Study of the Laws and Institutional Frameworks Governing International Migration in North and Central Asia from the Perspective of Countries of Origin and Destination
Facilitating Migration Management in North and Central Asia

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Introduction
The present study has been carried out under the Project on Facilitating Migration Management in North and Central Asia, which is being run by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP). Its geographical scope covers the countries of the North and Central Asian subregion, namely Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, the Russian Federation, Tajikistan, Turkmenistan and Uzbekistan. As a consequence of their independence in the early 1990s, the opening of their borders to other countries and their active involvement in globalization, as well as uneven demographic and economic development, these countries have been confronted with a new challenge, namely that of effectively managing international migration. Thus, the task of the present study is to review the existing legislation and institutional frameworks in the field of international migration in both the countries of origin and destination and to make recommendations on how to harmonize migration management systems so as to improve their effectiveness.

Currently, labour migration makes up the majority of international migration flows in North and Central Asia. International migration does occur in the subregion for other reasons, for instance due to immigration for permanent residence and subsequent acquisition of citizenship of another country, asylum seeking and forced resettlement, ethnic repatriation, family reunification, study and training. However, these migration flows are usually more regulated in comparison with labour migration flows, either because they take place in the framework of ratified international legal instruments or thanks to better developed and effectively applied national legislation in the receiving countries. In addition, with regard to those types of international migration, effective tools have been developed for the registration of migrants.

The main challenges for the management and regulation of international migration are related to labour migration and correspondingly to economic migration. Even though the countries of the subregion are developing national legislation for this type of international migration and participating in appropriate bilateral or regional agreements, both the relevant public authorities and migration experts recognize that a significant proportion of labour migration flows in North and Central Asia still remain irregular and unregistered. Addressing these issues effectively depends on the cooperation of the countries of origin and destination. In light of this, the thematic focus of the present study is aimed at legal and institutional aspects of labour migration management, as well as the related attempts to address irregular migration.

Currently, the key focus of the development of international and regional cooperation in the area of labour migration is on the promotion of rights of migrant workers and making them equal to the rights of national workers. To this end, in 1990 the United Nations adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, and in 2008 the Commonwealth of Independent States (CIS) adopted the Convention on the Legal Status of Migrant Workers and Their Families. The provisions of these documents serve as a solid and holistic basis for harmonizing labour migration management systems in the countries of North and Central Asia.

Although the majority of the countries in question still have similar legal systems, years of independent development have led to national laws being based on significantly different principles and rules with regard to the rights of migrant workers, particularly as concerns migrant workers' social security rights and their access to health care. In addition, recognition of diplomas and qualifications and the social integration of migrant workers and their families in the countries of destination are aspects of the management of international migration that have gradually become more important in North and Central Asia. The latter is driven by the increasing differences between the education systems and cultures of the former Soviet republics and the shrinking Russian-speaking populations in the countries of origin.

The approach taken with regard to the management of international labour migration by a country depends, in large measure, on whether it is a country of origin or a country of destination, although in practice it is not always easy to make a clear distinction between them. It is recognized that in terms of incoming labour migration the main countries of destination in the subregion are the Russian Federation and Kazakhstan.
FACILITATING MIGRATION MANAGEMENT IN NORTH AND CENTRAL ASIA

(Iwiński, 2008). However, in all the countries reviewed, including those recognized as countries of origin, there is migration from other countries. To a greater or lesser extent all countries in North and Central Asia are attractive for migrant workers from countries with higher population densities and more intense competition in the labour, goods and services markets, such as Turkey and China (Iwiński, 2008). A typical example is the construction sector, in which, in most countries of the subregion, Turkish companies are actively involved, in many cases hiring their own nationals. In addition, due to disparities in terms of the rates of economic development, a country of origin can become a country of destination for labour migration and vice versa.

Despite these complexities, the distinction between countries of origin and destination still allows the identification of the main areas where measures are required for the effective management of major labour migration flows (OSCE, IOM and ILO, 2006). From the point of view of developing the migration policies of countries of origin, the main areas for action are preparatory and support services to protect migrant workers, as well as measures to optimize the benefits of organized labour migration. With regard to the migration policies of countries of destination more important aspects for regulation are the procedures and conditions of admission of foreign labour and access of migrant workers to economic, social and cultural rights. Accordingly, in the course of the present study, an analysis of national legislative and institutional frameworks for the management of labour migration is carried out, where possible, in the context of the needs of the countries of origin and destination.

The present study uses the areas outlined as priority areas for intervention in the Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and Destination (OSCE, IOM and ILO, 2006), which allows both a consideration of the different approaches to the management of labour migration of the countries of origin and destination, and a structured, comparative analysis of the main provisions of their national laws as they relate to the rights of migrant workers and of opportunities to support them within the existing institutional frameworks. In addition, it enables solutions to be sought for better management of labour migration flows on the basis of international standards on migrant workers’ protection, even though most of the countries under review are not parties to the 1990 United Nations Convention and ILO Convention (No. 97) concerning Migration for Employment (Revised 1949) and ILO Convention (No.143) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers. The background information, including the texts of national laws, policies, programmes, plans, descriptions of the structures and competences of designated State authorities and statistics on migration, has been collected from official sources. Online databases of legislation, websites and reports of national migration authorities were used as the primary sources of national migration laws, policies, institutional frameworks and statistical data on labour migration, while country migration profiles and reviews prepared under various projects of specialized international organizations served as secondary sources. In this way, adequate, reliable and updated data were used.

Background information on the countries under review

Before the early 1990s all the countries in question were republics of the Union of Soviet Socialist Republics, and migration among them was internal migration within one State. The collapse of the Soviet Union resulted in active migration among the newly independent States during the period between the early 1990s and early 2000s. In particular, there was a significant migration of various ethnic minorities from their former places of residence into the country in which their ethnicity formed the majority (Iwiński, 2008). Largely due to this, the Russian Federation and Kazakhstan actively support programmes for the repatriation of former compatriots. Thus, in Kazakhstan between 1999 and 2003 there was a scheme to encourage the migration of ethnic Kazakhs, which was supported by the acquisition of property for them at State expense, although this was later replaced by cash assistance (Commission on Human Rights under the President of the Republic of Kazakhstan, 2012). Since 2006, the Russian Federa-
tion has implemented a State programme to assist the voluntary resettlement of compatriots from abroad; a second version of this programme was adopted in 2012 (Federal Migration Service of the Russian Federation, 2013). At the same time, one of the priorities of the migration policies of Armenia, Azerbaijan and Georgia is to support ties with diasporas in foreign countries, which have formed as a result of recent and historical migratory movements.¹

Simultaneously, the opening of borders enabled migration outside the territory of the former Soviet Union. One of the consequences of these movements was that Kazakhstan, up until 2004, had a negative balance of migration (Committee on Statistics of the Republic of Kazakhstan, 2015).

There are no complete and reliable data on the number of persons involved in labour migration, since a significant share of these migration flows is irregular, and no appropriate work permits or visas for work in host countries are issued. To a large extent, this labour migration occurs among the former Soviet republics due to the remaining close economic and social ties, and linguistic and cultural affinity between these countries. In addition, a mutual visa-free travel regime is in force among the majority of countries in the subregion. For instance, according to the Federal Migration Service, labour migration from CIS countries constituted more than 70 per cent of total migration between 2011 and 2012 (Romodanovskiy, 2013). However, at the same time, the extent of labour migration to and from countries of North and Central Asia from countries outside the subregion is gradually increasing, which is due, among other things, to the expansion of reciprocal access to foreign markets and to an increase in the English-speaking population and people speaking other foreign languages.

Armenia

Armenia is a country in which a significant number of its citizens take up permanent residence in other countries, in particular the Russian Federation, the United States of America and European countries. According to various experts’ estimates, between 700,000 and 1,300,000 persons left the country in the period between 1990 and 2005 (Building Migration Partnerships, 2011a). Although in recent years the level of emigration has gradually declined, the balance of migration remains negative and stood at 3,100 in 2012. In recent years, the main reason for Armenian citizens to leave the country was to work abroad. According to the results of various surveys, each year between 150,000 and 200,000 persons are involved in international labour migration, and the main country of destination for them is the Russian Federation (Building Migration Partnerships, 2011a). According to the State Migration Service of Armenia, 53,700 Armenian citizens worked in the Russian Federation in 2013 on the basis of work permits and another 95,800 persons worked on the basis of labour licences (patents), which allow migrants from select (visa-free) countries to work for individuals (see below) (Federal State Statistics Service of the Russian Federation, 2013). Most workers work in construction, trade and services, as well as in transport. Another popular destination for labour migrants from Armenia is Europe, especially Poland and the Czech Republic (Building Migration Partnerships, 2011a). Labour migration from Armenia occurs mainly because of the higher level of income in countries of destination and better opportunities for employment.

Data on labour migration to Armenia are not available but it is obvious that the numbers involved are insignificant.

Azerbaijan

Azerbaijan has remained to a large extent a country of origin in terms of labour migration. The main country of destination for labour migration flows from Azerbaijan is the Russian Federation. According to the Federal Migration Service of the Russian Federation,
40,300 citizens of Azerbaijan were employed there in 2010 (Federal State Statistics Service of the Russian Federation, 2013). Traditionally, the employment of Azerbaijani nationals is related to the trade and services sectors, in particular, trading in vegetables and fruits in Russian cities (Federal State Statistics Service of the Russian Federation, 2013). Given the specifics of the employment of migrants from Azerbaijan, statistical data on labour migration from this country to the Russian Federation are limited. But it appears to be considerably higher than official data would suggest. In particular, this reflects the fact that migrants from Azerbaijan do not, as a rule, find employment in other countries through public or private employment agencies, but rather benefit from the support of permanent Azerbaijani communities in the Russian Federation. Using remittances from the Russian Federation as an indirect instrument to assess the size of labour migration shows that Azerbaijan occupies sixth place in the list of countries of origin for migrants to the Russian Federation, following Uzbekistan, Tajikistan, Ukraine, Kyrgyzstan and Armenia (Central Bank of the Russian Federation, 2014).

In addition to being a country of labour emigration, high rates of economic growth make Azerbaijan increasingly attractive as a country of destination for migrant workers from, among others, Turkey, the United Kingdom of Great Britain and Northern Ireland, China and Georgia. The most attractive sectors for migrant workers are construction and oil and gas production where, accordingly, Turkish and British companies have strong positions in the local market. In 2013, more than 9,000 foreign citizens obtained work permits in Azerbaijan (State Migration Service of the Republic of Azerbaijan, 2013), but overall labour migration into the country has remained small when compared with the Russian Federation and Kazakhstan.

Georgia

Georgia is primarily a country of labour emigration; the main countries of destination are Turkey, Azerbaijan, certain European Union countries (Italy, Greece, Germany, France and Spain) and the United States (Building Migration Partnerships, 2011b). Opportunities for labour migration from Georgia to the Russian Federation are very limited. The number of Georgian migrant workers in the Russian Federation who have work permits has declined in comparison with the early 2000s (Federal State Statistics Service of the Russian Federation, 2013). As regards irregular migration of Georgian citizens to the Russian Federation, the data are very inconsistent. In general, though, it seems that redirection of labour migration flows from the Russian Federation is underway and the labour markets of European countries, in particular Greece and Italy, are actively sought by Georgian citizens. Thus, 3,165 Georgian citizens obtained their first residence permits in Italy in 2009; in the same year 8,557 Georgian nationals extended their residence permits in Greece (Building Migration Partnerships, 2011b). The introduction, at the end of 2015, of visa-free entry for Georgian nationals to Schengen countries will create additional incentives for labour migration to European countries.

