

EMIGRATION LAWS AND POLICIES OF ARMENIA, AZER-
BAIJAN, KAZAKHSTAN, MOLDOVA, THE RUSSIAN
FEDERATION, TAJIKISTAN, TURKMENISTAN,
UKRAINE, AND UZBEKISTAN

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN UPDATED REPORT CONCERNING THE EMIGRATION LAWS AND
POLICIES OF ARMENIA, AZERBAIJAN, KAZAKHSTAN, MOLDOVA,
THE RUSSIAN FEDERATION, TAJIKISTAN, TURKMENISTAN,
UKRAINE, AND UZBEKISTAN, PURSUANT TO 19 U.S.C. 2432(b)



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THE WHITE HOUSE,
Washington, January 17, 2001.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On September 21, 1994, I determined and reported to the Congress that the Russian Federation was not in violation of paragraph (1), (2), or (3) of subsection 402(a) of the Trade Act of 1974, or paragraph (1), (2), or (3) of subsection 409(a) of that Act. On June 3, 1997, I determined and reported to the Congress that Armenia, Azerbaijan, Georgia, Moldova, and Ukraine were not in violation of the same provisions, and I made an identical determination on December 5, 1997, with respect to Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. These actions allowed for the continuation of normal trade relations for these countries and certain other activities without the requirement of an annual waiver.

Pursuant to section 302(b) of Public Law 106-200, on June 29, 2000, I determined that title IV of the 1974 Trade Act should no longer apply to Kyrgyzstan.

As required by law, I am submitting an updated report to the Congress concerning the emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The report indicates continued compliance of these countries with international standards concerning freedom of emigration.

Sincerely,

WILLIAM J. CLINTON.

REPORT TO THE CONGRESS CONCERNING EMIGRATION LAWS AND
POLICIES OF ARMENIA, AZERBAIJAN, KAZAKHSTAN, MOLDOVA, THE
RUSSIAN FEDERATION, TAJIKISTAN, TURKMENISTAN, UKRAINE, AND
UZBEKISTAN

This report is submitted pursuant to sections 402 and 409 of the Trade Act of 1974, as amended (“the Act”), following Presidential Determination Number 94–51 of September 21, 1994, and the accompanying report to the Congress, that the Russian Federation is not in violation of paragraphs (1), (2), or (3) of sections 402(a) and 409(a) of the Act; Presidential Determination Number 97–27 of June 3, 1997, and the accompanying report to the Congress, that Armenia, Azerbaijan, Georgia, Moldova, and Ukraine are not in violation of paragraphs (1), (2), or (3) of sections 402(a) and 409(a) of the Act; and Presidential Determination Number 98–7 of December 5, 1997, and the accompanying report to the Congress, that Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan are not in violation of paragraphs (1), (2), or (3) of sections 402(a) and 409(a) of the Act.

Pursuant to Section 302(b) of Public Law 106–200, the President determined on June 29, 2000, the Title IV of the 1974 Trade Act should no longer apply to Kyrgyzstan. Therefore this reporting requirement is no longer applicable to Kyrgyzstan.

All current information indicates that the emigration laws and practices of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan continue to satisfy the criteria set forth in sections 402(a) and 409(a) of the Act in respect of all matters covered in those subsections.

ARMENIA

The Armenian constitution guarantees the right of its citizens to freedom of foreign travel and emigration, and that right is respected in practice. Persons subject to military service can legally be denied permission to travel abroad, but this seldom occurs. Members of religious organizations other than the Armenian Apostolic Church are required by law to obtain prior permission from the State Council on Religious Affairs to travel abroad, but this law has not been enforced since 1997. Since independence in 1991, perhaps as many as 1.5 million Armenian citizens, more than 40 percent of the total population, may have emigrated or semi-permanently resettled elsewhere.

AZERBAIJAN

Azerbaijan’s 1995 constitution guarantees the right of all its citizens to travel abroad. The right to emigrate is officially recognized and protected by Azerbaijani law, and that right is respected in practice. The government may only limit the right to emigrate in

cases involving military draft liability, criminal record, or pending criminal charges, or previous access to state secrets (the last limitation does not pertain to emigration to other countries of the former Soviet Union). The government has not interfered with the right to emigrate in the first half of 2000.

KAZAKHSTAN

Kazakhstan's constitution provides for the right to emigrate. This right is respected in practice. An exit visa is required for all Kazakhstanis, including intending emigrants, who wish to travel abroad. Exit visas are routinely issued by the Department of Visas and Registration after a number of bureaucratic requirements have been met. Temporary exit visas are issued within three days to one month, with fees ranging from approximately 10 dollars to 52 dollars depending on the urgency and whether the traveler previously held an exit visa. Exit visas processed through travel agencies (with an additional charge from the travel agency) are obtained much more quickly than those based on private applications. An opposition leader was not given an exit visa to attend a conference in London during the past year. Rumors circulated that the non-issuance was ordered by the National Security Committee; however, these rumors cannot be confirmed. Other opposition group leaders were given exit visas during the year.

The typical time frame for issuance of an exit visa for an intending emigrant is approximately three months, though cases have taken longer. Delays may occur both with the local police, in processing criminal checks, and with the Department of Visas and Registration. Applicants must provide evidence that they have no outstanding financial obligations. As well, close relatives with a claim to support from the applicant must give their concurrence. A law on national security prohibits persons who have had access to state secrets from taking up residence abroad for five years.

Outright refusal to grant exit visas (either temporary or permanent) is rare and is generally connected to those opponents of the government who are subject to pending legal cases.

