

EMIGRATION LAWS AND POLICIES OF ARMENIA,
AZERBAIJAN, KAZAKHSTAN, MOLDOVA, THE RUS-
SIAN 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)



SEPTEMBER 3, 2003.—REFERRED TO THE COMMITTEE ON WAYS AND MEANS
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THE WHITE HOUSE,
Washington, August 8, 2003.

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

DEAR MR. SPEAKER: I hereby submit an updated report to the Congress, prepared by my Administration, consistent with sections 402(b) and 409(b) of the Trade Act of 1974, as amended (19 U.S.C. 2432(b) and 2439(b)), 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, with the exception of Turkmenistan. In light of new developments, I am submitting a waiver for Turkmenistan.

Sincerely,

GEORGE W. BUSH.

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 consistent with 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 section 402(a) and paragraphs (1), (2), or (3) of section 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 section 402(a) and paragraphs (1), (2), or (3) of section 409(a) of the Act; and Presidential Determination Number 98–7 of December 5, 1997, and the accompanying report to the Congress, that Kazakhstan, Kyrgystan, Tajikistan, Turkmenistan, and Uzbekistan are not in violation of paragraphs (1), (2), or (3) of section 402(a) and paragraphs (1), (2), or (3) of section 409(a) of the Act.

Consistent with Section 302(b) of Public Law 106–200, the President determined on June 29, 2000, that Title IV of the 1974 Trade Act should no longer apply to Kyrgystan, and pursuant to section 3002 of Public Law 106–476, the President determined on December 29, 2000, that Title IV of the 1974 Trade Act should no longer apply to Georgia. Therefore, this reporting requirement is no longer applicable to Kyrgystan and Georgia.

All current information indicates that the emigration laws and practices of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Ukraine, and Uzbekistan continue to satisfy the criteria set forth in sections 402(a) and 409(a) of the Act in respect to all matters covered in those sections. This finding does not include Turkmenistan.

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, those who have had access to state secrets, or those involved in pending court cases or whose relatives have lodged financial claims against them 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. The State Council was abolished by presidential decree in March 2002 and replaced by a less formal committee. Since independence in 1991, upwards

of one million Armenian citizens, approximately one-third of the population at independence, have emigrated or reside semi-permanently outside the Republic of Armenia. There is a small but very ancient Armenian-Jewish community, about half of whom have emigrated to Israel without hindrance since 1991.

AZERBAIJAN

Every Azerbaijani citizen is guaranteed the right to foreign travel by the 1995 Constitution of Azerbaijan. The laws of Azerbaijan also officially recognize and protect the right to emigrate. These rights are respected in practice by the Government of Azerbaijan.

Male citizens of draft age who have not yet performed their military service are required to obtain a certain document from the regional military office before they travel outside Azerbaijan. No problems in this area have been reported. Azerbaijani has two distinct Jewish communities, and the Government has good relations with both. Many of Azerbaijan's Jews have emigrated to Israel, and this emigration has proceeded free of Government harassment.

KAZAKHSTAN

The right to emigrate is generally protected by Kazakhstan's constitution and is generally respected in practice. Kazakhstan became the first Central Asian country to abolish the requirement for an exit visa for Kazakhstani citizens temporarily traveling abroad on July 26, 2001. It is rare for the Government of Kazakhstan to refuse to grant exit visas for permanent departure and has generally been connected with government opponents subject to pending legal cases. A law on national security prohibits persons who have had access to state secrets from taking up residence abroad for 5 years after that access. The Government of Kazakhstan has applied the Law on State Secrets to block the foreign travel of one former official since the law's passage in 1999. That official has since been allowed to travel.

MOLDOVA

The right of citizens to emigrate is guaranteed in Moldova's constitution and 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 2003. The government eliminated emigration restrictions in 1991. In the 11 years since independence, few difficulties with emigration have been reported.

THE RUSSIAN FEDERATION

Legal guarantees of the right to emigrate are enshrined in Russia's constitution and in law, and that right is generally 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 up to 10 years 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 official statistics for calendar year 2002 only are available. The commission held eleven sessions in 2002, meeting once a month every month except July. During these eleven sessions, the commission reviewed 203 cases, lifting restrictions in 158 cases (78 percent), leaving restrictions in place in 17 cases (8.3 percent) and deferring decisions in 25 cases (12 percent) (one case was deferred three times and counted thrice). NGOs that have worked with the commission from its initiation complain that the degree of transparency in the commission's work has decreased, as human rights activists are no longer granted free access to the names of the appellants. However, other information and statistics on the interagency commission are available on the Internet.

From 1995 through 2002, out of an estimated 2,864 cases reviewed, the interagency commission lifted restrictions in an estimated 2,353 cases (82 percent). Since the start of the Commission in 1995, the annual percentage of positive decisions had fluctuated between a low of 71 percent in 2000 and a high of 90 percent in 1995. 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 otherwise release them.

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 or if they have evaded financial obligations imposed by a court.

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. Persons who wish to emigrate beyond the borders of the former Soviet Union must receive the approval of the relevant country's embassy in order to obtain their passport. Persons who settle abroad are required to inform the Tajikistan embassy or Tajikistan interests section of the nearest Russian embassy or consulate.

In August 2002, the Ministry of Security dropped its requirement for citizens to obtain an exit visa before traveling abroad. Tajik citizens with a valid passport may travel abroad without further authorization.

TURKMENISTAN

Following a November 2002 attack on the motorcade of President Niyazov, the Government of Turkmenistan tightened control over travel outside of Turkmenistan. Effective March 1, 2003, the Government again made exit visas a requirement for travel and is using the measure selectively against individuals identified by the Government of Turkmenistan to impede their emigration. In addi-

tion, relatives of those accused in the November attack were prevented in some instances from leaving the country.

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. Border patrols do not require emigrants to have exit visa stamps, although Ukrainians who intend to take up permanent residence in another country must inform the local militia that they will no longer be eligible for public benefits. Ukraine does not impose taxes or fees on those who emigrate. Reports have arisen of local bureaucrats assessing bribes for routine passport issuance. However, human rights groups reports 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; however, the Government has not routinely used secrecy as grounds for denying permission to emigrate. A large percentage of Ukraine's Jewish population 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. The Government has in rare instances confiscated travel documents of specific individuals. In most of these cases, we have been able to convince the Government of Uzbekistan to return the documents.

Exit visas are valid for a period of 2 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. On rare occasions, the Government has refused to issue these visas. A large percentage of Uzbekistan's Jewish population has emigrated to the United States and Israel since Uzbekistan achieved independence in 1991.