



**International Convention on the  
Protection of the Rights of  
All Migrant Workers and  
Members of Their Families**

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**Committee on the Protection of the Rights of All  
Migrant Workers and Members of Their Families**  
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**Consideration of reports submitted by States parties under  
article 73 of the Convention**

**List of issues (CMW/C/TJK/Q/1) to be taken up in connection with the  
consideration of the initial report of Tajikistan (CMW/C/TJK/1)**

**Addendum**

**Written replies of Tajikistan\***

[8 February 2012]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

## **Replies by the Government of Tajikistan to the list of issues to be taken up in connection with the consideration of the initial report of Tajikistan (CMW/C/TJK/1)**

### **Replies to issues raised in paragraph 1 of the list of issues (CMW/C/TJK/Q/1)**

1. Under article 10 of the Constitution, international legal instruments ratified by Tajikistan are part of the country's legal system. When the laws of Tajikistan are at variance with international legal instruments, the provisions of the international legal instruments prevail. According to article 16 of the Constitution, foreign citizens and stateless persons shall enjoy the rights and freedoms proclaimed therein and shall have the same duties and responsibilities as Tajik citizens, except in such cases as are provided for by law.
2. The national courts and administrative authorities have not directly applied the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families since its ratification.

### **Replies to issues raised in paragraph 2 of the list of issues**

3. Full information on the volume and nature of migratory flows to and from Tajikistan during the period between the entry into force of the Convention for the State party (2004) and the present is contained in the annex to this document.
4. In implementation of the Policy Framework for Labour Migration of Tajik Citizens to Other Countries,<sup>1</sup> the Government adopted Decision No. 264 of 6 June 2003 on the procedure for registration of international migration by citizens of Tajikistan to ensure the systematic collection of statistics on migration from the country. The Decision also approved international migration registration cards for Tajik citizens. The cards were subsequently modified, and the Government Decision of 31 October 2009 on reporting the international migration and return of Tajik nationals was then adopted.
5. In 2010, with the assistance of the International Organization for Migration (IOM) mission, the Agency for Technical Cooperation and Development (ACTED) in Tajikistan, and the International Labour Organization in the context of project implementation, the Government began developing a database for recording population migration on the basis of the international migration registration cards completed by citizens leaving and entering the country. The Government also plans, with the assistance of the IOM mission in Tajikistan, to modify the migration cards again in 2012–2013, to provide clearer indicators of migration flows from the country.
6. It is not currently possible to develop a mechanism for calculating unofficial migration flows from Tajikistan because of problems in regulating these movements in the countries of destination. Since Tajikistan does not have visa agreements with the main countries of destination for its migrants, they generally leave the country legally. They only become undocumented later, after arriving in the countries of destination, if they do not manage to follow the regulations there.

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<sup>1</sup> Government Decision No. 242 of 9 June 2001.

7. In order to control migration flows to other countries, the Migration Service submitted a draft decision on modifications to the migration registration cards to the Government in December 2011. The decision is expected to enter into force in 2012. Figures for labour migration to the Russian Federation over the period 2004–2011 are as follows: 2004 – 254,400; 2005 – 466,500; 2006 – 562,000; 2007 – 727,000; 2008 – 805,000; 2009 – 692,900; 2010 – 520,800; 2011 – 750,300.

8. Despite the Government's contribution and capacity-building support from the international organizations for the State agencies in migration data collection and processing, including in the form of technical equipment, there is still not enough such support. This is to a large extent because the Government and the main donors are not currently prepared to provide the substantial resources needed for technical projects to improve data collection.

### **Replies to issues raised in paragraph 3 of the list of issues**

9. The social consequences of labour migration and its effect on family life in Tajikistan have been studied since 2008, when the United Nations Development Fund for Women (UNIFEM) conducted a study on respect for the rights of women migrant workers from Tajikistan. An IOM study in 2009 looked at the socio-economic characteristics of abandoned wives of Tajik labour migrants and their survival capabilities and, in 2011, the United Nations Children's Fund (UNICEF) examined the effects of labour migration on children.

10. The UNIFEM study showed that labour migration improves the material position of the wives of labour migrants, improves their relatives' attitude to them, increases their chances of giving their children a good education and helps build their capacities. However, alongside this positive picture, it also found that migration means not enough time for the children's upbringing, a deterioration in health, in relatives' attitudes and in inter-spousal relations, and family breakdowns.

