, which promotes national integration and reduces interest in obtaining other countries' passports. At the same time, the balance between freedom of movement and security should be given closer attention (for more details, see the recommendations).
- The transport and tourist infrastructure of the routes between Ukraine and the EU has been developing, low-cost airlines enter the market (e.g., Ryanair entered Ukraine on 3 September 2018, the launch of EasyJet and Eurowings is expected

Visa liberalization evokes in-depth security reforms, providing new benefits not only for the individuals who travel visa-free, but also for those who do not leave Ukraine.

20. The administrative services centers (national abbreviation TsNAP) engaged in electronization and related services to the public, including issuing of biometric passports, started to be established in 2008, but the dynamics of opening TsNAPs until 2012 remained low (1 center was opened in 2008, 3 were in operation in 2010, 8 in 2011, and 45 in 2012). Since 2013, the number of operating centers has been steadily increasing, largely due to international technical assistance: in 2013, 502 centers were already in operation, in 2018 – 775; the Programs and projects that provide for establishing and modernization of TsNAP in Ukraine are supported by the European Commission, UNDP, Federal Ministry for Economic Cooperation and Development of Germany, and several other international agencies and institutions. Information of the Ministry of Economic Development and Trade of Ukraine on establishing of TsNAPs. Available at: [http://me.gov.ua/Documents/List?lang=uk-UA&id=f344936a-5eb0-482d-ae5a-4575bf02e91a&tag=InformatsiiniTaAnalitychniMaterialiZPitanStvorenniaTsentrivNadanniaAdministrativnihPoslugDokumentiv&fbclid=IwAR1ADeMOHtoM5uk9gww&wktidY\\_mdDqgmDgfA3j\\_YfyEh3J5753LZzyl6qwwM](http://me.gov.ua/Documents/List?lang=uk-UA&id=f344936a-5eb0-482d-ae5a-4575bf02e91a&tag=InformatsiiniTaAnalitychniMaterialiZPitanStvorenniaTsentrivNadanniaAdministrativnihPoslugDokumentiv&fbclid=IwAR1ADeMOHtoM5uk9gww&wktidY_mdDqgmDgfA3j_YfyEh3J5753LZzyl6qwwM), access date 7 November 2018.

21. See Moshnyaga V., Moshnyaga G. Visa free regime of the Eastern Partnership countries and the EU: Effects and Policies // *Moldoscopie*, no.2(81), 2018, c.106-132.

in 2018<sup>22</sup>), thus travel becomes more affordable, flights are possible from a larger number of cities (apart from million-population cities, new points of communication appear on the flight maps, e.g., Kherson, where international traffic increased rapidly in 2017). At the same time, there are difficulties with the logistics of land movements: the number of border crossing points, in particular, on the border with Poland, is not enough (according to experts, in order to avoid the “bottleneck” effect at the land crossing points, their number should be increased several times). Although the EU allocates money for modernization and construction of border crossing points on the border with Ukraine, the funds are used inefficiently (in 2018 the project to upgrade six border crossing points on the EU eastern border was not completed and subsequently closed)<sup>23</sup>. In addition, at the EU initiative, the signing of the “Open Skies” treaty on joint aerial space between Ukraine and the EU was postponed indefinitely<sup>24</sup>.

- **Removal of logistical barriers contributes to an increased number of tourist and business trips and a structural change in the traveler flow** (there is a growing awareness that not only “labor migrants” travel to the EU from Ukraine), improved prospects for bilateral relations (trade, educational, scientific, cultural), expanded formal and informal horizontal relations, which, eventually, contributes to improving the image of Ukraine in the EU and popularizes the EU in Ukraine. At the same time, against the background of deteriorating economic situation of the population and a limited alternative of transport solutions in Ukraine, travels do not yet take a significant place in the leisure structure of the Ukrainian nationals. According to a 2017 poll, only about 17% of respondents in all the regions of Ukraine traveled somewhere for vacation or during the year<sup>25</sup>, 57% have never been abroad, 72% in principle do not plan such a trip; of those who do not plan to visit the EU countries, 77% cannot do this for material reasons<sup>26</sup>. According to a late 2018 poll (i.e., almost a year and a half after introduction of the visa-free travel), 7.6% of respondents traveled to the EU as tourists, 5.4% visited friends and relatives, 4.7% traveled to the EU in search of employment opportunities, 0.5% went to study, 1.1% to professional events (conferences, exhibitions, etc.), however, 81.9% did not

Against the background of the deteriorating economic situation of the population and limited alternatives for transport solutions in Ukraine, travels do not yet take a significant place in the leisure structure of Ukrainian nationals.

22. The prospects of further negotiations with global lowcosters were stated by Vladimir Omelyan, Minister of Infrastructure of Ukraine, at a meeting with representatives of the European Business Association (EBA) in August 2017<sup>22</sup>. The prospects of further negotiations with global lowcosters were stated by Vladimir Omelyan, Minister of Infrastructure of Ukraine, at a meeting with representatives of the European Business Association (EBA) in August 2017.

23. See: EU scraps border projects as ‘Ukraine fatigue’ grows // Reuters, 20 February 2018. Available at: [https://www.reuters.com/article/us-ukraine-eu-grants-exclusive/exclusive-eu-scraps-border-projects-as-ukraine-fatigue-grows-idUSKCN1G41GT?feedType=RSS&feedName=worldNews&utm\\_source=Twitter&utm\\_medium=Social&utm\\_campaign=Feed%3A+Reuters%2FworldNews+%28Reuters+World+News%29](https://www.reuters.com/article/us-ukraine-eu-grants-exclusive/exclusive-eu-scraps-border-projects-as-ukraine-fatigue-grows-idUSKCN1G41GT?feedType=RSS&feedName=worldNews&utm_source=Twitter&utm_medium=Social&utm_campaign=Feed%3A+Reuters%2FworldNews+%28Reuters+World+News%29), access date 5 September 2018.

24. For more details about the significance of the “Open Sky” treaty and the status of its signing, see the State Aviation Administration of Ukraine, section “European Integration”. Available at: <https://avia.gov.ua/pro-nas/mizhnarodna-diyalnist/yevointegratsiya/>, access date 1 September 2018.

25. A poll by the Institute of Sociology of Ukraine, June 2017. Sampling of 1800 respondents.

26. A poll by the Gorshenin Institute in conjunction with the Representative Office of the Friedrich Ebert Foundation in Ukraine and Belarus, June 2017. Sampling of 2000 respondents.

take advantage of new opportunities for travel<sup>27</sup>. This suggests that the inclusive potential of the visa-free travel for the nationals of Ukraine has yet to be worked on. In addition, against the background of migration crises and the risk of phobias arising against their background, the EU countries should pay more attention to an objective and progressive assessment of the economic and geopolitical advantages of closer and more comprehensive cooperation with Ukraine (besides integrating the Ukrainian labor resources into their labor markets), including investment and innovation cooperation projects.

Among the most important system challenges to the visa-free travel in Ukraine, experts name two key ones: 1) a possible rollback of reforms associated with the start of the election campaign in Ukraine (the presidential election will be held in March 2019); 2) deterioration of the migration situation (since identification of migrants with an irregular status after introduction of the visa-free travel takes time<sup>28</sup> and depends on the accounting method).