The statistics on labour migration to Georgia show the main countries of origin are Turkey, China and India, countries with high levels of competition in their labour and service markets. In 2009, the largest number of residence permits for the purposes of working were issued to citizens of Turkey (805), China (365) and India (203) (Building Migration Partnerships, 2011b). This is explained by the active implementation of various infrastructure development and construction projects with the involvement of Turkish and Chinese companies in Georgia. It appears that actual labour migration from Turkey is considerably higher due to its proximity and the active presence of Turkish businessmen in the spheres of trade, the hotel business and catering (cafes and restaurants).

Kazakhstan

Since the early 2000s, Kazakhstan has become a country of destination for labour migration and is now recognized as the second most important State in the North and Central Asian subregion in terms of the admission of migrant workers (ILO, 2008). Although the population is growing in Kazakhstan, there are a number of sectors in the labour market that are not being filled by its own citizens. The presence of shortages
in these sectors is caused by the active encouragement of development projects for which there is a shortage of qualified technical specialists and workers, and also by the unwillingness of the local community to work in non-prestigious low-paid jobs. The demand for migrant workers is mainly found in agriculture, for example, in the cultivation of vegetable, cotton and other crops.

The majority of labour migration flows to Kazakhstan comprise nationals countries with visa-free access, first among which are Uzbekistan, Kyrgyzstan, Tajikistan and Ukraine (IOM, 2015). Much of this migration is irregular: as part of the research conducted in 2010 by the International Organization for Migration (IOM) on migrant workers from Kyrgyzstan and Tajikistan, only 2.1 per cent of respondents had official work permits. In 2012 this figure had increased only slightly to 4.7 per cent (Commission on Human Rights under the President of the Republic of Kazakhstan, 2013). Statistics on the permits issued do not therefore show the real situation as regards incoming labour migration. According to expert opinion, the actual scale of incoming labour migration to Kazakhstan exceeds the number of work permits that are issued by a factor of at least 10. Even according to conservative official estimates, the total number of migrant workers in the country is between 100,000 and 300,000 persons (Government of the Republic of Kazakhstan, 2013).

Those workers who are documented tend to be at the higher end of the skills scale. Thus, in 2013, Kazakhstan employers were issued with work permits for 25,559 foreign workers, most of whom were nationals of the countries with which Kazakhstan has a visa-free regime (IOM, 2015). The majority of migrant workers for whom work permits are issued are qualified managers, specialists and workers from Turkey, China, the United States, the United Kingdom and other countries.

There are no statistical data on Kazakh citizens working abroad because, among other things, private employment agencies currently do not report relevant data to the competent authority. It is acknowledged that labour migration from the country since the early 2000s has become less attractive for Kazakh nationals and is insignificant in size.

Kyrgyzstan

Kyrgyzstan is considered to be a country of origin as regards labour migration, flowing primarily to the Russian Federation and Kazakhstan. The main sectors of employment for Kyrgyz citizens in the Russian Federation are as follows: trade, construction, transport, repairs to housing and other services for households; while in Kazakhstan, Kyrgyz nationals work in tobacco and horticultural plantations. The data on remittances and work permits and licences show that Kyrgyzstan is currently the fifth country of origin by size of the flow of labour migration to the Russian Federation. According to the Federal Migration Service, in 2012 Kyrgyz citizens obtained 82,000 work permits and over 64,700 licences (Chernyak, 2013). With the introduction of labour licences, a large number of migrant workers from Kyrgyzstan switched to regular labour migration. Thus, the number of those working in the Russian Federation through licences was already more than 90,000 people in 2013 (Federal State Statistics Service of the Russian Federation, 2013). Nevertheless, experts estimate that actual labour migration from Kyrgyzstan to the Russian Federation is between two and three times higher (IOM, 2013). There are no reliable data on the number of Kyrgyz migrant workers who work in Kazakhstan because the majority of them work without labour permits, in the informal sector of the economy, and often migration is of a cross-border nature, involving frequent border crossings.

Kyrgyzstan, like many other North and Central Asian countries, is a country of destination for labour migration flows from the countries with high levels of competition in their domestic labour markets (for example, China, Turkey, the Republic of Korea and Pakistan). In 2012, more than 8,000 foreigners obtained work permits in Kyrgyzstan, including business licences (IOM, 2013).

Russian Federation

The Russian Federation is the main country of destination in the North and Central Asian subregion for labour migration. The main factors contributing to the large flows of incoming labour migration are as follows:
demographic factors, such as total population decline and population ageing, which are causing a shortage in the labour force, as well as higher salaries compared with the countries of origin. According to data from the Federal Migration Service, in 2013 foreign citizens and stateless persons obtained 1,509,200 work permits and 1,537,800 licences (Federal Migration Service of the Russian Federation, 2013). However, according to expert opinion, labour migration to the Russian Federation could be between two and three times higher because up to 3.6 million migrants work in the country without work permits or licences (Romodanovskiy, 2013). Migrants are attracted to the Russian Federation from many countries of the world, but mostly from the former Soviet republics that have visa-free regimes, namely Uzbekistan, Tajikistan, Ukraine, Kyrgyzstan and Moldova. From other countries, the largest number of migrant workers come from China, Turkey, the Democratic People's Republic of Korea and Viet Nam. According to data from 2013, among the migrants who had work permits, 42.9 per cent were citizens of Uzbekistan, 14.7 per cent were citizens of Tajikistan and 11.2 per cent were citizens of Ukraine. In the same year, the proportions of those having obtained a licence were as follows: 51.3 per cent were from Uzbekistan; 22.3 per cent were from Tajikistan; 6.9 per cent were from Kyrgyzstan; and 6.8 per cent were from Armenia (Federal Migration Service of the Russian Federation, 2013).

In recent years, the number of Russian citizens going to work abroad every year has varied between 60,000 and 70,000 (Federal State Statistics Service of the Russian Federation, 2013). The main destinations for migrant workers from the Russian Federation are European countries and the United States. Over the last few years, more than half of them worked in well-paid and highly skilled jobs, such as managers and specialists in building migration partnerships (Building Migration Partnerships, 2010a).

Tajikistan

Tajikistan is clearly identifiable as a country of origin as regards labour migration flows. According to the World Bank, migrant workers' remittances to Tajikistan in 2012 made up 48 per cent of its gross domestic product (GDP), rising to 49 per cent in 2013 (World Bank, 2013). According to 2010 population census data, the number of migrant workers from Tajikistan who migrated to work to other countries totalled more than 417,000. The main country of destination for them was the Russian Federation (accounting for over 90 per cent of migrant workers), followed by Kazakhstan and Afghanistan. At the end of 2012 in the Russian Federation, 181,400 Tajik nationals had a work permit and 228,600 had a labour licence (Federal State Statistics Service of the Russian Federation, 2013). Migrant workers from Tajikistan are usually employed in the Russian Federation in low-skilled jobs in construction, trade, catering and municipal services. The key push factors for labour migration from the country are lack of jobs and low incomes, population growth and related increasing competition in the domestic labour market.

Incoming labour migration to Tajikistan remains insignificant: 6,012 work permits were issued for foreign citizens in 2013 (IOM, 2015). The main countries of origin of migrant workers in Tajikistan are China, Afghanistan, Turkey and the Islamic Republic of Iran, namely countries with high levels of competition in their domestic labour and service markets. Migrant workers from other countries are employed in construction, catering (cafes and restaurants) and at enterprises funded by foreign investment, for example, in the sector of construction materials.

Turkmenistan

It can be safely assumed that Turkmenistan does not contribute significantly to labour migration flows in North and Central Asia as a country of origin or destination. It is very difficult to make reliable conclusions based on the data available because even basic statistical information about the total population size in the country is not available in the public domain.

2 Agency on Statistics under the President of the Republic of Tajikistan: www.stat.tj.
Such statistics as are available on remittances and the number of work permits and labour licences issued to work in the Russian Federation and Kazakhstan do not suggest a high level of outgoing labour migration from Turkmenistan. However, at the same time, migration from Turkmenistan to the Russian Federation and other countries for the purpose of permanent residence remains comparatively high. The number of people moving to the Russian Federation was in the tens of thousands in the 1990s, before dropping to between 2,000 and 6,000 people in the 2000s (Federal State Statistics Service of the Russian Federation, 2015). In 2010, according to the Federal Migration Service of the Russian Federation, the number of citizens of Turkmenistan who worked in the Russian Federation was 1,200 (Federal State Statistics Service of the Russian Federation, 2013).

Migration to Kazakhstan from Turkmenistan has primarily been of an ethnic nature; during the period between 1991 and 2011 about 64,000 ethnic Kazakhs moved from Turkmenistan to Kazakhstan (Commission on Human Rights under the President of the Republic of Kazakhstan, 2012). The income and social security levels in Turkmenistan are higher than in other sending countries of the subregion, which does not encourage the population to migrate for work.

Turkmenistan also has visa regimes with all North and Central Asian countries; only citizens from some neighbouring regions of Kazakhstan may enter Turkmenistan without a visa, and only for a maximum of five days. Incoming regular labour migration to Turkmenistan is based on work permits issued to employers. As with other countries of the subregion, migrant workers come from countries with a high level of competition in their domestic labour and service markets, for example, Turkey, China and the Islamic Republic of Iran. In particular, this is related to the role played by Turkish and Chinese companies in the construction sector in Turkmenistan.

Uzbekistan

The three main directions of labour migration from Uzbekistan are the Russian Federation, Kazakhstan and non-CIS countries. According to the Federal Migration Service of the Russian Federation, at the end of 2013, 476,500 migrant workers from Uzbekistan had work permits and 720,600 had labour licences (Scherbakova, 2014). They comprised almost half of the total number of migrant workers in the Russian Federation who had work permits and labour licences. Construction, trade, the service sector, agriculture and transport are among the main sectors of employment for migrant workers from Uzbekistan.

There are no reliable data on labour migration from Uzbekistan to Kazakhstan. In 2006, during a campaign in which 164,500 foreign citizens were regularized, 71.1 per cent were citizens of Uzbekistan (Building Migration Partnerships, 2010b). Migrants from Uzbekistan are actively engaged in Kazakhstan in the construction sector, agriculture (vegetable and cotton growing), catering (cooks, bakers) and trade. Other popular destinations of labour migration flows from Uzbekistan are the Republic of Korea, Europe, the United States, the United Arab Emirates, Turkey and the Islamic Republic of Iran. However, migration in these directions is significantly lower. In particular, at the end of 2013, about 15,000 migrant workers from Uzbekistan were employed in the Republic of Korea on the basis of work permits (Birzhevoy Lider, 2014). Higher incomes and less competition in the labour and service markets are the main pull factors for labour migration to the Russian Federation and Kazakhstan. Labour migration to other countries is limited because of visa regimes, potential migrants’ lack of knowledge of foreign languages and lack of work experience in the relevant labour markets (United Nations Development Programme and Swiss Embassy Gender Programme, 2008).

Labour migration to Uzbekistan is regulated; however, information about the number of work permits that are issued is not publicly available. Labour migration flows to the country are considerably lower than to the Russian Federation and Kazakhstan and originate from the countries with higher competition in their labour and service markets, for example, Turkey and China.
National policies, laws and institutional frameworks of the countries of destination
The two main countries of destination in North and Central Asia, Kazakhstan and the Russian Federation, have similar approaches to policy development, objectives and priorities for policy implementation in the area of labour migration, namely:

a. Protection of the local labour market through setting quotas and issuing work permits for foreign workers;

b. Development of differentiated mechanisms for the attraction, selection and use of foreign workers;

c. Priority for skilled labour migration;

d. Prevention of irregular migration.

