

EMIGRATION LAWS AND POLICIES

MESSAGE

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)



FEBRUARY 4, 2003.—Message and accompanying papers referred to the
Committee on Ways and Means and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

To the Congress of the United States:

On September 21, 1994, then-President Clinton determined and reported to the Congress that the Russian Federation was not in violation of paragraphs (1), (2), or (3), of subsection 402(a) of the Trade Act of 1974, or paragraphs (1), (2), or (3), of subsection 409(a) of that Act. On June 3, 1997, he also determined and reported to the Congress that Armenia, Azerbaijan, Georgia, Moldova, and Ukraine were not in violation of the same provisions, and made an identical determination on December 5, 1998, 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.

On June 29, 2000, pursuant to section 302(b) of Public Law 106–200, then-President Clinton determined that title IV of the Trade Act of 1974 should no longer apply to Kyrgyzstan, and on December 29, 2000, pursuant to section 3002 of Public Law 106–476, he determined that title IV of the Trade Act of 1974 should no longer apply to Georgia.

As required by law, I am submitting an updated report to the Congress that was prepared by my Administration 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.

GEORGE W. BUSH.

THE WHITE HOUSE, *January 29, 2003.*

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 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, Kyrgyzstan, 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.

Pursuant to 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 Kyrgyzstan, 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 Kyrgyzstan and Georgia.

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 sections.

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. 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.

AZERBAIJAN

The right of emigration is officially protected and recognized in Azerbaijani law. The right of every Azerbaijani citizen to travel abroad is guaranteed by Azerbaijan's 1995 constitution. The Government of Azerbaijan respects these rights in practice.

Men of conscription age who have not performed their military service require a document from the regional military office before international travel. No problems have been reported in this area.

Emigration has proceeded free of Government harassment. Many Jewish Azerbaijanis have emigrated to Israel.

KAZAKHSTAN

The right to emigrate is generally protected by Kazakhstan's constitution and is generally respected in practice. On July 26, 2001, Kazakhstan became the first country in Central Asia to abolish the requirement for an exit visa for Kazakhstani citizens temporarily traveling abroad. Outright refusal to grant exit visas for permanent departure is rare 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 five years after that access. The Government 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 2002. The government eliminated emigration restrictions in 1991 and few difficulties with emigration have been reported in the 10 years since independence.

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 commission had held eight sessions in 2002. During these eight

sessions, the Commission reviewed 150 cases, lifting restrictions in 117 cases (78 percent), leaving restrictions in place in 13 cases (8 percent) and deferring decisions in 17 cases (11 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. Other information and statistics on the interagency commission are available on the Internet, however.

From 1995 through April 2002, out of an estimated 2726 cases reviewed, the interagency commission lifted restrictions in an estimated 2245 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. So far, after eight meetings in 2002, the percentage of positive decisions is 78 percent for the year. 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 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 have evaded financial obligations imposed by a court and convicts who have not served their sentences.

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

Turkmenistan's constitution guarantees the right to emigrate, but in practical terms citizens must first obtain permission 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 or not the children are emigrating. Those with military obligations must de-register with the Ministry of Defense. By law the Ministry of Foreign Affairs must process the application and emigration documents within three months. Although

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

In the past, citizens were not permitted to travel outside the country without official permission. The Government has used its authority to issue passports and exit visas as a means of restricting international travel. In December 2001, the Government announced the abolition of exit visas. According to the announcement, as of January 1, 2002, a foreign entry visa or an invitation to travel outside of the country is sufficient to travel abroad.

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 patrol 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 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 to 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. 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 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. It has on rare occasion 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.