The European Parliament plays a key control role in launching the visa suspension mechanism: where there are grounds, the mechanism will be applied. According to the European partners, in the short term there is no threat, but there are signals that are causing concern. In the mid-term perspective, if Ukraine does not focus on addressing the findings of the First Report under the Visa Suspension Mechanism of 20.12.2017, a critical mass of violations can accumulate<sup>29</sup>. Despite the fact that the visa-free travel has been introduced in several countries, including five countries of the Western Balkans and three countries of the Eastern Partnership, it remains a pilot project for the EU and its mechanism on many issues has not yet been worked out yet. In this sense, each new national visa-free case is a set of tasks that requires development and use of both standard and unique tools for reaching the goals set.

## PRIORITIES AND RECOMMENDATIONS

**For Ukraine.** After the first visa-free year, the main tactical priority of further work for Ukraine is **compliance with the already mentioned recommendations of the monitoring Report under the Visa Suspension Mechanism**. Specifically, Ukraine should: 1) enhance cooperation with the EU to prevent

In terms of strategic priorities, it is important to note the need to strengthen cooperation between Ukraine and the EU in the field of border security.

27. A poll by the Institute of Sociology of Ukraine, October 2018. Sampling of 1800 respondents. 28. Currently, illegal migrants from Ukraine are most often identified during border crossing or if they committed an offense.

28. Currently, illegal migrants from Ukraine are most often identified during border crossing or if they committed an offense.

29. Interview with David Stulik and Irina Sushko.

risks stemming from irregular migration; 2) step up information campaigns clarifying the rights and obligations entailed in visa-free travel; 3) ensure independence, effectiveness and sustainability of the anti-corruption institutional framework (in particular by setting up a High Anti-Corruption Court in accordance with the Venice Commission opinion and Ukrainian legislation<sup>30</sup>); 4) restore credibility of the National Agency on Corruption Prevention (NACP) and establish an effective verification system of asset declarations; 5) repeal requirements for electronic declaration of civil society activists; 6) step up efforts to combat organized crime, including by increasing resources and expertise in the National Police and a clear delineation of competencies and improving cooperation between the law enforcement agencies.

In the context of border management, the first visa-free year allowed for enhanced cooperation between the national security services and Europol, but weak horizontal interaction between the agencies inside Ukraine (State Migration Service, State Border Guard Service, Security Service, and Ministry of Foreign Affairs) remains evident. The Ukrainian side was recommended to improve its migration policy, paying particular attention to development of a regulatory standard for entry of foreign citizens into Ukraine, including on the issue of granting long-term visas, residence permits, citizenship.

**For Ukraine and EU.** In terms of strategic priorities, it is important to note the **need to strengthen cooperation between Ukraine and the EU in the field of border security.**

Despite the fact that the EU and its consultative missions (e.g., EUAM) do not have a mandate to assist Ukraine in the conflict zone in the east, the tasks of integrated management and border security in this problem area require partners' urgent and close attention. In particular, since, according to the State Border Guard Service of Ukraine, more than 400 km of Ukraine's border with the Russian Federation remain virtually unmonitored, to reduce the risk of border crossing for individuals who pose a threat to security, it is necessary to **introduce innovative elements of border management** through introduction of additional control filters that do not affect mobility, but are of preventive nature<sup>31</sup>.

Ukraine and the EU are recommended to continue the awareness-raising campaign explaining to individuals what it means to travel responsibly.

It is necessary to **develop a mechanism for exchange of relevant information between national agencies** on lists of countries with migration risks, to give clear instructions on the mandates of security services (who needs to be stopped and for how many hours, who makes the final decision regarding refusal of entry, readmission, asylum, who pays the costs of decision implementation). It is recommended that bilateral negotiations are held on the **possibility of introducing joint control at the borders between the EU**

30. In September 2018, candidates for the Public Council of International Experts are selected to assist in selection of judges of the High Anti-Corruption Court (HAC). According to Hugo Mingarelli, Head of the EU Delegation to Ukraine, the EU intends to offer its candidates to the council in the near future. Potential candidates for judges must submit their applications by 14 September 2018.

31. This refers to extended use of biometric verification and identification, including for foreigners, technologization of control, including contactless inspection of vehicles and persons, other elements of introduction of the "digital border" model, as well as introduction of the "second line of control" (interviews), use of the "one-stop shop" (in which, e.g., representatives of the customs and environmental services can work together), joint risk analysis, etc. Comment by Irina Sushko, 14 November 2018. See also Filippov S. Border control in the crime countering system // Scientific Papers of National University "Odesa Law Academy", 2018, p. 127, 128.

**countries and Ukraine** (where this has not yet been done), which will reduce the crossing time<sup>32</sup>. It is recommended that the border crossing accounting methods be synchronized, including between the EU countries. It is also necessary to work on the possibilities of separating passenger and cargo flows at the land border crossing points, speeding up customs control, and strengthening cooperation to minimize corruption risks through joint monitoring with participation of Ukraine and the EU countries.

Bilateral initiatives should also be aimed at improving the transport infrastructure, upgrading of the old and construction of new roads, airports, border crossing points between Ukraine and the EU, while the Ukrainian side should raise technical and anti-corruption standards in implementing such joint projects.

Ukraine and the EU are recommended to continue the **awareness-raising campaign explaining to individuals what it means to travel responsibly**, how to protect themselves from unscrupulous intermediaries and avoid the risks of human trafficking, and also explain the importance of the visa-free travel for development of Ukraine and its neighbors, focusing on what has changed and in which spheres, apart from the right of simplified border crossing.

Strategic recommendations on the following joint post visa-free steps provoke a heated discussion between the Ukrainian and European sides: e.g., the statements by Petro Poroshenko, President of Ukraine, about Ukraine's accession to the Schengen zone and the EU as the country's next steps towards approximation with Europe do not resonate with the European partners who consider such goals ungrounded and premature. Attention is drawn to the need of consolidating the visa-free accomplishments as a basis for working on the following stages of reforms: it is necessary to intensify legislative initiatives to implement the Association Agreement<sup>33</sup>, take practical steps for nostrification of diplomas and other qualification documents, and open access to the land and real estate market, etc.

Discussions about the forms of integration of Ukraine and the EU are becoming controversial after a recent publication by the European Commission of the "Association Implementation Report on Ukraine", which many Ukrainian experts considered as rejection of bilateral plans for integration with the EU market. The Brussels message is interpreted by the Ukrainian side as a pessimistic cooperation plan: currently, given the low progress in implementation of the reforms, it may not be a question of bilateral plans, but only of unilateral commitments of Ukraine<sup>34</sup>.

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32. See Kulchytska K. Quality matters: what should be improved on the EU-Ukraine land border // Blogactive, November 5, 2018. Available at: <https://ukraineoffice.blogactive.eu/2018/11/05/quality-matters-what-should-be-improved-on-the-eu-ukraine-land-border/>, access date 12 November 2018.

33. To date, Ukraine has adopted 88 laws in the framework of the Association Agreement implementation. In the European partners' opinion, this is a very slow pace. In Slovakia, e.g., hundreds of laws were passed in a year as part of the Association Agreement implementation (interview with David Stulík).