In the Russian Federation, these principles are reflected in the Concept of the State Migration Policy of the Russian Federation until 2025, while in Kazakhstan they are found in the Kazakhstan 2050 strategy, which was presented by the President of Kazakhstan on 14 December 2012. A comparative analysis of these documents shows that short-term steps to implement migration policy in the Russian Federation were identified for a broader range of labour migration aspects than in Kazakhstan. In particular, the Russian Migration Policy Implementation Plan for 2012-2015\(^3\) includes a number of activities to promote migrant adaptation and integration, and encourage immigration of youth working in professions and holding qualifications especially in demand in the Russian labour market. In contrast, the Integrated Plan for 2014-2016\(^4\) developed with the aim of implementing the goals and objectives of the Kazakhstan 2050 strategy in the area of migration is largely focused on assessment and control of migration flows, and prevention and identification of violations of laws on migration.

The admission of foreign labour and the rights of migrants and members of their families are regulated in the Russian Federation by the provisions of the Labour Code of the Russian Federation, Federal Law No. 115-FZ of 25 July 2002 on Foreign Citizens’ Legal Status in the Russian Federation, and in Kazakhstan by the provisions of two laws, namely No. 477-IV of 22 July 2011 on Migration of the Population and No. 2337 of 19 June 1995 on the Legal Status of Foreigners. Both countries of destination have developed systems of requirements for foreign labour admission that are set forth in secondary regulations by the Governments and regulators. At the same time, the implementation mechanisms supporting the legislation of Kazakhstan and the Russian Federation in terms of post-admission policy are weak. Both countries’ laws on foreigners’ legal status and migration protect many rights with reference to other laws, including those on labour, pensions and social security, health and education, which requires the elaboration of such rights in those laws.

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\(^3\) Approved by of the Government resolution No. 1502-p of 21 August 2012.

\(^4\) Approved by of the Government resolution No. 1593 of 31 December 2013.

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Legislation on the admission of foreign labour

Kazakh and Russian laws are based on similar approaches and principles of regulating the admission of foreign workers; they use two main regulatory instruments, namely quotas and work permits. In the Russian Federation, these issues are regulated by Government resolution No. 800 of 12 September 2013 and an interdepartmental Administrative Regulation of 11 January 2008, while in Kazakhstan they are regulated by Government resolution No. 45 of 13 January 2012 and Minister of Internal Affairs Order No. 76 of 8 February 2014. It should be mentioned that most countries of origin in North and Central Asia also regulate foreign labour admission using quotas and work permits. The exceptions are Armenia and Georgia, where foreign labour admission is not regulated.

Quotas for the foreign labour force in Kazakhstan and the Russian Federation

In Kazakhstan quotas for the foreign labour force are determined:

a  As a percentage of the economically active population;

b  In absolute terms by priority projects;

c  By countries of origin.

The Ministry of Healthcare and Social Development and its Committee for Labour, Social Protection and Migration play a key role in setting quotas for the foreign labour force. Setting quotas for foreign labour as a percentage of the number of the economically active population has been applied in Kazakhstan since 2001. Quotas for priority projects were introduced four years ago and are set on a case-by-case basis in absolute figures; they are additional to the quotas allocated by regions. Setting quotas by countries of origin is provided for if there are ratified bilateral agreements on cooperation on labour migration and social protection of migrant workers in order to attract foreign workers for seasonal employment. This is especially relevant to migrant workers from Kyrgyzstan because the 2002 Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Kyrgyzstan on the Employment and Social Protection of Migrant Farm Workers Employed in the Border Regions was signed with this country, although it should be noted that it has not been ratified by Parliament.

In the Russian Federation, annual foreign labour force quotas are set according to a similar procedure to that in Kazakhstan, where initial requests by employers for foreign workers are submitted through executive authorities of federal subjects to the Ministry of Labour and Social Protection. The Ministry consolidates them into a single document, which is subsequently approved by the Government of the Russian Federation. The national quota is subsequently allocated by the Ministry by federal subjects. At the same time, in contrast to the system in Kazakhstan, Russian quotas not only limit the total number of foreign workers engaged under work permits, but also determine priority professional and qualification groups and the maximum number of work permits issued for each of them. In 2014, quotas comprised over 1.6 million work permits, the largest proportion of which were assigned to workers involved in mining, construction and assembly, construction and repair operations, unskilled workers, drivers and engine drivers of mobile equipment. One more difference between the systems in each country is that the quota may be adjusted by the Ministry of Labour and Social Protection if the labour market situation changes, either upwards or downwards. A quota reserve of up to 30 per cent provides flexibility in this regard.

Permit systems for labour migration

The development of the permit system in Kazakhstan and the Russian Federation began with the introduction of permits for employers to attract foreign labour. They are designed mainly to regulate foreign labour admission by large industrial and mining companies.

5 Government resolution No. 977 of 31 October 2013.
Such permits are normally granted after an employer satisfies a labour market test; they do not allow migrant workers to change their initial employer for another. The procedures and conditions for issuing permits are also often too complex for small and middle-sized companies, and individual entrepreneurs, farmers and households. The complexity of such procedures was thought to be one of the main reasons for migrants working in irregular situations in Kazakhstan and the Russian Federation (ILO, 2008; IOM, 2008). Currently, both countries are adjusting their permit systems to accommodate the needs of employers from the construction, transport, trade and services, education and public health sectors, as well as the needs of households. According to the Russian Federal Migration Service, there were between 10 and 15 million irregular migrants in 2006, although the number decreased to between 5 and 7 million in 2007 after the introduction of work permits for foreign workers (ILO, 2008). The Government of Kazakhstan is currently considering the expansion of similar work permits for migrant workers, allowing them to seek jobs not required by national workers in certain priority sectors. Kazakhstan and the Russian Federation also have licences for migrant workers providing services to households.

In Kazakhstan, permits for labour migration are issued according to the regulations laid out in two official documents. Work permits for employers to attract foreign labour were introduced in Kazakhstan in 2001. They are issued by local executive authorities and are valid only in the event that an employer has also obtained a work permit for that type of activity. These permits are provided for the following categories of foreign workers: chief executive offices and their deputies, heads of structural subdivisions, qualified specialists, qualified workers and seasonal foreign workers. The procedure to obtain such permits is highly complex, and prior to issuing a domestic labour market test is conducted, during which employers must seek to fill the vacancy using a national database. The costs and complexity of obtaining and extending these permits increases because of special conditions that require additional costs for professional training, retraining, professional development and additional job creation for national workers. Due to their complexity and costs, these permits are only feasible for large companies, operating in the area of mineral resources extraction, transportation and processing, power generation and transport.

In recent years, attempts were made in Kazakhstan to introduce simplified permit systems. The first of them was introduced in 2012; it enables migrant workers, rather than employers, to obtain work permits, according to a list of occupations (professions) established by legislation. This type of permit may be obtained for a period up to three years, while permits to employers are issued on various terms but for less than two years. However, the statutory list of 30 professions (occupations) for independent job search by migrant workers is not linked to the main sectors of migrant work in Kazakhstan. Considering this bottleneck, demand for this type of work permit was weak in practice, and only one such permit was issued between 2012 and 2013. As was mentioned earlier, the Government of Kazakhstan has considered harmonizing the system of work permits issued to foreign workers with that of the Russian Federation; a draft law on this matter was submitted to Parliament in September of 2014. Another type of permit was introduced in 2014 for providing services to households, which is issued by the migration police of the Ministry of Internal Affairs. It can be obtained by foreign citizens who, according to inter-State agreements, have the right to enter and stay in the country without a visa for at least three months. Migrant workers from all North and Central Asian countries, except Turkmenistan, are covered by this scheme. This work permit covers such work in households as babysitting, nursing services, homecare and/or gardening and house maintenance, where one individual may employ not more than five migrants simultaneously. The permit is issued to migrant workers for 1, 2 or 3 months and the maximum working period cannot exceed 12 months.

In the Russian Federation permits for foreign labour and migrant workers are issued for a period of up to one year; for qualified specialists this increases to three
years, while labour licences (patents) for providing services to households are issued to migrant workers for 1, 2 or 3 months, up to a maximum of 12 months.

Although the Russian permit system is similar to that found in Kazakhstan, in the former the first two types of permits are more accessible for potential recipients, and licences for household services were introduced much earlier than in latter country. In comparison to Kazakhstan, when employers seek to obtain work permits, a domestic labour market test is first conducted by the competent authority (State employment authorities of federal subjects, Federal Marine and River Transport Agency, Federal Agency for Fishery, etc.) on the expediency of employing qualified foreign workers in the relevant professions and positions. Employers are further not encumbered by requirements for professional training, retraining, professional development and job creation of nationals of the receiving country. Finally, Russian work permits issued to migrant workers themselves are much more focused on their actual needs than in Kazakhstan. They are issued not only for employment but to run their own businesses (including working in markets and providing services).

As a result, the gap between the actual labour migration flows and the number of migrant workers covered by work permits and labour licences is considerably lower in the Russian Federation compared with Kazakhstan. In addition, the control of labour migration flows by means of permits in the Russian Federation is more centralized, with major functions being performed by one State authority — the Federal Migration Service. For example, licences for household services and work permits to migrant workers on the territory of one federal subject are issued by local agencies of the Federal Migration Service. If workers need to work in two or more federal subjects, work permits are issued directly by the Federal Migration Service. In contrast, in Kazakhstan, work permits are issued by local executive authorities and permits to provide services to households by migration police.

However, since 1 January 2015 it is necessary for a migrant worker’s knowledge of the Russian language, history and basics of Russian federal legislation to be officially assessed in order to obtain final permission for temporary residence and work in the country. Certificates of such assessments are valid for five years and have been issued since 1 September 2014 by educational institutions in the Russian Federation and certain establishments abroad that are included in a special register. It seems likely that this requirement will lead to a reduction in regular migration flows to the Russian Federation.

Rights of migrant workers and members of their families in Kazakhstan and the Russian Federation

The general conditions for protecting migrant workers’ rights in Kazakhstan and the Russian Federation are regulated by laws on the legal status of foreign citizens and special laws on labour, trade unions, employment, pension security, statutory social insurance, State social benefits, health protection, education and housing relations. Kazakhstan also adopted a special law on migration. A common legislative principle in both Kazakhstan and the Russian Federation is that foreign citizens and stateless persons have the same rights as nationals unless provided for otherwise in law. However, the principle of equality regarding rights and obligations does, to a great extent, refer to foreign citizens and stateless persons who have a permanent residence permit. It is important to note that according to the definitions of “labour migration” under Kazakh legislation and “foreign worker” under Russian legislation, migrant workers in both receiving countries are recognized as migrants staying temporarily in the respective country. With this in mind, a number of significant restrictions on migrant workers’ rights

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8 Law No. 477-IV of 22 July 2011 on Migration of the Population.
9 Article 3 of the Law on the Legal Status of Foreigners.
11 Subparagraph 4 of article 1 of the Law on Migration of the Population.
12 Paragraph 1 of article 2 of Foreign Citizens’ Legal Status in the Russian Federation.
TABLE 2: RIGHTS OF MIGRANT WORKERS AND MEMBERS OF THEIR FAMILIES