MOLDOVA

The right of citizens to emigrate is guaranteed in Moldova's constitution. This right is respected in practice. Individuals wishing to emigrate must satisfy any outstanding financial and/or judicial obligations before emigrating. No reports of denial of emigration rights have been recorded in 2000.

THE RUSSIAN FEDERATION

Legal guarantees of the right to emigrate are enshrined in Russia's constitution and in law, and that right is respected in practice. Russian law details the procedures for obtaining travel documents and provides clarification of some controversial policies. However, it gives the government the right to deny permission to travel abroad for given periods to Russian nationals who had access to classified material.

The law provides a measure of transparency by requiring that any denial of exit permission on secrecy grounds must (1) specify

reasons for and duration of the restriction, and (2) indicate the full name and legal address of the organization that requested the restriction. The law also formalized the status of an interagency commission that hears appeals of Russian nationals refused permission to travel based on secrecy grounds.

As of the writing of this report, the commission held four sessions in 2000. During these four sessions, the commission reviewed 115 cases, lifting restrictions in 85 cases (74 percent), leaving restrictions in place in 18 cases (16 percent) and deferring decisions in 12 cases (10 percent). (The Ministry of Foreign Affairs notes these numbers are only a rough indicator of the commission's activity, as level of secrecy involved in individual cases varies considerably.)

From 1995 through April 2000, out of 2086 cases reviewed, the interagency commission refused to lift restrictions in 301 cases (14 percent). Human rights organizations point out, however, that this number includes only persons who appealed the decision to restrict travel to the commission. The total number of persons who were refused passports for foreign travel on secrecy grounds is thought to be much larger. Russia's Ministry of Internal Affairs, however, does not publish these statistics or release them to NGOs.

Russian law also grants the state the right to refuse travel abroad to individuals who are the subject of legal proceedings or convicts who have not served their sentences. In addition, it allows the state to deny travel abroad "temporarily" if an individual has evaded financial obligations imposed by a court, such as alimony payments. This rule has allowed relatives or former spouses to delay or even veto emigration plans of some Russian nationals.

In the previous legal regime, there was a requirement that Russian citizens obtain a special stamp from the Ministry of the Interior in addition to a passport before they emigrate. In early 1997, new legislation eliminated this requirement. However, the Interior Ministry continues to issue an exit stamp equivalent. The policy of the Federal Border Service (FBS) reportedly is that it no longer requires the stamp, but, in practice, some FBS officers continue to require it.

TAJIKISTAN

Tajikistan's constitution provides for the right to emigrate, and this right is respected in practice. Persons who wish to emigrate may do so with the permission of various ministries.

TURKMENISTAN

Turkmenistan's constitution guarantees to citizens the right to emigrate, but procedurally permission must first be obtained from the Ministry of Foreign Affairs. In order to emigrate, citizens must submit an application, an invitation from the country of destination, evidence of freedom from debts and other financial obligations, and written consent from family members. Divorced applicants with children must present an affidavit of consent from their former spouse, whether the children are emigrating or not. Those with military obligations must de-register with the Ministry of Defense. Under Turkmen law, the Ministry of Foreign Affairs must process the application and documents for emigration within three

months. Although the Ministry rarely denies such applications, some opposition figures have been prevented from emigrating.

UKRAINE

Ukrainian law and the 1996 constitution guarantee the right to emigrate, and that right is respected in practice. All citizens are eligible for passports that permit free travel abroad. There remains a requirement to obtain an exit visa from the local Office of Visas and Registration (OVIR) for Ukrainians who intend to take up permanent residence in another country. Ukraine does not impose taxes or fees on those who emigrate. Reports of local bureaucrats assessing bribes for routine passport and exit visa issuances are common. However, human rights groups report that persons need only appeal to national-level authorities to resolve their status and establish their right to emigrate. Some draft-age men have been refused the right to emigrate pending clarification of their status with the military. Cases involving applicants who have had or have access to secret information usually take longer, but secrecy has not been used routinely as grounds for denying permission to emigrate.

There is one known case of an exit visa being denied. Six people, originally from Uzbekistan but now Ukrainian citizens, were granted U.S. refugee status almost two years ago after their husbands/fathers were extradited from Ukraine without due process to Uzbekistan, where they were jailed for life. These people have been unable to leave Ukraine or Russia for two years, despite having proof of Ukrainian citizenship, U.S. refugee status, IOM travel docs and ICRC travel docs. OVIR has refused to grant them exit permission on the grounds that the father of two of the children must give his permission, which he is unable to do from jail.

A lapse in an Israeli-Ukrainian student exchange program in 1999 led to concern about the ability of several hundred Jewish-Ukrainian students to travel overseas for study in Israel. While negotiations continued, the Ukrainian Government took steps to ensure that the students in question could travel. In April 2000, Ukrainian Education Minister Vasyl Kremen and Israeli Education Minister Yosi Sarid signed an agreement on cooperation in the sphere of education which provides for continuation of the Israeli-Ukrainian student exchange program. A large percentage of Ukraine's Jewish population, perhaps as much as 50 percent, has emigrated to Israel and the United States since Ukraine achieved independence in 1991.

UZBEKISTAN

Uzbekistan's constitution provides for free movement within the country and across its borders, and the government has generally respected this right. The government requires citizens to obtain exit visas for foreign travel or emigration, but grants these permits routinely. Exit visas are valid for a period of two years and no longer require an invitation from abroad. Several human rights activists were able to leave and reenter the country without encountering problems from the government. The country hosts populations of ethnic Koreans, Meskhetian Turks, Germans, Greeks, and Crimean Tartars deported to Central Asia by Stalin during

World War II. These groups enjoy the same rights as other citizens. Although they are free to return to their ancestral homelands, absorption problems in those countries have slowed their return.