34. Sidorenko S. There is association, but no integration: The European Commission appreciated the progress of Ukraine in implementation of the agreement with the EU // European Pravda 12 November 2018. Available at: <https://www.eurointegration.com.ua/rus/articles/2018/11/12/7089263/>, access date 13 November 2018. Association Implementation Report (Brussels, 7.11.2018 SWD(2018) 462 final) available at: [https://cdn3-easas.fpfis.tech.ec.europa.eu/cdn/farfuture/aZnrBQ70zJtiXaRXV69qTiPl-d-gbCzXpirQUpU4EY/mtime:1541749617/sites/eeas/files/2018\\_association\\_implementation\\_report\\_on\\_ukraine.pdf?fbclid=IwAR34Jz5Lwdwns-VVejmAU9cfP40vUW-ibMs9UnhyL6mNlrt6CM9ispUU](https://cdn3-easas.fpfis.tech.ec.europa.eu/cdn/farfuture/aZnrBQ70zJtiXaRXV69qTiPl-d-gbCzXpirQUpU4EY/mtime:1541749617/sites/eeas/files/2018_association_implementation_report_on_ukraine.pdf?fbclid=IwAR34Jz5Lwdwns-VVejmAU9cfP40vUW-ibMs9UnhyL6mNlrt6CM9ispUU), access date 13 November 2018.

**For the EU.** Given the specifics of operation of the Ukrainian government structures, the EU should assist Ukraine in operationalization of the Association Agreement with definition of specific statements of work, deadlines and implementation indicators. For further implementation of the legislation, the Ukrainian government needs assistance of a wide range of actors, therefore the EU is recommended to expand partnership on projects, increasing the circle of recipients, and strengthen work in the regions, mainstreaming the demand for reforms and control of civil society over their implementation. For objective monitoring of the situation, the EU is recommended to diversify information channels, namely, not only collect data from government agencies and public councils under them, but also cooperate with independent experts and non-governmental organizations. It is critical that the EU recognize its interest in Ukraine as a safe, reliable and rapidly developing partner, as well as articulate the real prospects for Ukraine's economic and political integration into the European area.

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UZBEKISTAN

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# Evaluating the Future of Uzbek Labour Migration

Yan Matusevich

POLICY BRIEF

## EXECUTIVE SUMMARY

Despite being the region's largest exporter of migrant labour, Uzbekistan has only recently identified migration as a key policy area with a particular focus on diversifying labour migration flows and incorporating migration into broader development planning. As part of this renewed emphasis on migration, Uzbekistan is expanding organized labour exporting schemes with third countries such as Russia, South Korea, Japan and Poland as a safe and lasting alternative to irregular and precarious forms of migration. In their current form, however, these organized labour recruitment programs cannot adequately channel the existing demand for labour migration within Uzbekistan and have not proven to be effective in protecting the rights of labour migrants. This policy paper outlines the inherent limitations of government-to-government organized labour recruitment programs, suggests mechanisms for ensuring the fair treatment of Uzbek labour migrants abroad and identifies how improving migration data collection can help better inform Uzbek migration policies.

## CURRENT CONTEXT

As the most populous country in Central Asia, **Uzbekistan has been the region's largest net exporter of labour migrants and the region's primary destination for remittances from migrants living abroad.** According to a report released by Uzbekistan's State Committee on Statistics, over 4 million Uzbek citizens left the country for employment abroad in 2018.<sup>1</sup> Remittances by individuals from Russia to Uzbekistan totalled over \$2.6 billion dollars in 2017 – more than double the amount sent from Russia to Kyrgyzstan and triple the sum transferred from Russia to Tajikistan in the same year.<sup>2</sup> Since the early 2000s, the Russian Federation has attracted a lion's share of all migrant workers departing from Central Asia with Uzbeks representing the largest migrant community in the country. The absence of reliable migration data and the circular nature of labour migration between Uzbekistan and Russia make it very difficult to accurately estimate the total Uzbek migrant population currently residing and working in Russia. Based on the latest border crossing data from 2017, however, over 1.8 million Uzbek citizens indicated “work” as their purpose of stay upon arrival in Russia. This number represents a conservative estimate since it does not take into account Uzbek migrants who are permanently residing in Russia or did not leave Russia in 2017.

Despite its massive scale and critical socioeconomic role, the issue of labour migration did not, for a long period, figure as a policy priority for the Uzbek government as there was a lot of stigma associated with the topic of massive labour migration.

Under the new leadership of current president Mirziyoyev, there has been a noticeable change in tone and policy concerning labour migration. At the government level, Uzbekistan's Agency for Foreign Labour Migration Affairs under the Ministry of Employment and Labour Relations was made responsible for managing outward labour migration by providing testing and training for future labour migrants.<sup>3</sup> Moreover, Mirziyoyev signed a resolution establishing a government fund dedicated specifically to protecting the rights and interests of Uzbeks working abroad.<sup>4</sup> After more than two

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1. The State Committee of the Republic of Uzbekistan on Statistics (2019), 'The number of persons who entered and left the Republic of Uzbekistan (January–December 2018)', Available at: <https://stat.uz/en/press-center/news-committee/5311-the-number-of-persons-who-entered-and-left-the-republic-of-uzbekistan-january-december-2018> Accessed January 30, 2019

2. The Central Bank of the Russian Federation (2018), 'Cross-Border Transfers of Individuals (Residents and Nonresidents)', Available at: <http://www.cbr.ru/eng/statistics/Default.aspx?Prtid=lg> Accessed December 15, 2018.

3. UZDaily (2018), 'Measures to improve the system of external labour migration adopted', UZDaily.com 7 July 2018. Available at <https://www.uzdaily.com/articles-id-44720.htm> Accessed December 15, 2018

4. Gazeta.uz (2018), 'Создан фонд поддержки трудовых мигрантов' [Support fund for labour migrants created] in Gazeta.uz, 5 July 2018. Available at <https://www.gazeta.uz/ru/2018/07/05/labour/> date of access December 15, 2018

decades of non-membership, Uzbekistan became IOM's most recent member state in November 2018 signalling Uzbekistan's renewed commitment to engaging in migration management at the international level.<sup>5</sup> In December 2018, the Director-General of the ILO paid a maiden official visit to Uzbekistan showing a renewed interest in improving working conditions and enhancing social protection for all workers – both at home and abroad.

Uzbekistan is also taking a more active role in supporting its migrant worker population abroad with the country's deputy minister of employment paying an unprecedented visit to migrant workers awaiting deportation at a special detention centre in Russia.<sup>6</sup> Uzbekistan's President Mirziyoyev recently highlighted that Uzbek labour migrants were leaving the country due to the lack of adequate employment at home and signalled the intent to address this issue at the highest level.<sup>7</sup>

As part of the country's efforts to improve its management of outward labour migration, **Uzbekistan has placed emphasis on expanding organized forms of labour recruitment designed to send Uzbek citizens to work abroad.** A recently adopted resolution "On additional measures to further improve the system of external labour migration of the Republic of Uzbekistan" provides for the opening of representations of the Agency for Foreign Labour Migration Affairs in destination countries and the accreditation of foreign companies for the recruitment of Uzbek migrant workers.<sup>8</sup> Furthermore, the Government of Uzbekistan has explicitly stated that the safety of migrants residing and working abroad represents a major migration policy objective.<sup>9</sup> As part of this new commitment, Uzbekistan has established a fund dedicated to supporting and protecting Uzbek labour migrants. The fund is meant to be used to deliver legal and social protection, as well as material assistance, to Uzbek migrants who have been victims of violence, forced labour and discrimination, have had their labour rights violated abroad, have financial difficulty or have been left without documents.