<table>
<thead>
<tr>
<th>RIGHT</th>
<th>KAZAKHSTAN</th>
<th>RUSSIAN FEDERATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to employment</td>
<td>Subject to permits</td>
<td>Subject to work permits and licences</td>
</tr>
<tr>
<td>Right to involuntary job changes</td>
<td>When a permit is issued to a migrant (not to an employer)</td>
<td>When a permit is issued to a migrant (not to an employer)</td>
</tr>
<tr>
<td>Right to safe conditions of employment</td>
<td>Same rights as national workers</td>
<td>Same rights as national workers</td>
</tr>
<tr>
<td>Right to register as an individual entrepreneur</td>
<td>Not entitled</td>
<td>Entitled</td>
</tr>
<tr>
<td>Access to vocational training, language and integration courses</td>
<td>Provided for but not guaranteed</td>
<td>Some Russian language courses have been introduced</td>
</tr>
<tr>
<td>Trade union rights</td>
<td>Membership is allowed</td>
<td>Membership is allowed</td>
</tr>
<tr>
<td>Right to family reunification</td>
<td>Not provided for explicitly</td>
<td>Provided for explicitly in the case of highly skilled labour migrants</td>
</tr>
<tr>
<td>Right to pension benefits</td>
<td>Not provided for</td>
<td>Not provided for</td>
</tr>
<tr>
<td>Rights to statutory social insurance in case of loss/reduction of income due to maternity, work injury, occupational disease or death</td>
<td>Not provided for</td>
<td>Social insurance against injuries and work-related illness provided for</td>
</tr>
<tr>
<td>Right to State social benefits</td>
<td>Not provided for</td>
<td>Not provided for</td>
</tr>
<tr>
<td>Access to health care</td>
<td>In case of dangerous infectious diseases, it is free of charge; in other cases, it is paid for by the worker</td>
<td>Emergency medical aid is free of charge; however, there is no access to statutory medical insurance Other medical services can be secured either by voluntary medical insurance or by agreement between employers and health care organizations</td>
</tr>
<tr>
<td>Access to housing</td>
<td>Rented housing, no access to social housing</td>
<td>Rented housing, no access to social housing</td>
</tr>
<tr>
<td>Access to education</td>
<td>Not explicitly provided for</td>
<td>Entitled</td>
</tr>
<tr>
<td>Access to justice</td>
<td>Right to challenge a case before a superior body or court</td>
<td>Right to challenge a case before an independent commission or court</td>
</tr>
</tbody>
</table>
compared with those of national workers exist in both
countries. Firstly, their rights to access to pensions,
statutory social insurance, State social benefits and
medical treatment may be affected. In addition, the
temporary status of migrant workers leads to an unclear
situation as regards their right to family reunification.
In Kazakhstan, article 27 of the Law on Migration of
the Population does not specify that migrant workers
are among the immigrants for whom this right is rec-
ognized, while in the Law on Foreign Citizens’ Legal
Status in the Russian Federation, the right to family
reunification is expressly specified only in relation to
highly qualified foreign specialists.

The main area in which Kazakhstan and the Russian
Federation have, in recent years, made definite progress
in terms of statutory recognition of migrant workers’
rights is their economic rights. Firstly, as schemes of
foreign labour admission based on work permits and
labour licences issued to migrant workers rather than
to their employers have been gradually developed, so
have possibilities for workers to change employers and
undertake a free job search. When permits for foreign
labour were only issued to employers, a migrant worker
was attached to one employer and consequently had no
right to change employment, even if the employment
agreement with the initial employer had been termi-
nated through no fault of the migrant worker. However,
it should be noted that licences (patents), which permit
employment for individuals (households), come with
territorial restrictions: in Kazakhstan a licence is valid
only in one area, in Astana or Almaty,13 while in the
Russian Federation they are only valid on the territory
of one subject of the federation.14

With respect to employment, occupational health and
safety, the Labour Code of Kazakhstan does not make
a difference between migrant workers and nationals.
Provisions are applied in the same way to all workers
regardless of citizenship, including temporary migrant
workers. In the Russian Federation, a special chapter
on regulation of the labour of migrant workers was
introduced into the Labour Code of the Russian

Federation by Law No 409-FZ of 1 December 2014, in
which special provisions on concluding or terminating
a contract, temporary transfer to another job, suspension
from duties and severance pay are specified. In
particular, the laws cover a range of conditions on sus-
pending a foreign worker and terminating their con-
tract due, inter alia, to the expiration or cancellation of
permits to work or for temporary stay and expiration
of documents securing the provision of health care.
Severance pay of two weeks’ average salary is also en-
visaged in the event that a contract is terminated due to
the suspension or cancellation of an employer’s permit,
on the basis of which the work permit was issued to
the migrant.

The legislation on trade unions in Kazakhstan15 and the
Russian Federation16 recognizes the right of migrant
workers to join and take part in trade union activities,
which opens up legal avenues for these organizations
to protect their rights. In terms of migrant workers’
access to the services of State employment agencies, it
should be noted that in Kazakhstan, Law No. 149-II of
23 January 2001 on Employment of the Population
covers all foreign citizens and stateless persons. At the
same time, the provisions of Law No. 1032-1 of 19
April 1991 on Employment of the Population in the
Russian Federation do not cover foreign citizens and
stateless persons and in many cases there are references
to nationals. On the level of practical implementation,
migrant workers in both countries do not have access
to the services of State employment agencies.

Legislation on the access of migrant workers and
members of their families to free medical care differs
significantly in Kazakhstan and the Russian Feder-
ation. In Kazakhstan, it is guaranteed only in relation to
a statutory list of acute diseases that pose a danger to
the general public.18 This includes infectious diseases
such as diphtheria, influenza, tuberculosis, and plague.
Citizens of cist member States are further guaranteed
free first aid and emergency treatment as part of the

13 Paragraph 6 of article 43-2 of the Law on Migration and the Pop-
ulation.
14 Paragraph 8 of article 13-3 of the Federal Law on Foreign Citizens’
Legal Status in the Russian Federation.
15 Paragraph 1 of article 3 of Law No. 211-V ZRK of 27 June 2014 on
Trade Unions.
16 Paragraph 4 of article 2 of Federal Law No. 10-FZ of 12 January
1996 on Trade Unions, Their Rights and Guarantees of Activity.
17 Paragraph 2 of article 3.
18 Approved by Government resolution No. 1937 of 26 November
2009.
Agreement on Medical Assistance to Citizens of CIS Member States.\textsuperscript{19} In other cases, medical services are provided to migrant workers and members of their families for a fee. In the Russian Federation, all foreign citizens and stateless persons are guaranteed free first aid, while any planned medical assistance is provided for on a paid-for basis.\textsuperscript{20} Migrant workers are not entitled to access a statutory medical insurance system in the country.\textsuperscript{21} According to Federal Law No. 409-FZ of 1 December 2014, medical services for migrant workers in the Russian Federation must be included in labour contracts, which should be covered either by voluntary medical insurance or by an agreement between the employer and a healthcare organization.

As regards the access of migrant workers and members of their families to childcare and educational services, the obstacles migrants face in these areas are not associated with direct legal bans. The right to family reunification is only legally recognized for particular categories of migrant workers, especially for highly qualified ones, which may be considered as an indirect restriction on the rights of members of migrants’ families, even if they arrived from a country with a visa-free regime. Thus the absence of an explicitly defined right to family reunification for other categories of migrant workers might be used as a reason for not providing their children with access to education. In practice, the admission of migrant workers’ children to kindergartens and schools depends to a great extent on the administrations of the respective institutions and on whether migrants are capable of providing the necessary documents (confirmation of registration at place of residence, employment confirmation letter, etc.). As a rule, the services of public kindergartens and schools are accessible only for regular migrant workers registered at their place of residence and working under a work permit or licence. The access of migrant workers to housing in Kazakhstan and the Russian Federation is mainly limited by their ability to pay private rents; migrant workers do not have a right to social housing.

Kazakh and Russian laws on pensions and social benefits only provide access to pensions and State social benefits to foreign citizens and stateless persons who have a permanent residence permit in these countries. At the same time, with regard to statutory social insurance against occupational accidents and diseases, Russian legislation stipulates its application to migrant workers,\textsuperscript{22} whereas the Kazakh Law of 25 April 2003 on Statutory Social Insurance stipulates the right to receive relevant payments only for foreign citizens and stateless persons who have a permanent residence permit on its territory.\textsuperscript{23} Thus, the most problematic legal issue in Kazakhstan and the Russian Federation is recognition of migrant workers’ rights to access pensions and statutory social insurance. In Kazakhstan, if migrants are employed, their employers are not obliged to make any payments; even if these payments are made, migrant workers have no right to receive the relevant benefits. In the Russian Federation, employers make pension payments for migrant workers, but only highly qualified migrant workers who are eligible for permanent residence can get pension benefits.

Access to justice in the event of disputes regarding migrant workers’ rights is specified in both countries through administrative procedures and a court of law. In Kazakhstan, an administrative procedure means review by a superior authority or official,\textsuperscript{24} while in the Russian Federation for some cases commissions are established with the involvement of representatives of the competent authorities, NGOs and experts.\textsuperscript{25} Judgements on expulsion are normally made by a court, therefore, they can only be appealed through judicial review.

\textsuperscript{19} Approved by Government resolution No. 320 of 29 February 2000.
\textsuperscript{20} Paragraph 5 of the Rules for Medical Aid to Foreign Citizens in the Territory of the Russian Federation approved by Government resolution No. 546 of 1 September 2005.
\textsuperscript{22} Paragraph 2 of article 5 of Federal Law No. 125-FZ of 24 July 1998 on Statutory Social Insurance against Occupational Accidents and Diseases.
\textsuperscript{23} Article 5.
\textsuperscript{24} Article 61 of the Law on Migration of the Population.
\textsuperscript{25} Paragraph 168 of the Administrative Regulation on Labour Migration Permits of 11 January 2008.
A number of studies indicate that economic reasons are the main push factors in irregular migration to Kazakhstan and the Russian Federation, namely the lack of possibilities for employment in the countries of origin and higher income in the countries of destination. The former Soviet republics are considered as the main sources of irregular migration to the Russian Federation. As for other countries of origin, China, Viet Nam and the Philippines are said to be major countries of origin. In the case of Kazakhstan, the main countries of origin of irregular migrants are the CIS countries, particularly Uzbekistan, Tajikistan, Kyrgyzstan and Azerbaijan, and countries from other regions, notably China, Turkey and India (IOM, 2008).

Employment without a permit and a temporary stay without registration in the countries of destination are considered as the main reasons for migrants falling into an irregular status. Complicated official procedures and conditions for getting work permits are considered as the main factors driving irregular migration in the countries of destination; when entering Kazakhstan or the Russian Federation, many migrants prefer to claim purposes other than work at the border.

**Irregular migration**

**TABLE 3: NUMBER OF IRREGULAR LABOUR MIGRANTS DETECTED IN KAZAKHSTAN BETWEEN 2009 AND 2013**

<table>
<thead>
<tr>
<th>Year</th>
<th>2009</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detected by the Committee for Labour, Social Protection and Migration</td>
<td>433</td>
<td>95</td>
<td>74</td>
<td>40</td>
<td>180</td>
</tr>
<tr>
<td>Detected by the migration police and other police officers</td>
<td>13</td>
<td>5 412</td>
<td>7 022</td>
<td>5 096</td>
<td>5 860</td>
</tr>
<tr>
<td>Deportation of irregular migrants by the migration police and other police officers</td>
<td>18 258</td>
<td>18 122</td>
<td>12 955</td>
<td>2 792</td>
<td>2 014</td>
</tr>
</tbody>
</table>


**TABLE 4: NUMBER OF IRREGULAR LABOUR MIGRANTS DETECTED IN THE RUSSIAN FEDERATION IN 2012 AND 2013**

<table>
<thead>
<tr>
<th>Year</th>
<th>2012</th>
<th>2013</th>
</tr>
</thead>
<tbody>
<tr>
<td>Irregular migrants detected</td>
<td>2 520 378</td>
<td>2 530 443</td>
</tr>
<tr>
<td>Irregular migrants deported</td>
<td>35 134</td>
<td>82 413</td>
</tr>
</tbody>
</table>


So far, there has only been a single regularization exercise for irregular migrant workers in Kazakhstan. It took place between 1 August and 31 December 2006, during which time about 164,000 migrant workers were regularized. The legal framework for the procedure was provided by Law No. 149-III of 4 July 2006 on Amnesty due to Legalization of Illegal Migrant Workers. The regularization was available to citizens of CIS countries that had entered Kazakhstan up to 60 calendar days before the above-mentioned law came into force. The law allowed those involved in labour migration from CIS countries who were hired by employers without permits to be regularized for up to three years (ILO, 2008). The Russian Federation has
been trying to regularize migrant workers since 2007 by simplifying the procedures to obtain work permits and introducing labour licences for providing services to households. As a result, the number of irregular migrants in the country has been reduced. However, the Federal Migration Service recognizes that up to 3.6 million migrants might be persons who indicated a false purpose for their entry and stay and did not get a work permit or licence for providing services to households (Federal Migration Service of the Russian Federation, 2013). As noted above, Kazakhstan also started to simplify its procedures for admission of foreign labour in 2014 by introducing a permit for citizens of countries with visa-free regimes who want to provide services to households, but it is premature to make any assessment of the outcomes of these efforts.