As part of the country's efforts to improve its management of outward labour migration, Uzbekistan has placed emphasis on expanding organized forms of labour recruitment designed to send Uzbek citizens to work abroad.

5. International Organization for Migration (2018), 'IOM Director General Welcomes Uzbekistan as 173rd Member State', International Organization for Migration 27 November 2018. Available at <https://www.iom.int/news/iom-director-general-welcomes-uzbekistan-173rd-member-state> Accessed December 15, 2018

6. Hashimova, U. (2018), 'At Last, Uzbekistan Extends Some Support to Migrant Workers', The Diplomat 21 November 2018. Available at <https://thediplomat.com/2018/11/at-last-uzbekistan-extends-some-support-to-migrant-workers/> Accessed December 15, 2018

7. Auyezov, O. (2018), 'Migrant workers' struggles push Uzbekistan to open up', Reuters December 21, 2018. Available at <https://www.reuters.com/article/us-uzbekistan-economy-migrants/migrant-workers-struggles-push-uzbekistan-to-open-up-idUSKCN10K0EX> Accessed December 22, 2018

8. President of Uzbekistan (2018), 'О дополнительных мерах по дальнейшему совершенствованию системы внешней трудовой миграции Республики Узбекистан' [On additional measures to further improve the system of external labour migration], 05 July 2018 Available at [http://uz.uz/ru/documents/o-dopolnitelnykh-merakh-po-dalneyshemu-sovershenstvovaniyu-s-05-07-2018?m=y&ELEMENT\\_CODE=o-dopolnitelnykh-merakh-po-dalneyshemu-sovershenstvovaniyu-s-05-07-2018&SECTION\\_CODE=documents](http://uz.uz/ru/documents/o-dopolnitelnykh-merakh-po-dalneyshemu-sovershenstvovaniyu-s-05-07-2018?m=y&ELEMENT_CODE=o-dopolnitelnykh-merakh-po-dalneyshemu-sovershenstvovaniyu-s-05-07-2018&SECTION_CODE=documents) Accessed December 15, 2018 Since this restriction was lifted in 2015, all asylum seekers enjoy the right to asylum along with additional derivative rights (social, medical, educational, cultural, etc.).

9. International Organization for Migration (2018), 'Greetings by representative of the Republic of Uzbekistan at the 109th Session of IOM Council', Geneva Switzerland, 27 November 2018 Available at: <https://governingbodies.iom.int/system/files/en/council/109/Uzbekistan%20-%20109th%20Council.pdf> Accessed December 15, 2018

Uzbekistan is currently in the process of expanding cooperation with third countries concerning organized labour recruitment programs, having recently signed a landmark agreement with the Russian Federation. Referred to as *orgnabor* in Russian, the idea behind this system is to send groups of trained labourers to meet labour shortages of specific employers in particular areas of the Russian economy.<sup>10</sup> As part of its agreement with Russia, Uzbekistan's Agency for Foreign Labour Migration Affairs is responsible for the selection, pre-departure training and preparation of future migrant workers whereas Russian employers are obligated to provide adequate housing, ensure safe working conditions and offer fair remuneration of no less than the national minimum wage.

With agreements already in place with the Russian Federation and South Korea, Uzbekistan is seeking to expand the organized recruitment scheme to other countries.

Uzbekistan's new push to expand organized labour programs come at the tail end of a long history of migration cooperation with South Korea where Uzbeks constitute the fifth largest migrant group with an estimated population of 55 thousand.<sup>11</sup> South Korea has had a Memorandum of Understanding in place with Uzbekistan since 2006 under which a limited number of Uzbek migrant workers were sent to South Korea under the country's existing employment permit system (EPS). Having renewed its agreement with South Korea in 2016, Uzbekistan has seen an upsurge in interest among the Uzbek workforce in going to work in South Korea with over 87 thousand registering their applications for the quota of 5 thousand set by South Korea in 2017.

With agreements already in place with the Russian Federation and South Korea, Uzbekistan is seeking to expand the organized recruitment scheme to other countries. Uzbekistan's Ministry of Labour held talks in February and March 2017 to start supplying Japan with a small number of qualified Uzbek workers, with an emphasis on positions in elderly care.<sup>12 13</sup> Similarly, Uzbekistan's Agency for Foreign Labour Migration Affairs signed agreements with several Polish recruitment agencies with a first group of workers departing in June 2018.<sup>14</sup>

10. Historically, the term *orgnabor* emerged in the Soviet Union to refer to government-administered labour distribution programs that mobilized millions of workers between 1930 and 1970 to work on large-scale construction projects on the periphery of the Soviet Union. While this kind of internal labour migration occurred in the context of a centralized planned economy during the Soviet Union, these new organized labour recruitment schemes between Uzbekistan and employers in third countries are designed to address labour shortages in the private sector.

11. Eurasianet (2017), 'Узбекистанцы на 5-м месте среди крупнейших общин мигрантов в Южной Корее' [Uzbekistan holds 5th place in terms of the largest migrant communities in South Korea], 23 June 2017, Available at <https://russian.eurasianet.org/узбекистанцы-на-5-м-месте-среди-крупнейших-общин-мигрантов-в-южной-корее> Accessed on December 15, 2018

12. Agency for Foreign Labour Migration Affairs Under the Ministry of Employment and Labour Relations (2017), 'Япония-Узбекистан: Начало нового этапа сотрудничества в области трудовой миграции' [Japan-Uzbekistan: The start to a new phase of cooperation in the area of labour migration], 26 February, 2017 Available at [http://migration.uz/ru/news/press-relizy/?ELEMENT\\_ID=53](http://migration.uz/ru/news/press-relizy/?ELEMENT_ID=53) Accessed on December 15, 2018

13. Jahn Information Agency (2018), 'В Минтруда состоялась встреча с японской делегацией' [Meeting with Japanese delegation took place in the Ministry of Labour], 15 May 2017 Available at <http://jahnnews.uz/ru/obshchestvo/160/34105/> Accessed on December 15, 2018

14. Regnum.ru (2018), 'Узбекистан впервые организованно отправил мигрантов на работу в Польшу' [Uzbekistan sends migrants to work in Poland in an organized manner for the first time], 14 June 2018 Available at <https://regnum.ru/news/2431618.html> Accessed on December 15, 2018

# ORGANISED RECRUITMENT PROGRAMS: FRIEND OR FOE?

The official rationale behind organized foreign labour recruitment programs is its controlled nature whereby destination and source countries can more effectively match supply and demand in specific areas of the economy. In this respect, these schemes bear a strong resemblance to the guest worker programs in place in Western Europe in the 1960s and 1970s. The idea is that employers can effectively pre-select qualified labourers from abroad without needing to spend time on recruiting and training at home. From the perspective of the migrant worker, these government-directed programs should guarantee adequate employment and adequate working conditions. **For source countries like Uzbekistan, the added value of these programs is their temporary or circular nature, which is designed to in theory prevent brain drain and make sure that qualified cadres return home after gaining useful work experience abroad.**

In reality, **these organized foreign labour recruitment schemes also create a number of challenges** that need to be taken into account. Here it is important to look back at the experiences of Uzbek workers under these programs both in South Korea and – more recently – in the Russian Federation.