In Kazakhstan and the Russian Federation, irregular migrants who are detected must pay fines; they can be detained and subsequently deported from the country depending on which administrative offence they are accused of. Under normal circumstances, deportation of irregular migrants from the territories of Kazakhstan and the Russian Federation is ordered by courts and those deported are barred from re-entry for 5 years (in the Russian Federation between 5 and 10 years). The key enforcement authorities for irregular migration in Kazakhstan are the migration police and other police forces under the Ministry of Internal Affairs for stays without registration, and the State labour inspectors of the Committee for Labour, Social Protection and Migration of the Ministry of Healthcare and Social Development in respect of employment without a permit. The key enforcement authorities for irregular migration in the Russian Federation are police under the Ministry of Internal Affairs and inspectors of the Federal Migration Service.
National policies, laws and institutional frameworks of the countries of origin
The current tendency towards ensuring that labour migration takes place in a regular fashion in the two main countries of destination needs to be reinforced by relevant efforts in the countries of origin. In this context, the three main aspects of national policies, laws and institutional frameworks for the management of labour migration in the countries of origin are protection of migrant workers, promotion of organized labour migration and administration of labour migration (OSCE, IOM and ILO, 2006).

The first aspect includes licensing/regulation of private employment agencies and regulation of job advertising, setting minimum standards for work contracts, providing clearance to leave the country, pre-employment information support and government assistance with obtaining the documents required by the countries of destination, access to medical care, education for children, legal aid and other social services after entry.

Promotion of organized labour migration is aimed at optimization of its benefits by the countries of origin through marketing, disseminating information, developing organized labour migration schemes, State-subsidized skills trainings and language courses and providing assistance to migrant workers with remittance services.

Measures for the administration of labour migration may include designation of the competent authority for labour migration management, inter-agency cooperation and coordination, crafting a policy on labour migration and protection of migrant workers.

The above measures are essential for expanding organized labour migration, protecting migrant workers against abuses and curbing irregular movements. They are equally important for the regularization of labour migration flows within North and Central Asia and their diversification in the countries of origin.

The basic tools for implementing the above measures by the countries of origin are their national strategies, programmes, plans and special laws on migration or external labour migration. In the *Handbook on Establishing Effective Labour Migration Policies in Countries of Origin and of Destination* (OSCE, IOM and ILO, 2006), it is stated that “… well-thought out and articulated mission and vision statements in policy documents help countries and State authorities to understand their common purpose and goals and when there is written migration policy it is easier to attain goals in a comprehensive and consistent manner.” In this regard, it should be mentioned that Turkmenistan and Uzbekistan have no written migration policies.

National laws provide legal frameworks and define procedures to implement national migration policies and thus make them operational. The absence of migration laws in certain countries in North and Central Asia complicates any study of how their State authorities protect migrant workers and provide welfare to them at various steps of the migration process, as well as regulate activities of private employment agencies and other organizations and persons recruiting migrant workers.

**Regulation of private employment agencies**

One of the main challenges for Governments of countries of origin in promoting regular labour migration is to develop and “regulate the market for private employment agencies” (OSCE, IOM and ILO, 2006). Private employment agencies are in the initial stages of development in North and Central Asia. For instance, in Kyrgyzstan there were 15 private agencies entitled to send people to work abroad in 2005 (IOM, 2013). In Tajikistan, according to the Migration Service, 104 private employment agencies were licensed in 2007 but only 26 of them were operational, while in Uzbekistan private employment agencies are not allowed to operate. Currently, private employment agencies in North and Central Asia are not actively involved in overseas labour migration, or only account for a small proportion of labour migrants. Many migrant workers from North and Central Asia rather seek jobs in the Russian Federation with the assistance of friends, relatives and ethnic communities (diasporas) (Injeyan, 2012).

So far, private employment agencies have worked in Armenia independently, without any regulation from the State authorities. According to the Action Plan for the Implementation of the Migration State Regulation...
<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>POLICY DOCUMENTS</th>
<th>LAWS</th>
<th>COMPETENT AUTHORITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>Armenia</td>
<td>Concept for the Policy of State Regulation of Migration in the Republic of Armenia, approved by Government protocol decision No. 51 of 30 December 2010</td>
<td>No special law</td>
<td>State Migration Service of the Ministry of Territorial Administration and Emergency Situations</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>State Migration Management Policy Concept, approved by Cabinet of Ministers resolution No. 94 of 13 July 2004</td>
<td>Migration Code of 2 July 2013</td>
<td>State Migration Service</td>
</tr>
<tr>
<td>Kyrgyzstan</td>
<td>Programme on Promotion of Employment and Regulation of Labour Migration until 2020 and Action Plan, approved by Government resolution No. 485 of 6 September 2013</td>
<td>Law No. 4 of 13 January 2006 on External Labour Migration and Law No. 61 of 17 July 2000 on External Migration. On procedures for employment of foreign citizens and stateless persons in Kyrgyzstan and procedures for lending assistance to Kyrgyz citizens working abroad, approved by Government resolution No. 639 of 8 September 2006</td>
<td>Department of External Migration of the Ministry of Labour, Migration and Youth</td>
</tr>
<tr>
<td>Turkmenistan</td>
<td>No special policy document</td>
<td>Law No. 290-IV of 31 March 2012 on Migration</td>
<td>State Migration Service</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>No special policy document</td>
<td>On measures to improve the organization of employment of citizens of Uzbekistan abroad, approved by Cabinet of Ministers resolution No. 505 of 12 November 2003 Cabinet of Ministers resolution No. 97 of 15 May 2007 on strengthening the registration of citizens of the Republic of Uzbekistan leaving for employment abroad</td>
<td>Agency on External Labour Migration Issues of the Ministry of Labour and Social Protection of the Population</td>
</tr>
</tbody>
</table>
Policy Concept for the years 2012-2016, the creation of a legal framework for State supervision of private employment agencies and establishment of a partnership between authorities and such agencies began in 2014.

In Azerbaijan, private employment agencies have been the subject of legislation, which specifies, in particular, that only a registered legal entity with a special permit issued according to statutory procedure may act as a labour intermediary. Private employment agencies inform the State Migration Service about Azerbaijani citizens employed with their assistance in foreign countries.

In Georgia, the Labour and Employment Policy Department of the Ministry of Health, Labour and Social Affairs is responsible for the registration of private employment agencies.

In Kyrgyzstan private employment agencies are defined in Law No. 4 of 13 January 2006 on External Labour Migration as “senders”. Both individuals and legal entities engaged in activities related to placing Kyrgyz citizens in jobs abroad can act as senders. In performing their activities, senders should obtain permits from the competent authority in the Department of External Migration. Meanwhile, according to article 11 of the Law, Kyrgyz citizens may seek employment abroad with the assistance of senders or by themselves.

In Uzbekistan, citizens have the right to seek employment abroad only with the assistance of the Agency on External Labour Migration of the Ministry of Labour and Social Protection of the Population. Thus, there are no official private employment agencies in this country: the State institution provides support services to Uzbek citizens seeking employment in other countries.

In Tajikistan, private employment agencies carry out activities related to employment of citizens abroad on the basis of a permit (licence). Permits are issued by the Government’s Migration Service.

Employment contracts and emigration clearance

Ensuring that employment contracts “guarantee a fair wage and basic provisions” to protect the rights of migrant workers abroad is one of the key aspects of regulating departure procedures by the countries of origin (OSCE, IOM and ILO, 2006). Private employment agencies in Azerbaijan assist citizens with getting jobs abroad only on the basis of agreements between the agencies and employers in the countries of destination. At the same time, a guarantee of social protection for Azerbaijani citizens in accordance with international standards must be provided for in the agreements.

In Kyrgyzstan, citizens leaving the country to take up a job abroad must have an employment contract from a foreign employer. The content of the employment contract is determined by the Law on External Labour Migration. Among other things, the employment contract should include details concerning the organization of travel, meals, accommodation and medical services for migrant workers and members of their families, as well as the procedures and conditions for social and health insurance.

The requirement of an employment contract signed by an employer is also applicable for citizens of Tajikistan going to work abroad. The content of the employment contract is covered in article 8.3 of the Law on Migration. It should, inter alia, cover the issues of travel arrangements, meals, accommodation, medical services for migrant workers and members of their families, as well as procedures to compensate for any harm caused to the health of a migrant worker as a result of their work, and other social guarantees.

In Uzbekistan, an employment contract is one of the requirements for a citizen to obtain permission to work abroad. According to the Regulations on the Employment of Citizens of the Republic of Uzbekistan Abroad, these contracts should include social guarantees and health insurance for a migrant worker, as well as an obligation on their employer to ensure that a work visa will be issued for them.
In Armenia, Georgia and Turkmenistan, national legislation does not set any requirements for their citizens seeking employment abroad as regards signing individual employment agreements with foreign employers.

Emigration clearance is an additional instrument “to verify that minimum standards in employment contracts are met” (OSCE, IOM and ILO, 2006). In Azerbaijan, the State Migration Service approves employment agreements signed by private employment agencies and foreign employers to attract Azerbaijani citizens for paid employment abroad. In Kyrgyzstan and Tajikistan, private employment agencies are required to sign individual contracts with migrant workers registered by the Department of External Migration of the Ministry of Labour, Migration and Youth and a regional body of the State Migration Service, respectively. In order to go abroad for employment on the basis of an individual contract, citizens of Uzbekistan must obtain permission from the Agency on External Labour Migration of the Ministry of Labour and Social Protection of the Population. Permits are issued on the basis of the decisions of the Inter-agency Commission for the Selection of Candidates for Employment in Foreign Countries. In order to work abroad, citizens of Turkmenistan also need to get the permission of the State Migration Service.

Support services

Providing information and consultations remains the main form of support to migrant workers by the countries of origin in North and Central Asia. Assistance in the form of consultation services is provided to the citizens of Armenia going abroad for employment. The Action Plan for Implementation of the Policy Concept for the State Regulation of Migration in the Republic of Armenia in 2012-2016 envisages the involvement of NGOs to provide these services.

Nationals of Azerbaijan leaving for employment abroad can apply for information at the Migration Information Centre, which operates at the State Migration Service.

In Georgia, there is a network of mobility centres operating with the support of IOM. These centres provide free and confidential consultations to potential migrants, including those seeking employment abroad.

In Uzbekistan, in 2003 the Centre for Pre-Employment Training and Adaptation of Citizens Going Abroad was established. In addition to information on legal issues, customs and norms of behaviour in the country of destination, the Centre teaches people the language of the receiving country up to a level to enable migrants to communicate and perform their functions.

In Tajikistan, the establishment of a network of regional advisory centres for migrants in preparation for going abroad was planned for 2012–2013 within the Action Plan for the Implementation of the National Strategy for Migration of Citizens of the Republic of Tajikistan for the years 2011–2015. As of September 2015, two such centres had been opened.

Labour market information gathering and dissemination

Marketing is a necessary element in the efforts of countries of origin to promote their migrant workers more effectively and to find new and more decent jobs for them. In Armenia, the analysis of foreign labour markets in respect of opportunities for migrant workers is carried out by diplomatic representatives. One of the mechanisms for performing this task is the introduction of labour attachés at Armenian diplomatic missions in the countries of destination. The information collected is disseminated among potential migrant workers through mass media, NGOs and private employment agencies.

In Georgia, the study of labour markets in other countries in respect of opportunities for migrant workers is carried out under the European Union-Georgia Mobility Partnership. In particular, the relevant webpage of the State Commission on Migration Issues provides information leaflets on certain destination countries for potential migrants from Georgia, namely Belgium,

28 Approved by Government resolution No. 460 of 4 October 2011.
the Czech Republic, Germany, Poland, Romania and Sweden. Information on employment opportunities abroad can also be obtained from the mobility centres, which operate in four cities in Georgia with the support of IOM.

In Kyrgyzstan, the Action Plan for the Implementation of the Programme on Promotion of Employment and Regulation of Labour Migration until 2020\textsuperscript{29} envisages providing information, on a regular basis, on vacancies in international labour markets as well as on the legislation of the receiving countries. The actors responsible for this activity are the Ministry of Labour, Migration and Youth and, by agreement, private employment agencies.

In Tajikistan, the work on seeking new labour markets and assessing new demands in existing markets is arranged by the State Migration Service. This authority also ensures publication of information materials about the demand for, and supply of, foreign labour migrants and employment opportunities.

Official channels for workers from Uzbekistan to apply to work abroad are limited by its intergovernmental and interdepartmental agreements on labour migration. Under these agreements, the Agency on External Labour Migration cooperates with the competent authorities of foreign States on the allocation of quotas and permits for the employment of Uzbek citizens. In addition, the Agency deals directly with foreign firms (enterprises, institutions, companies) interested in the recruitment of foreign labour. The regional offices for the employment of citizens abroad provide information on the possibilities and conditions of employment overseas.

**Education, training and skills development**

The development of education/training programmes by the countries of origin makes their migrant workers more competitive and strengthens their capacities for social integration in the countries of destination. Educational programmes to prepare citizens for labour migration are envisaged or currently implemented in three countries under review, namely Kyrgyzstan, Tajikistan and Uzbekistan.

In Kyrgyzstan, the improvement of professional skills of departing migrant workers is envisaged through the development and implementation of short-term training programmes and conversational language classes. The Programme on Promotion of Employment and Regulation of Labour Migration until 2020 further envisages the establishment of pre-employment migration training centres for citizens wishing to work abroad. The time frame for the implementation of this activity is between 2014 and 2017.

In Tajikistan, the provision of a training module and training videos to prepare Tajik nationals to work abroad began in 2013. It is expected that these programmes will be part of the pre-employment training system for migrant workers, to be established through the joint mobilization of vocational schools and training centres for the education of adults, as well as NGOs and the private sector.

In Uzbekistan, the Centre for Pre-employment Training and Adaptation of Citizens Going Abroad provides courses to study the language of the country of destination.

**Administration of labour migration**

For the effective implementation of measures on the protection of citizens working abroad and “optimizing the benefits of labour migration, it is essential that there is an adequate institutional framework and inter-ministerial coordination” (OSCE, IOM and ILO, 2006). The organizational structures of the national migration authorities vary from country to country, depending on the scope of their competencies in international migration management. Three countries of origin from North and Central Asia (Azerbaijan, Tajikistan and Turkmenistan) have designated autonomous migration authorities dealing, inter alia, with external labour migration management. In general, this
indicates that these countries of origin give migration policy high priority in their overall development and foreign policy.

In Armenia, the State Migration Service is subordinated to the Ministry of Territorial Administration and Emergency Situations. The State Migration Service includes units dealing with migration policy, international relations, integration, asylum seeking and refugees.

The State Migration Service of Azerbaijan is not just a policymaking authority, it also serves as the regulator for immigration and the enforcement authority on irregular migration. As a result, its organizational structure is more multi-branch and its staff are more numerous. It includes departments addressing regulation of migration processes, enforcement of migration law, analysis of migration processes and information support, citizenship, refugees, international cooperation and a number of administrative departments. It also has regional migration offices and detention centres for irregular migrants.

In Georgia, the competencies related to the administration of international migration are shared by various ministries and agencies, including the Ministry of Health, Labour and Social Affairs, the Ministry of Internally Displaced Persons from the Occupied Territories, Accommodation and Refugees, the Civil Registry Agency of the Ministry of Justice, the Office of the State Minister for Diaspora Issues, the Ministry of Foreign Affairs and the Ministry of Internal Affairs.

In Kyrgyzstan, the Department of External Migration was under the Ministry of Foreign Affairs until February 2012 when it became part of the Ministry of Labour, Migration and Youth.

Since 2003, the Agency of External Labour Migration in Uzbekistan is responsible for the regulation of labour migration and assistance to Uzbek citizens employed abroad. It is part of the Ministry of Labour and Social Protection of the Population and its activities in the regions of Uzbekistan are supported by four regional offices of this Ministry.

Although many of the countries of origin under review have empowered migration authorities “to manage their overseas employment programmes, they can only do so successfully in cooperation and coordination with an array of other ministries and agencies” (OSCE, IOM and ILO, 2006).

In the case of Georgia, in 2010, in accordance with a decree by the Prime Minister, a Migration Commission was established. The Commission is a consultative body in which discussion takes place and decisions are made on issues related to migration management. The Commission consists of representatives of 12 national ministries and governmental offices.

Tajikistan also established an Inter-agency Commission for Regulation of Migration Processes, which is headed by the Deputy Prime Minister. This Commission is responsible for the coordination of activities by ministries and agencies on all types of international and internal migration.

30 Government resolution No. 139 of 20 February 2012.
Participation in bilateral, regional and international regimes of protection of migrant workers
Multilateral agreements on labour migration involving the countries of North and Central Asia can be divided into four groups:

a. Bilateral and trilateral agreements on cooperation in the field of labour migration and labour migration management;

b. Agreements between CIS countries on cooperation in the area of labour migration, migrant workers’ rights and certain social aspects of labour migration;

c. The Treaty on the Eurasian Economic Union;


The main aspects of labour migration governed by these agreements are the international legal regime for the protection of the rights of migrant workers, free labour movement within the Eurasian Economic Union, international and inter-State cooperation on labour migration issues and combating irregular migration, mutual recognition of qualifications, access to health care for migrant workers on the territory of the receiving country, and management and regulation on a bilateral basis of labour migration flows between or among participating countries.

Bilateral labour migration agreements of North and Central Asian countries

Most bilateral agreements on labour and the protection of the rights of migrant workers between the countries of North and Central Asia were adopted in the 1990s and early 2000s, when the current labour migration flows in the subregion were just beginning and thus not sufficiently studied. No significant amendments or changes have been made to these agreements after their signature, while certain of their provisions are already outdated, for instance, the references to the titles of the designated authorities. Only the 1996 Agreement between Kyrgyzstan and the Russian Federation was amended by the Protocol of 22 September 2003. The majority of bilateral labour migration agreements were concluded between the countries of destination (the Russian Federation and Kazakhstan) and countries of origin (Armenia, Azerbaijan, Kyrgyzstan, Tajikistan, Uzbekistan). In the case of bilateral agreements between Armenia and Georgia, Azerbaijan and Kyrgyzstan and Kyrgyzstan and Tajikistan, there are neither clear-cut countries of origin nor clear-cut countries of destination. Turkmenistan has no bilateral agreements on labour migration with any countries in North and Central Asia.

The subject matter of these agreements relates to general working conditions for citizens of one State on the territory of another, the bilateral cooperation of designated authorities in each country and the recognition of certain rights of migrant workers and members of their families on the territory of the receiving country. Most of these agreements are applied regardless of region of origin or sector of employment of migrant workers; the only exception to this is the agreement between Kazakhstan and Kyrgyzstan of 9 July 2002 on the employment and social protection of migrant workers employed in agricultural work in the border regions. The provisions of the majority of the reviewed labour migration agreements of North and Central Asian countries are based on the basic principles and approaches of the 1994 CIS Agreement on Cooperation in the Field of Labour Migration and Social Protection of Migrant Workers; indeed, they even contain direct references to it (see below). There is the same glossary of terms in them and they have borrowed certain provisions of the CIS Agreement, in particular those relating to taxation, pension coverage, social insurance, recognition of documents on education, access to health care, the import and export of personal belongings and transfer of earnings (remittances). The main differences from the CIS framework document are that the bilateral agreements contain references to the public authorities of participating States responsible for their implementation, indicate that they can create joint working groups to address relevant issues and some of them contain provisions on the exchange of information. However, repeating the provisions of

31 Bilateral working groups are established under agreements of the Russian Federation with Armenia, Kyrgyzstan and Tajikistan.
TABLE 6: **BILATERAL AGREEMENTS ON LABOUR MIGRATION IN NORTH AND CENTRAL ASIA**

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>BILATERAL AGREEMENTS BETWEEN THE COUNTRIES OF NORTH AND CENTRAL ASIA</th>
</tr>
</thead>
<tbody>
<tr>
<td>Armenia</td>
<td>Agreement with Georgia of 3 December 1993</td>
</tr>
<tr>
<td></td>
<td>Agreement with the Russian Federation of 19 July 1994</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>Agreement with Kazakhstan of 22 October 1999</td>
</tr>
<tr>
<td></td>
<td>Agreement with Kyrgyzstan of 23 April 1997</td>
</tr>
<tr>
<td>Georgia</td>
<td>Agreement with Armenia of 3 December 1993</td>
</tr>
<tr>
<td>Kazakhstan</td>
<td>Agreement with Azerbaijan of 22 October 1999</td>
</tr>
<tr>
<td></td>
<td>Agreement with Kyrgyzstan of 14 March 1997</td>
</tr>
<tr>
<td></td>
<td>Agreement with Kyrgyzstan of 9 July 2002 (on labour migration in agriculture)</td>
</tr>
<tr>
<td></td>
<td>Agreement with Tajikistan of 4 July 2006</td>
</tr>
<tr>
<td>Kyrgyzstan</td>
<td>Agreement with Azerbaijan of 23 April 1997</td>
</tr>
<tr>
<td></td>
<td>Agreement with Kazakhstan of 14 March 1997</td>
</tr>
<tr>
<td></td>
<td>Agreement with Kazakhstan of 9 July 2002 (on labour migration in agriculture)</td>
</tr>
<tr>
<td></td>
<td>Agreement with the Russian Federation of 28 March 1996</td>
</tr>
<tr>
<td></td>
<td>Agreement with Tajikistan of 6 May 1998</td>
</tr>
<tr>
<td>Russian Federation</td>
<td>Agreement with Armenia of 19 July 1994</td>
</tr>
<tr>
<td></td>
<td>Agreement with Kyrgyzstan of 28 March 1996</td>
</tr>
<tr>
<td></td>
<td>Agreement with Tajikistan of 16 October 2004</td>
</tr>
<tr>
<td></td>
<td>Agreement with Uzbekistan of 4 July 2007</td>
</tr>
<tr>
<td>Tajikistan</td>
<td>Agreement with Kyrgyzstan of 6 May 1998</td>
</tr>
<tr>
<td></td>
<td>Agreement with the Russian Federation of 16 October 2004</td>
</tr>
<tr>
<td></td>
<td>Agreement with Kazakhstan of 4 July 2006</td>
</tr>
<tr>
<td>Uzbekistan</td>
<td>Agreement with the Russian Federation of 4 July 2007</td>
</tr>
</tbody>
</table>

the CIS Agreement, the bilateral agreements of North and Central Asian countries have, accordingly, similar drawbacks, namely the difficulty of applying them directly, the lack of developed mechanisms to monitor their compliance, partial coverage of migrant workers’ rights and a lack of provisions on the rights of family members of migrant workers. In addition, provisions of bilateral agreements relating to the rights of migrant workers include, as a rule, references to national laws of the receiving country or to other agreements.