In reality, these organized foreign labour recruitment schemes also create a number of challenges that need to be taken into account.

South Korea's employment permit system has been highlighted by the ILO as a positive example of a government-to-government recruitment scheme that minimizes corruption and protects migrant workers while addressing labour shortages in the country of destination. At the same time, the recruitment of Uzbek workers in South Korea has not been an entirely smooth and unproblematic affair. Civil society organizations and trade unions have repeatedly raised concerns over the treatment of migrant workers, including Uzbeks. Violations of minimum wage laws, steep recruitment fees, predatory severance pay policies and harsh working conditions, particularly in the agricultural industry, are just some of the problems identified. Moreover, despite its stated circular or temporary purpose, many workers end up overstaying their visas and remain in the country irregularly.

Organized recruitment schemes can also incentivize bribes and corruption, particularly in cases when labour supply greatly exceeds the number of allocated visas. When only a small number of applicants have a chance of being selected for the program, this can push potential labour migrants to try to "circumvent" the system. Indeed, 20 Uzbek migration officials were recently detained for taking bribes in exchange for coveted employment in South Korea.<sup>16</sup>

15. Open Working Group on Labour Migration and Recruitment (2015), 'South Korea's Employment Permit System: A Successful Government-to-Government Model' Policy Brief #2, Available at: [http://www.madenetwork.org/sites/default/files/policybrief\\_epskorea\\_2015%20%281%29.pdf](http://www.madenetwork.org/sites/default/files/policybrief_epskorea_2015%20%281%29.pdf) Accessed on December 15, 2018

16. Current Time (2018), "Чиновников Узбекистана подозревают в получении взятки в \$20 млн за трудоустройство мигрантов в Южную Корею" [Uzbek bureaucrats suspected of receiving \$20 million in bribes for work placement of migrants in South Korea], 28 November 2018 Available at <https://www.currenttime.tv/a/uzbekistan-vzyatka-migrant-job/29625705.html> Accessed on December 15, 2018

Under the new agreement with the Russian Federation, the first group of 992 Uzbek migrant workers who arrived in 2017 were also confronted by a number of difficulties. In St. Petersburg, a group of 53 Uzbek migrant workers had their passports confiscated and were left without employment.<sup>17</sup> Others complained of poor working conditions and mandatory deductions from their pay checks for housing and other expenses.<sup>18</sup> Another problem is that the program ties migrant workers to their place of employment, meaning that they cannot change jobs once they are inside Russia. There have been cases of migrant workers being punished with re-entry bans for leaving their places of employment. The potential of earning higher wages in informal sectors of the economy can also entice trained migrant workers to seek employment elsewhere. Finally, Russian employers have complained about the fact that migrant workers sent through the program in reality do not possess the qualifications they are meant to have on paper. With Uzbekistan announcing plans to send upwards of 50 thousand migrant workers through this program to Russia in 2018, one can expect these problems to continue to multiply.

Given the fact there is already a significant Uzbek migrant community in Russia, the organized recruitment scheme creates a parallel system that does not take into account family and kinship networks that already exist on the ground. Research on Uzbek migrant workers in Russia has shown that they are either sceptical or unaware of Uzbek diaspora organizations and government-affiliated programs due to past experiences with corrupt officials.<sup>19</sup> Uzbek migrant workers often find employment or work together with members of the extended family or individuals from the same village. An organized labour migration scheme with strict rules and regulations cannot act as a meaningful alternative to these less formalized employment networks. It is important to not only look at labour migration as a question of supply and demand, but take into account the more multi-layered aspirations of the migrants themselves.

An organized labour migration scheme with strict rules and regulations cannot act as a meaningful alternative to these less formalized employment networks. It is important to not only look at labour migration as a question of supply and demand, but take into account the more multi-layered aspirations of the migrants themselves.

## POLICY RECOMMENDATIONS

The experience of guest worker programs in other countries show that it is important to ensure that the rights of labour migrants are adequately protected and that they do

17. Rotkevich, Y. (2018) 'Мигранты бегут от работы' [Migrants running away from work], 16 July 2018 in Gorod 812 Available at: <http://gorod-812.ru/migrantiy-begut-ot-raboty/> Accessed on December 15, 2018

18. Ivaschenko, E. (2018) 'Тракторист становится швейей. Как устроен оргнабор мигрантов из Узбекистана в Россию' [Tractor driver becomes a tailor: How the orgnabor of migrants from Uzbekistan in Russia is set up] in Fergana News Available at: <http://www.ca-portal.ru/article:43855> Accessed on December 15, 2018

19. Urinboev, R. (2018), Migration, Transnationalism, and Social Change in Central Asia: Everyday Transnational Lives of Uzbek Migrants in Russia', in M. Laruelle & C. Schenk (eds.), Eurasia on the Move. Interdisciplinary Approaches to a Dynamic Migration Region, 27-41. The George Washington University, Central Asia Program

not end up in situations of exploitation or underpaid employment. While the creation of a dedicated fund for the protection of migrant workers by the Uzbek government is a welcome step, more efforts need to be made on the ground **to increase trust of Uzbek migrants in Uzbek government institutions abroad.** Uzbek migrant workers should be confident that their concerns can be adequately addressed by Uzbek diplomatic representations and officials from the Agency for Foreign Labour Migration Affairs. In the past, Uzbek officials did not provide legal or financial support to migrant workers in difficult situations or pre-deportation detention centres; a more proactive approach would be a welcome change.

The experience of guest worker programs in other countries show that it is important to ensure that the rights of labour migrants are adequately protected and that they do not end up in situations of exploitation or underpaid employment.

Moreover, to ensure the safety and protection of Uzbek labour migrants in Russia – both those in organized programs and individual migrants – **Uzbek officials should look into building partnerships with civil society actors on the ground in destination countries.** Currently, the process of selecting employers for the organized labour recruitment program is outsourced to International Labour Migration Alliance (ILMA) – a Moscow-based non-profit organization. Due to their limited resources, the ILMA does not always have the ability to ensure that employers are trustworthy and can provide adequate working conditions. It is therefore in the interest of Uzbek authorities to maintain closer control over the selection of employers in order to avoid sending migrant workers to dishonest employers.

Another risk associated with organized recruitment mechanisms is the **segregation of labour migrants from host societies.** While this is sometimes seen as advantageous by authorities in destination countries, these practices can lead to social **exclusion and isolation**, which can be detrimental to the well-being of the migrant workers themselves. Working under such conditions also reduces the attractiveness of participating in such programs and decreases the likelihood of migrants contributing to the social and economic life of the host country. Measures should be put into place to work with municipal authorities and local representatives of civil society to make sure guest workers have opportunities to engage with the host community.