Most of the agreements in question are framework documents for bilateral cooperation; they are not supplemented by protocols that determine the relevant thematic areas for the joint activities of authorities, as well as the conditions and procedures for implementation of their activities. Only in a few cases have efforts been made in this sense, for example, on 29 April 2004 the Ministries of Labour and Social Development of the Russian Federation and Kyrgyzstan signed a Memorandum of Cooperation, which focused on the social aspects of labour migration and the development of annual work programmes. Another example is the work of the Joint Working Group on the bilateral agreement between Armenia and the Russian Federation on the development of a draft intergovernmental agreement concerning the engagement of Armenian labour on the territory of the Russian Federation. However, in practice even those efforts are lacking in consistency; for example, joint working groups are platforms for discussion of certain aspects of bilateral cooperation rather than bodies monitoring the implementation of agreements.
In general, the existing bilateral agreements cannot serve as working tools for the management of labour migration flows between their parties, being rather framework documents declaring certain aspects of bilateral cooperation on labour migration. They do not provide opportunities for organized recruitment of migrant workers, nor do they generally establish individual quotas for migrant workers from the sending countries that are parties to such agreements. An initial step in this direction was taken by the 2002 Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Kyrgyzstan on the Employment and Social Protection of Migrant Farm Workers Employed in the Border Regions. It provides for the establishment of mandatory annual quotas for migrant workers employed in agriculture in the border regions prior to 1 February. In practice, however, this rule is not applied, although in Kazakhstan the Law on Migration of the Population envisages the establishment of quotas for foreign labour, including for countries of origin, in accordance with the forecast for demand in the labour market in the coming year. It should also be noted that this agreement contains relatively developed conditions for covering the medical costs of migrant workers in the country of destination and transportation costs associated with the return of migrant workers to the country of origin.

Thus, it can be concluded that the bilateral agreements on labour migration management of the countries of North and Central Asia need to be revised significantly and new agreements need to be developed, which should be based on the possibility of implementation of pre-migration measures and organized recruitment of migrant workers in countries of origin; ensuring decent work and living conditions; recognition of the rights of migrant workers to pension coverage and social insurance; access to health care; and access to legal remedies in countries of destination. It is necessary to develop these agreements in a manner that provides effective mechanisms for monitoring participating countries’ implementation of and compliance with their requirements.

Individual sending countries have attempted to address the above-mentioned bottlenecks in the current bilateral agreements on labour migration through the development of cooperation at the level of regions in the receiving countries. For instance, the Government of Kyrgyzstan and the Government of Penza oblast of the Russian Federation concluded the Protocol on Cooperation on Migration and Employment on 28 February 2006. This Protocol provides for the exchange of information on job vacancies and labour demand. According to it, the Government of Penza oblast has committed to search for potential employers, to determine a list of required professions and specialities, to assist in recognition of the legal status of migrant workers (guidance on how to get to their workplace and accommodation), to arrange for the provision of legal aid concerning employment contracts and, on the basis of reciprocity, to select Russian specialists for employment in Kyrgyzstan. In turn, the Government of Kyrgyzstan undertook to provide the necessary information on available specialists, to organize their selection and departure for work in Penza oblast, to explain to them the procedures for departure, entry, stay and employment in Penza oblast and their salaries, to notify the employer of the date (time) of arrival of migrant workers and, on the basis of reciprocity, to search for potential employers in Kyrgyzstan for workers from the Penza oblast.

The development of tripartite labour migration agreements in Central Asia gained momentum through cooperation among Kazakhstan, Kyrgyzstan and Uzbekistan. On 14 March 1997, the Governments of these Central Asian States signed the Agreement on the Establishment of Legal, Economic and Organizational Conditions for the Free Movement of Labour. It was aimed at the creation of a common free labour market for citizens of Kazakhstan, Kyrgyzstan and Uzbekistan. This initiative was related to the idea at that time of establishing a space for regional economic cooperation for the three Central Asian States, namely the Central Asian Cooperation Organization. However, in the early 2000s, it became very obvious that this political initiative could not be put into practice. Therefore, the provisions of this tripartite agreement of 14 March 1997 are largely outdated.

**CIS agreements**

Regional cooperation among the countries of North and Central Asia on the management of labour migration takes place primarily within the framework of CIS. Among its special agreements on labour migration are the Agreement on Cooperation in the Field of Labour Migration...
and Social Protection of Migrant Workers (Moscow, 15 April 1994) and the Convention on the Legal Status of Migrant Workers and Their Families, adopted by the CIS member States (Chisinau, 14 November 2008).

Until recently, the 1994 CIS Agreement had been the basic legal instrument of this regional organization in the sphere of labour migration management, including on issues such as the exchange of information and cooperation among authorities. In addition, it served as the regional legal framework for the development of bilateral and trilateral agreements on labour migration and protection of migrant workers’ rights by its member States. The 1994 CIS Agreement determines key terms and principles for the regulation of labour migration; envisages mutual recognition of diplomas and other documents on education, qualifications and employment records; and defines the list of mandatory requirements for the content of employment contracts concluded with migrant workers. Among its obviously effective provisions are those relating to visa-free entry, the right to import and export personal belongings and the transfer of remittances.

At the same time, the effectiveness of the 1994 CIS Agreement is assessed as being very limited; in particular, this was the view expressed in a survey conducted by experts from the IOM in 2008 (IOM, 2009). One of the major drawbacks of this Agreement is the limited elaboration of its provisions and partial coverage of the rights of migrant workers, especially members of their families, which made it difficult to use as a regional instrument for the implementation of appropriate rights on the basis of the national laws of CIS member States. Other weaknesses of this Agreement are its mismatch with the new realities in labour migration, since the main labour migration flows occurred in the subregion after its adoption; and the absence of an effective compliance monitoring system. Formally, implementation monitoring functions were assigned to the Advisory Board on Labour, Migration and Social Protection of Citizens of the CIS States, which was established in November 1992. However, participation in the legal regime of this Agreement did not compel its parties to take measures on its effective implementation through their national migration policies and legislation.

In order to eliminate bottlenecks in the 1994 CIS Agreement, in 2008 another regional labour migration agreement was adopted, namely the Convention on the Legal Status of Migrant Workers and Their Families. The first aspect to highlight is that it has better-elaborated provisions to secure the rights of migrant workers and members of their families. Thus, article 6 of the 2008 Convention provides that the national legislation of receiving countries should ensure the rights of migrants, under conditions of equality with their own citizens, to safe work conditions, equal pay for equal work, the use of housing on a reimbursable basis, social benefits (excluding pensions), compulsory social insurance and compensation in cases of occupational accidents and occupational diseases, as well as access to other paid work in case of involuntary job loss by migrant workers. In addition, the Convention provides a set of rights for migrant workers and their families, the implementation of which is ensured according to the terms and in the manner stipulated in the national legislation of receiving countries and in other international agreements to which the CIS member States adhere. This concerns, inter alia, the right of entry, stay, movement and exit, the right to free urgent medical aid, the right to other health services on a reimbursable basis, access to education, membership and participation in labour unions, transfer of remittances, protection against unlawful expulsion and readmission. The provisions of the Convention are less comprehensive than the provisions of the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families in relation to the scope of the rights of migrant workers. However, the CIS Convention has more potential because the majority of North and Central Asian countries, both the sending and receiving countries, participate in it. Yet, this regional agreement has not been ratified by the Russian Federation, Uzbekistan and Turkmenistan, nor by Georgia, which withdrew from CIS in 2009.

With regard to managing the social aspects of labour migration, the basic instruments adopted within the CIS framework are the Agreement on the Provision of Medical Aid to the Citizens of Member States of the Commonwealth of Independent States, and the Protocol on the Mechanism for its Implementation, both of which were adopted in Moscow on 27 March 1997. Their provisions set out the basis for free urgent
medical aid to migrant workers in receiving countries in cases of sudden acute conditions and diseases that threaten a patient’s life or the health of others, accidents, intoxication, injuries, childbirth and emergency conditions during pregnancy. Another important legal document of the CIS concerning social aspects of labour migration is the Agreement on Mutual Recognition and the Equivalence of Documents on Secondary (General) Education, Primary Vocational and Secondary Vocational (Special) Education (adopted in Astana, 15 September 2004). It ensures more favourable conditions for access to education to migrant workers and members of their families from countries participating in the Agreement, as well as for a simplified procedure for acknowledging qualifications in order to access the labour markets of receiving countries. The above-mentioned CIS agreements on social aspects of labour migration are applicable in all countries in North and Central Asia with the exception of Georgia.

**Treaty on the Eurasian Economic Union**

Currently, the most effective agreement on labour migration management in the North and Central Asia subregion is the Treaty on the Eurasian Economic Union, which was signed in Astana on 29 May 2014. This Treaty entered into force on 1 January 2015 and currently counts Armenia, Kazakhstan, Kyrgyzstan and the Russian Federation as its member States from the subregion. The permanent supranational regulatory body of the Eurasian Economic Union is the Eurasian Economic Commission. A special chapter on labour migration was incorporated into the Treaty. It regulates common issues of cooperation in the area of labour migration, including a glossary of common terms, conditions for labour activity, and the rights and obligations of migrant workers of member States on the territory of other parties.

The main forms of cooperation of the member States of the Eurasian Economic Union were defined as follows:

- **a** To agree common approaches and principles in the area of labour migration;
- **b** To exchange the texts of legislative acts;
- **c** To exchange information;
- **d** To implement measures aimed at preventing the distribution of unreliable information;
- **e** To share experience and carry out training, seminars and educational courses;
- **f** To cooperate through establishing and participating in advisory boards.

The discussions on common approaches and principles in the area of labour migration, sharing information as well as elaboration of joint measures on implementation of provisions on labour migration under the Treaty take place in the Migration Policy Council under the Board of the Eurasian Economic Commission. For instance, practical implementation by member States of section xxvi of the Treaty on labour migration was considered at the third session of this advisory body.

The most significant outcome of the entry into force of the Treaty in relation to labour migration management are the provisions on free labour mobility for citizens of all parties, and their exemption from quotas on foreign labour, domestic labour market tests and obtaining permission to work. The Treaty also provides mutual recognition of documents on education that are issued by educational institutions in any State party without the need for recourse to any further special procedures as might be required of citizens of States that are not parties. This provision is not applicable to workers in the teaching, legal, medical and pharmaceutical sectors, for which special procedures on recognition of documents on education are required.

The length of temporary stay of a migrant worker from a member State of the Eurasian Economic Union and their family members on the territory of the country of employment is defined by the terms of the contract

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32 Established by Board of the Eurasian Economic Commission decision No. 154 of 30 August 2012.

or service agreement concluded between a worker and their employer or customer. At the same time, people moving for motives associated with work to another member State of the Eurasian Economic Union for up to 30 days are not required to register in their place of temporary stay or to complete a migration card if they are travelling with a passport (not a national identity card). In addition, it is now also possible for a migrant to change their initial employer or customer after 90 days from their date of entry; they are also entitled to conclude a new contract or service agreement within 15 days of terminating a contract, without being required to leave the country. Statistical data on the number of migrants working under the conditions of the Treaty are not yet available.