Finally, it is important to **allow migrant workers a degree of agency when it comes to internal mobility and choice of employment.** Tying workers down to a single place of employment creates the risk of exploitation or abusive behaviour on behalf of the employer. If the migrant worker is not satisfied with the working conditions or the employer is unhappy with a migrant worker's qualifications, both parties should be allowed to end their relationship in a dignified and mutually respectful manner. Instead of sending migrant workers back to Uzbekistan, there should be **a mechanism for allowing them to find more suitable forms of employment in their country of destination** with a limited amount of bureaucratic red tape. Foreign representations of the Agency for Foreign

Labour Migration Affairs could provide assistance to migrant workers looking to change their employer once they are already abroad. Similarly, it would be mutually beneficial for employers and employees to allow for probation periods in work contracts in order to allow for both employers and employees to enjoy more flexibility. Overall, it is imperative that going forward Uzbek organized labour program include regular monitoring of working conditions abroad and provide opportunities for labour migrants to earn a living wage with full respect of their human rights.

It is imperative that going forward Uzbek organized labour program include regular monitoring of working conditions abroad and provide opportunities for labour migrants to earn a living wage with full respect of their human rights.

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# WESTERN BALKANS

POLICY BRIEF

# Highly-Skilled Return Migrants to the Western Balkans: Should we count (on) them?

Nermin Oruc  
Danica Santic

Awareness of the development potential of return migration is increasing across Western Balkan states. Nevertheless, a lot remains to be done in supporting return migrants.

## EXECUTIVE SUMMARY

The diaspora already sends a considerable amount of remittances to the Western Balkan<sup>1</sup> (WB) countries. The total figure of approximately seven billion EUR a year (Petreski et al, 2017) over the past 15 years has had a largely positive effect on development in the countries of origin. However, understanding of this phenomenon and policies to utilise the development potential of the diaspora are limited to remittance transfers, while investments, transfer of knowledge, tourism and other potential benefits are being largely ignored. In particular, there is a need for a better understanding of the potential of return migration, with return migrants bringing back specific skills and repatriated savings, often used to start a new business upon return<sup>2</sup>. A first step towards designing appropriate policies to attract highly-skilled emigrants to return would be the collection of data about their potential and the obstacles they face.

This Policy Brief examines the return migration of highly skilled people, as well as the inadequacy of policies for mobilisation of their potential for development of their countries of origin. The gaps in institutional support to this group and administrative obstacles are discussed, as well as the important issue of data availability.

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1. A term "Western Balkans" used in this brief encompasses the countries that are members of the WB-MIGNET (Western Balkans Migration Network), namely Albania, Bosnia and Herzegovina, Croatia, Kosovo, North Macedonia, Montenegro and Serbia.

2. This should not necessarily be considered a positive sign. Some evidence suggests that one of the reasons for the higher propensity towards self-employment among return migrants is the obstacles to paid employment in the labour market.

# CURRENT CONTEXT

The countries of the Western Balkans covered in this brief have experienced significant **emigration** since the 1960s, mainly to Germany, Austria and France, as well as USA. **In the 1990s**, a decade of transition, wars and collapse of economies, the emigration of highly-educated people further increased. The inflows of refugees from the WB to the EU throughout the 1990s were unprecedented.

According to the Ministry of Human Rights and Refugees of Bosnia and Herzegovina (MHRR), the total number of people originating from Bosnia and Herzegovina (BiH) living abroad (including second and third-generation descendents of Bosnian emigrants) is approximately two million people, the equivalent of more than half of the national population currently living in BiH. This puts BiH among the top countries in the world concerning the share of nationals living abroad<sup>3</sup>.

**During the 2000s**, migration was mainly for the purposes of labour. By 2010, the Schengen short-stay visa requirement had been lifted for citizens of all WB countries except Kosovo\*<sup>4</sup>. **Between 2010 and 2014**, the number of WB nationals seeking asylum across EU Member States (predominately Germany) was relatively high compared to previous period, but still rather low compared to country's population or number of asylum seekers from other countries<sup>5</sup>. **Most highly-skilled individuals from WB countries seem to have opted for emigration<sup>6</sup>.**

**Mass emigration** has contributed to brain drain, demographic decline and economic stagnation, especially in less developed areas of each WB country, resulting in population ageing, an increase in the number of elderly households, inadequately treated agricultural land and other challenges. For these reasons, the migration and development nexus has become an increasingly important issue for WB countries in recent times. The interaction of emigrants with their countries

The profile of the people returning has changed, but proper data on the phenomenon remains scarce and there is still a lack of targeted policy responses.

3. The World Bank's estimate of the BiH diaspora is a bit smaller and it calculated the BiH diaspora as a percentage of 44.5% of the BiH resident population - which positions Bosnia and Herzegovina at the 16th place in the world ('Migration and Remittances' Factbook 2016).

4. This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo declaration of independence.

5. In 2015, Albania was among the top five origin countries of asylum applicants in the EU. The number of Albanian asylum seekers in the EU-28 increased from 16,950 in 2014 to 24,600 in 2017 and peaked at 67,950 in 2015 (European Commission, 'Asylum Statistics', available online). The latest report from the Asylum in Europe Database estimates a total number of asylum seekers from Bosnia and Herzegovina to be 1,438 in 2017. According to UNHCR reports, there were close to 30,000 asylum seekers from Serbia and Kosovo, close to 4,000 from North Macedonia, and 7,500 from Montenegro. Demographic data about asylum seekers from the WB are scarce. Data published by the Pew Research Center shows the demographic characteristics of Albanian asylum seekers who applied in EU countries in 2015. Almost half (46%) belong to the age group 18-34 years old and about 34% were children under the age of 18. Males dominate (61%) and they are mostly young (almost half of them belong to the age group 18-34 years old). This is in full compliance with the Albanian migration model that is male dominated.

6. Uvalic (2005) found that 75% of PhD holders and 81% of master's degree holders left BiH during the war. Dimova and Wolff (2009) reported that 28.6% of emigrants from BiH had tertiary education, while the World Bank Factbook indicates, for example, that 12.7% of emigrants were physicians. Tertiary-educated as a percentage of total emigrants from BiH in OECD countries in 2011 was 14.0%. Tertiary-educated women as a percentage of total women emigrants in OECD countries in 2011 was 14.8% and the number of refugees in 2014 was 21,877. The top destination countries for migrants from Bosnia and Herzegovina are Croatia, Serbia, Germany, Austria, the United States, Slovenia and Sweden. The number of North Macedonian migrants abroad was about 534,720 in 2017. About 18% of these live in Germany, followed by the United States (14.3%), Turkey (13.3%), and Italy (11%).

of origin is the main channel by which emigration can benefit national development. This can be achieved through the transfer of money, knowledge, new ideas and entrepreneurial attitudes between destination and origin countries. In this way, migrants are expected to play a largely positive role in development and to contribute to the modernisation of their countries of origin.

The return of **refugees** to their pre-conflict residences after 1995 (e.g. Croatian Serbs to Croatia, refugees and internally displaced people in BiH, Kosovars to Kosovo) has been a predominant topic of research related to return migration in the WB region. As the magnitude of this phenomenon decreased over time and new migration trends emerged, the policy challenges more recently have related more to the return of labour migrants from developed countries, mainly from Western Europe and North America. According to the scarce data available, these return migrants are more educated than the average population in their country of origin. In addition to their savings, they also bring specific skills and knowledge acquired abroad, which makes them an important national resource.

**Return migration to the WB countries** has been a dynamic process, which peaked soon after the end of the armed conflicts (the largest-scale returns were forced return of refugees from the Western Europe to BiH in 1996 and to Kosovo in 2000), as well as in 2009-2013 due to the global economic crisis and increased unemployment in destination countries. According to the joint INSTAT-IOM survey, during this period, around 134,000 migrants returned to Albania<sup>7</sup>. Most recently, in 2016-2018, return migration was related mainly to the voluntary return of asylum seekers from Germany, Austria and some other EU countries. According to data from the European Asylum Support Office (EASO), during 2013-2017, around 147,000 Albanian citizens sought asylum in EU countries (primarily in Germany and France) with most of them returning soon after, because their applications were refused.

According to the Montenegrin Census of 2003, 16,976 people returned to Montenegro in the period 1996-2003 and 20.7% (3,516) of them were children below the age of 15, while an additional 7.5% (1,284) were between 15 and 19 years old. 78% of the children under 15 returned to Montenegro from other ex-Yugoslav countries (including Serbia) with only a small share (16.5%) returning from elsewhere. In the age group 15-19, the share of emigrants returning from ex-Yugoslav countries was even higher (90%) while only 6.3% returned from other destination countries.

North Macedonia figures ninth overall and fourth in the Western Balkans in terms of the number of their nationals returned from the EU Member States in 2015-2016, mainly as voluntary return. Between 2006 and 2009, only 84 people returned from EU countries to North Macedonia through IOM's Assisted Voluntary Return (AVR) Programmes. However, a significant increase of returnees using these programmes has been noted since. In 2016, IOM reported 5,000 Assisted Voluntary Returns to North Macedonia (Zulfu Alili, 2018). The recognition rates of asylum applications on behalf of North Macedonian citizens in Western Europe have been the lowest for all Western Balkan countries, with only

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7. INSTAT and IOM, Return Migration and Reintegration in Albania, Tirana: INSTAT/IOM, 2014.

0.8% of asylum seekers granted refugee status, subsidiary protection, or humanitarian protection in 2016<sup>8</sup>. Additionally, the number of return decisions<sup>9</sup> for North Macedonian citizens increased from 5,700 in 2015 to 6,085 in 2016<sup>10</sup>. North Macedonia's return rate (number of returnees compared to the number of emigrants) in 2016 was 127%. The European Commission (2017) in its First Report under the Visa Suspension Mechanism for continued implementation of the Readmission Agreement between North Macedonia and the EU, called for "[s]trengthen[ing] border controls in a manner that fully respects' travellers' fundamental rights", and measures designed to increase the socio-economic integration of vulnerable populations residing in the country.

**Analysing the educational level of return migrants**, the data indicate that the share of very highly educated (above university level) individuals among North Macedonian migrants is much higher than the corresponding share of individuals among non-migrants<sup>11</sup> and highly-educated emigrants are more likely to return than low-educated emigrants<sup>12</sup>. A significant number of return migrants obtained additional qualifications while abroad; 55% obtained a job-related qualification, 4% a secondary education level and 30% attained a university degree. Nevertheless, Janeska et al. (2016) argue that the share of highly educated returnees in North Macedonia is small and occasional, involving frequent re-emigration. Hence, the transfer of know-how and technology remains rather limited. The statistical evidence on return migration in the country is scarce, particularly concerning voluntary returns. When and under which conditions do migrants decide to return, and what measures can countries put in place for social and professional reintegration?

## POLICY OPTIONS

Theories on return migration emphasise that the development impact of return migrants will depend to a large extent on whether the policies in the country of origin provide for a favourable return environment. Despite the significant brain drain experienced by the WB countries and the importance of increasing the return of highly skilled emigrants, there are no targeted reintegration policies in place yet. The various *ad-hoc* initiatives<sup>13</sup> implemented to date were part of projects funded and implemented by international donors and organisations, with state institutions usually playing only a minor role.

Current policy documents do not sufficiently address highly skilled returnees and their specific needs.

8. European Commission, 2017; European Asylum Support Office, 2015.

9. **Although, it should be noted that the issuing of a return decision does not necessarily mean that the person actually returned.**

10. European Commission 2017: 3

11. GDN, 2010, p.11

12. GDN, 2009

13. These initiatives include the "Brain +" programme implemented by WUS, the "TOKTEN" program implemented by UNDP, and the "TRQ" program implemented by IOM.

The **national policies of WB states** dealing with this issue still tend to focus mainly on the readmission and reintegration of asylum seekers whose application was refused and emigrants who had irregular status in the destination country, whereas highly skilled emigrants are only addressed indirectly, through a number of recent strategic documents.

The ‘Strategy on the Reintegration of Returned Albanian citizens, 2010-2015’<sup>14</sup> and its Action Plan, adopted in 2010, represent the legal basis for policies aiming at the reintegration of forced or voluntary returnees. Both documents were adopted as part of the visa liberalisation process with the EU. The strategy points out the need for collaboration of the public structures and civil society for full (cultural, economic and social) integration of return migrants. It also envisaged the provision of specific services for certain vulnerable groups, including people of Roma ethnicity. Although the reference period of the Reintegration Strategy has ended, its spirit is still reflected in various laws and guidelines. The new Migration Strategy, currently under preparation, will most probably also include the issues of return and reintegration.

In BiH, the implementation of the “Strategy for the Reception and Integration of the BiH Nationals who Returned under Readmission Agreements” remains only partial. Moreover, it did not translate into the design of complementary policies addressing the various challenges outlined by the Strategy (e.g. on reducing reintegration obstacles; ensuring the provision of accommodation and the issuance of documents; improving access to the labour market and to education). The most vulnerable returnees identified in the Strategy include Roma people, people with disabilities, infectious, contagious and chronic diseases or psychological issues, as well as children in general, and children without parental care.

While North Macedonia has equally issued strategic documents on return and reintegration, they are rarely implemented or remain uncoordinated (Bornarova and Janeska, 2012; Zeneli et al., 2013; Janeska et al., 2016). The three respective documents are the Reintegration Programme, the Law on Primary Education, and the National Action Plan (NAP) for Education (2016-2020) corresponding to the Strategy for Roma People in the Republic of [North] Macedonia 2014-2020<sup>15</sup>. While return migrants constitute only a small part in the Law on Primary Education and the NAP for Education (see Section 2.2.4), the Reintegration Programme contains a range of measures related to personal identification documents, housing, healthcare and education.

The Government of North Macedonia has established programmes for recognition and promotion of talents such as scholarships for undergraduate, graduate and doctoral studies of North Macedonian citizens abroad, under the condition of scholarship grantees returning to the country after completion of their studies. However, these return migrants in North Macedonia need proper integration into the public administration institutions in order to maximise their contribution to the country (Janeska et al., 2016). There is also a Strategy for Reintegration of Persons Returned on the basis of the Readmission

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14. Government of Albania, Strategy on the Reintegration of Returned Albanian citizens, 2010-2015. Tirana, July 2010.

15. Vlada na Republika [Severna] Makedonija 2010; Služben vesnik na Republika [Severna] Makedonija 2008b; Ministerstvo za trud i socijalna politika 2016b; see also Ministry of Labour and Social Policy 2014.

Agreement for the period of 2016-2020, with the Action Plan for the Implementation of the Strategy. The main goal of this Strategy is to create the preconditions for adequate access to the process of return and reintegration at all levels through further strengthening of the institutional framework, efficient process of assistance, education and a system for monitoring the Strategy and realisation of the Action Plan for its implementation, which is still ongoing.