It important to mention that the Treaty also establishes a legal regime for the rights and obligations of migrant workers from other member States, which is very similar to the one established for the rights and obligations of national workers, in particular as concerns: rights on membership of a trade union; social security (social insurance) of migrant workers and members of their families; access to education for their children in countries of destination; and retention of employment records and obtaining certificates of employment and income. In addition, the Treaty outlines rights to protect property, to transfer remittances unhindered and to access information from the competent authorities in the countries of employment on conditions for stay and labour activities, as well as on their rights and obligations. However, in relation to access to pensions, the Treaty refers to the legislation of the country of permanent residence or special agreements between relevant member States. A similar approach is applied in relation to the right to access health care, with the exception of urgent medical aid. The Protocol on Provision of Medical Treatment of Workers of the Member States and Their Family Members was adopted as annex 30 to the Treaty.

### TABLE 7: PARTICIPATION IN INTERNATIONAL CONVENTIONS

<table>
<thead>
<tr>
<th>COUNTRY</th>
<th>1990 CONVENTION</th>
<th>ILO CONVENTION NO. 97</th>
<th>ILO CONVENTION NO. 143</th>
</tr>
</thead>
<tbody>
<tr>
<td>Armenia</td>
<td>26 September 2013</td>
<td>27 January 2006</td>
<td>27 January 2006</td>
</tr>
<tr>
<td>Azerbaijan</td>
<td>11 January 1999</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kyrgyzstan</td>
<td>29 September 2003</td>
<td>10 September 2008</td>
<td></td>
</tr>
</tbody>
</table>

Participation of countries of North and Central Asia in international conventions on labour migration

To date, the most developed international conventions in terms of protecting the rights of migrant workers are those adopted under the auspices of the United Nations and ILO. These include the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (New York, 18 December 1990), ILO Convention (No. 97) concerning Migration for Employment (Revised 1949) and ILO Convention (No. 143) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers. Armenia, Azerbaijan, Kyrgyzstan and Tajikistan are parties to some of these international conventions, while Georgia, Kazakhstan, the Russian Federation, Turkmenistan and Uzbekistan have not ratified them. Thus, the participation of countries of North and Central Asia in the international legal regime for the protection of the rights of migrant workers is mainly limited to some sending countries. Azerbaijan at the time of ratification of the 1990 Convention apparently considered itself as a country of origin as regards migration. Undoubtedly, this limits significantly the use of the mechanisms to facilitate the implementation of and compliance with these international legal instruments for the management of labour migration flows in North and Central Asia.
Conclusions and recommendations
Conclusions and recommendations addressed to the countries of destination

A significant proportion of labour migration flows from the countries of origin of North and Central Asia to Kazakhstan and the Russian Federation are still irregular. It is particularly relevant in the case of Kazakhstan, where only a small number of migrant workers are in a regular situation. Both parties are trying to regularize labour migration by making admission procedures more accessible for migrant workers from countries participating in visa-free regimes and setting more stringent control and enforcement measures. However, it is equally important to raise awareness among migrant workers of the advantages of regular labour migration and the disadvantages of irregular migration. This can change the attitudes of potential migrant workers before they make their choice to seek jobs in Kazakhstan and the Russian Federation.

Recommendation 1

To develop and conduct information campaigns in the countries of origin on admission procedures for foreign migrants in Kazakhstan and the Russian Federation. In the case of the Russian Federation, they could be made through Russian television channels, which are still very popular in North and Central Asian countries, and by dissemination of information through social networks, which are in active use in the Russian-speaking countries as a channel for unofficial information.

Labour migration flows to Kazakhstan and the Russian Federation are often interrelated, particularly those originating in Central Asia. Although both countries of destination pursue similar migration policies and have on the face of it similar permission systems for labour migration, permits are issued in the Russian Federation and Kazakhstan on the basis of very different categorizations of occupations and professions, periods of validity of permits and conditions to be met for their issuance.

Furthermore, Kazakhstan and the Russian Federation are member States of the Eurasian Economic Union and they are developing a joint labour market within this organization of regional economic cooperation. Thus, further harmonization of the foreign labour admission policies of both countries is needed. A more harmonized approach to the regulation of labour migration would allow migrant workers to better understand the relevant legal requirements and procedures while seeking jobs in the Russian Federation and Kazakhstan and, therefore, would improve the conditions for regularization of labour migration.

Recommendation 2

To organize regular consultations with Kazakhstan and the Russian Federation, together with Armenia, Belarus and Kyrgyzstan (the current member States of the Eurasian Economic Union), on further harmonization of their migration policies and national laws on admission of foreign labour. It is important to involve representatives of the competent national authorities, experts on labour migration and representatives of employers’ and workers’ organizations in this consultation process. One of the priority issues for this consultative process might be the harmonization of the legal frameworks on setting quotas for foreign labour and issuance of work permits to employers and migrant workers with the aim of liberalizing these procedures.

The national laws of the Russian Federation and Kazakhstan recognize many rights of migrant workers but on occasion with significant differences in comparison with the rights of national workers. This particularly concerns access to pension and social insurance benefits, lack of clarity regarding the right of migrant workers to family reunification and recognition of their family members’ rights.

Recommendation 3

To consider possible options for the recognition of the right of those migrants who have valid permits of more than one year to access pension and statutory social insurance systems.
**Recommendation 4**

To reconsider the existing list of free medical aid for foreign citizens and stateless persons in Kazakhstan so as to ensure that it will cover, as a minimum, free urgent medical aid for migrant workers.

**Recommendation 5**

To reconsider the provisions of the Law on Foreign Citizens' Legal Status in the Russian Federation and in Kazakhstan the Law on Migration of the Population with the aim of defining, more clearly and explicitly, migrant workers' right to family reunification.

**Conclusions and recommendations addressed to the countries of origin**

A number of the countries of origin in North and Central Asia, such as Armenia, Azerbaijan, Kyrgyzstan and Tajikistan, have in place or are developing legislation on private employment agencies. The main aspects to be regulated under these laws will be allowing/licensing their activities and setting reporting requirements on migrant workers placed in jobs with their assistance. In addition, some countries (Azerbaijan, Kyrgyzstan, Tajikistan and Uzbekistan) have introduced procedures for emigration clearance for labour migration and set statutory requirements on employment contracts, which can be checked prior to departure. However, it is also important to promote the role of private employment agencies in regular and organized labour migration.

**Recommendation 1**

To consider possibilities, while developing national legislation on private employment agencies, to support their activities through sharing information on vacancies received through inter-State channels, and assisting their accreditation for specific schemes of organized labour migration to the countries of destination, such as for seasonal agricultural migration or the construction of large sporting arenas and other projects.

Both receiving countries of the subregion (the Russian Federation and Kazakhstan) have attached importance to attracting highly skilled migrant workers and currently such demands are supplied, mainly, by non-Russian-speaking countries. At the same time, the migration policies of the countries of origin of North and Central Asia do not contain a clear vision of how they can compete on the relevant labour markets. Assistance from the competent national authorities to potential migrant workers can make them more competitive in relation to more profitable jobs; for instance, even qualified nannies and nurses for elderly persons are often highly paid in the large cities of Kazakhstan and the Russian Federation.

**Recommendation 2**

To conduct market studies and skills development training based on the existing possibilities for labour migration to Kazakhstan and the Russian Federation. This would make migrant workers from the countries of origin of North and Central Asia more competitive in the relevant labour markets. Currently, their market research and pre-employment training are more focused on new labour markets rather than the more familiar ones in Kazakhstan and the Russian Federation. This will allow the countries of origin to redirect a proportion of their citizens from irregular to regular migration and from low qualified and low income jobs to more qualified and well-paid ones.
Conclusions and recommendations addressed to all countries

Countries of destination are usually not interested in becoming parties to the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, ILO Convention (No. 97) concerning Migration for Employment (Revised 1949) and ILO Convention (No. 143) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers. However, the prevailing low levels of participation of countries of origin in these conventions significantly decreases opportunities to use them for the promotion of the relevant rights and harmonization of national laws, in particular in the receiving countries. Meanwhile, the regional agreements of CIS and the Treaty on the Eurasian Economic Union contain a limited number of the rights of migrant workers and members of their families provided for in the above-mentioned international legal instruments. In principle, this does not prevent the countries of origin from providing more comprehensive sets of rights in their national laws using these conventions as a guide, without being bound by international commitments under the 1990 Convention and ILO Conventions Nos. 97 and 143. It should be mentioned that many developed countries are following this approach, for example the European Union member States.

Recommendation 1

To develop a system of measures to harmonize the national laws of the countries of North and Central Asia concerning the rights of migrant workers and members of their families with the international standards contained within the 1990 Convention and ILO Conventions Nos. 97 and 143. This can be done even without ratification of those international legal instruments, and may allow more flexibility with the incorporation of international standards into the national laws of North and Central Asian countries.

Undoubtedly, the importance of the Treaty on the Eurasian Economic Union, which contains provisions on the free movement of labour on the territory of member States and recognition of the rights of migrant workers and members of their families, has been increased significantly since the accession of Armenia and Kyrgyzstan — two countries of origin in the subregion. However, a number of issues on labour migration management based on this regional legal instrument remain unsettled, including on measuring the labour migration flows among the member States, monitoring implementation of the Treaty and compliance in respect of the rights of migrant workers and members of their families.

Recommendation 2

To consider possibilities for measuring the labour migration flows within the Eurasian Economic Union, and the establishment of mechanisms for regular monitoring of implementation of and compliance with the Treaty on the Eurasian Economic Union by its member States within the framework of activities of the Migration Policy Council, which is under supervision of the Board of the Eurasian Economic Commission.

The Convention on the Legal Status of Migrant Workers and Their Families, which was adopted by CIS member States in 2008, was undoubtedly a step towards better coverage of the rights of migrant workers and members of their families in comparison with the 1994 CIS Agreement. However, one of the weaknesses of the 2008 Convention is its lack of elaborated mechanisms for monitoring implementation and review of compliance by the parties. In recent application of international law, there are numerous examples of such mechanisms, such as the ILO supervisory mechanism, which could be studied and followed.

Recommendation 3

To develop a protocol to the 2008 CIS Convention that would enable the design and establishment of a mechanism (or mechanisms) for monitoring the
implementation of and review of compliance with its provisions. Such mechanisms might include submission of periodic implementation reports and their review by an independent implementation committee, or conducting consultations with the parties that face certain difficulties with implementing provisions of the Convention.

Most of the bilateral agreements between the countries of North and Central Asia on labour migration are not applied as a tool for regulating labour migration flows. Currently, many provisions of the bilateral agreements need to be updated and reviewed. Moreover, most such agreements, being mainly framework legal documents, are not considered as bilateral legal frameworks for the regulation of organized and scheme-based labour migration (such as those for seasonal agriculture, services to households and construction work on large development projects).

**Recommendation 4**

To update existing bilateral agreements in order to take into account the actual needs of the sending and receiving countries and make them more effective tools for regulation of scheme-based labour migration. This may allow: quotas to be set for foreign labour for certain sending countries; information support and pre-employment and skills development training to be organized for potential migrant workers in sending countries; and development of mechanisms for protection of the rights of migrant workers and members of their families in receiving countries. Updated agreements may also stipulate the practical arrangements needed to ensure migrant workers’ access to social services (medical aid and housing) and social rights (pensions and social insurance).
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