In short, the analysis of all the available **strategic documents** in WB reveal that they neither identify highly-skilled return migrants as a group of particular interest, nor are they properly designed and implemented. Moreover, these documents are not well translated into appropriate policies targeting highly-skilled return migrants and addressing their specific needs.

Despite the general awareness of the development potential of highly skilled return migrants, the available evidence identifies considerable **obstacles to return** of highly skilled people and very low absorptive capacity of the WB economies for such a knowledge transfer. For example, Barnes and Oruc (2012) reported that of those return migrants surveyed in BiH (by 2011), only one third found a job upon their return. In addition, for those who re-emigrated the main reason was the lack of employment opportunities in BiH. Cosic and Ovcina (2014) found that return migrants (and those interested in return) usually face additional obstacles in accessing employment in the public service.

The obstacles can be divided into three main groups. First are the obstacles before return, related to the lack of information about administrative procedures to be completed in order to obtain personal documents, transfer social benefits and/or pension entitlements, and about job opportunities. Members of the diaspora are faced with difficulties in accessing information about positions available, as well as in fulfilling administrative eligibility criteria (Cosic and Ovcina 2014). The collection of the various documents needed for a job application, obtaining stamps on their copies by a local administration and their submission, are tasks often impossible to complete in time and an obstacle that prevents many interested emigrants from returning to BiH. Still, some emigrants decided to return even without clear job prospects, but experienced a long period of unemployment, which is surprising given their specific skills and postgraduate degrees from prestigious universities. Upon return, they were confronted with numerous obstacles to labour market integration, including mobbing, underemployment, and unfavourable employment contract arrangements. The lack of social networks also plays an important role.

The second set of obstacles is related to the **lack of targeted services for return migrants**. This population is in need of various social services, yet return migrants face obstacles in accessing them. Particularly people whose asylum application has been refused, and who have often sold all their properties in order to finance their emigration, need immediate housing support upon their return. Most return migrants do not receive public support for their reintegration into the labour market or for starting a business. There are neither active labour market programmes targeting return migrants, nor support or subsidies for entrepreneurship.

Moreover, further education and proper instruction on current laws on social security should be provided to employees of public employment services. No employment programmes targeting return migrants have been implemented to date. Access to health care for returned migrants is hampered by administrative barriers, lack of funds, the inaccessibility of registration at employment services and the lack of information on the possibility of obtaining health insurance. As health insurance status is usually obtained under the condition of employment or education, return migrants usually remain without health insurance. Finally, return migrants also face obstacles for reintegration to the education system in BiH. Education completed abroad is usually not recognised, which is why children regularly have to repeat a school year, albeit successfully passing it while abroad.

The third set of obstacles arises from the **lack of data and information about returnees**. Governments are neither investing enough to track this group while they are abroad, nor upon their return back home (Zulfu Alili, 2018). There are no exact figures available on the overall number of returnees to the WB, nor on highly skilled return migrants in particular. Different factors affect the quality of the available data, particularly when it comes to administrative sources, above all the fact that migrants are neither legally obliged to register their departure nor their return. Usually, neither deportees under Readmission Agreements nor those under assisted voluntary return (AVR) programmes are registered properly by the country of origin.

The significant number of people with refugee status who retained the citizenship of their country of origin and of people with dual citizenships adds to the problem of properly identifying returnees. Border services also do not know whether people entering the country are returnees. Finally, there are no regular surveys that would provide disaggregated data about the skills and other important socio-demographic characteristics of returnees. In Albania, INSTAT provided social-demographic data (age group, gender, education, marital status, employment both in the host country and after return, etc.) for returnees during 2009-2013, but not since then<sup>16</sup>.

Several promising initiatives, such as the Brain Gain Programme in Albania and Kosovo, tried to mobilise the development potential of returnees. In Croatia, the Unity through Knowledge Fund (UKF), founded in 2007, seeks to connect scientists and professionals in Croatia with those located abroad in order to enhance international cooperation and the competitiveness of domestic knowledge production. The UKF has specifically targeted the Croatian diaspora.

## POLICY RECOMMENDATIONS

The research findings encompassing both countries of origin and destination enable us to better understand the potential of return migration flows and generate findings that are relevant for broader policy-making. This policy-oriented research should be

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16. INSTAT, IOM, Return Migration and Reintegration in Albania. Tirana: INSTAT/IOM, 2014.

Key recommendations relate to the need for improved data, the removing of obstacles to return and improving public services and access to them upon return.

the starting point in mainstreaming return migration into national development plans and other relevant strategic frameworks at national and regional level. Return migration strategies should signal a shift from reactive to more proactive and comprehensive return migration policies in the respective countries. Diaspora and returning emigrants can contribute to national development but governments need to devote more attention to establishing a more enabling environment to empower them to become agents of development. Support to national governments in WB in related policy-making can be provided by international organisations such as the ICMPD.

**Lack of information** by returnees could be addressed by providing information leaflets at the main entry points (such as airports and main border crossings), which would contain detailed instructions to returned migrants how to obtain their rights upon return, where to find information about job opportunities, how to certify their degrees, what procedures they need to go through if they want to start a business, and similar.

**Lack of targeted services** should be also addressed. This should include social services, housing, education, healthcare and other services that return migrants need. In particular, educational institutions in the Western Balkans should improve their procedures concerning the documentation requested for enrolling returning children upon their return to the country of origin. A more flexible approach, which accepts partial completion of the school year whilst abroad, is recommended. If they are unable to provide documentation of schooling in the country of destination, Ministries of Education should consider testing the children on the curriculum for each grade and establishing procedures to reintegrate them into the appropriate level.

Similar recommendations apply to access to **health care**. The competent state authorities should enhance awareness of return migrants about their rights and the necessary procedures to access the healthcare system. They also need to improve cooperation between the different relevant institutions and administrative bodies. The possibility to establish free clinics at the main destinations of return could also be further explored, not only to better understand health care needs of return migrants, but also to address the difficulties in re-establishing healthcare benefits. Most importantly, such free clinics would help to alleviate general health concerns and provide routine healthcare for returnees.

Returnees, who are in need of various **social services**, face different obstacles in accessing them. In order to adapt the services to their actual needs, a needs assessment of returnees should be carried out, while also raising awareness of return migrants about their rights and the administrative procedures necessary to secure them.

For the **lack of data** and demographic and socio-economic information about return migrants, the collection, quality and management of statistical data about the **needs of highly skilled return migrants** should be improved. Any policy design should be based on high quality data, including comprehensive and comparable statistics on labour

migration and mobility. For the regular collection and analysis of data on the various aspects of migration, the establishment of a regional “Migration Observatory”, such as the one launched under the Prague Process, is most useful. It should include the monitoring of key migration trends, including an “early warning system” for policy makers, signalling the need for an appropriate policy response in a timely manner. Given its expertise in such activities and knowledge about the region, the ICMPD is well placed to coordinate the implementation of this activity.

In addition, in order to improve policy design for highly skilled return migrants, it is important to conduct a survey on their needs and the challenges they face. A regional survey could be carried out by the ICMPD in cooperation with the Western Balkans Migration Network (WB-MIGNET).

## RELATED PUBLICATIONS

For further information please see: [www.wb-mignet.org](http://www.wb-mignet.org)

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