11. The IOM study showed that many of the wives left behind and abandoned by migrants live in extreme poverty and most of them are not familiar with migration processes and their rights, or with the legal means of searching for their husbands. The IOM experts show that the migrant workers' wives who are left behind or abandoned have a higher risk of suicide and depression when remittances or other sources of income are not accessible for extended periods, and the school-aged children in households abandoned by the migrants work either before or after school to help support the family.<sup>2</sup>

12. The UNICEF study showed the combination of positive and negative effects of migration on children and women, depending on whether they were in a family with or without migrants or an abandoned family. It confirmed that the increase in income from remittances for a migrant worker's family had a positive effect on the children's presumed state of health and diet. On the other hand, one of the most important effects of parents' migration on the children left behind is the repercussion on their social and mental state. The social impact of migration, particularly on the families left behind, in terms of family breakdown and absence of parental care, is quite strong. The children left behind are more frequently inclined to be depressed, sad and withdrawn. This is found more often in girls than in boys, and particularly in the case of families abandoned by migrant workers.<sup>3</sup>

<sup>2</sup> The IOM study of the socio-economic characteristics of abandoned wives of Tajik labour migrants and their survival capabilities, IOM, Dushanbe, August 2009, pp. 8–9.

<sup>3</sup> UNICEF study on the impact of labour migration on children left behind, November 2011, pp. 10–15.

13. The Government, through the relevant authorities, is studying the research carried out into the effects of migration on the lives of migrant workers' families. The National Labour Migration Strategy for 2011–2015 includes measures aimed at encouraging members of migrant workers' families left behind in Tajikistan to engage in economic activity. Under the Strategy, over the period 2013–2015, the Government's Migration Service, together with the Ministry of Labour and Social Protection and the National Bank, will make sure that the employment service works with members of migrant workers' families to promote self-employment. A support mechanism will be developed at the same time to help and protect the families left behind. The Committee on Women's and Family Affairs works to promote and protect the civil and social rights and freedoms of the wives and families of migrant workers, and of women in general, organizing regular events to further social development and equal opportunities for the wives of migrant workers, to reduce the level of violence against women and to assist the women and members of their families. Thus, in 2008, the Committee on Women's and Family Affairs and NGOs in Tajikistan held a round-table discussion on the subject of migration and its effects on women. It looked at the international labour migration process, vocational training for migrant workers, female labour migration processes and other issues. The Committee also organized a national conference on women and migration in 2008 to discuss the gender aspects of labour migration. In 2011, it held a national conference attended by representatives of the ministries and departments, as well as migrants themselves. NGOs put forward suggestions for the implementation of the 2006–2010 State programme, including on issues related to migrant workers' families. After the round tables, the Committee made the following recommendations to the Government: include representatives of the Government's Committee on Women's and Family Affairs in the working group to amend legislation on labour migration; use gender approaches when developing the main areas of and activities under State programmes and strategies, taking account not only of the various effects of labour migration on women and men, but also of men and women's different needs; pay particular attention to the problems of migrant workers' families; help organize gender-based research on labour migration and make extensive use of its results in developing specific measures to address the problems.

#### **Replies to issues raised in paragraph 4 of the list of issues**

14. With the support of a number of international organizations, local voluntary associations conducted a review of the 2006–2010 State Labour Migration Programme, with contributions from experts from the Ministry of Labour and Social Protection and the then Ministry of Internal Affairs Migration Service. The Centre for Human Rights, a local voluntary association, found that the Programme had not been fully implemented because of a shortage of functional and technical resources, funding and staff. One of the most important factors affecting implementation of the programme was the change in the system of managing labour migration. After the Programme was adopted, authority for migration issues was transferred from the Ministry of Labour and Social Protection system to that of the Ministry of Internal Affairs. That experience was taken into account in developing the new 2011–2015 migration strategy in 2010; it was adopted in October 2011, once the migration management reforms were practically completed.

#### **Replies to issues raised in paragraph 5 of the list of issues**

15. A Government Decision of 4 October 2011 approved the National Labour Migration Strategy for 2011–2015, the core document for implementing the aims and objectives in the area of international labour migration up to 2015. The main aim of the Strategy is to devise and implement an effective labour migration policy, taking account of the country's rapidly

growing working population and currently limited employment opportunities. To this end, the Strategy sets the following national priorities:

(a) The formation of an effective system for regulating labour migration abroad, based on transparency, accountability and legality, and focused on building up cooperation and proper coordination;

(b) The development of effective forms and methods for regulating labour migration abroad, based on broader economic freedom, respect for human rights and the development of bilateral and multilateral international relations;

(c) Capacity-building for migrant workers to prepare them better for migration and give them better professional qualifications, the provision of social safeguards, and encouragement of migrant workers to participate more to the process of national development;

(d) The expansion and strengthening of private-public partnership in preparing, sending and protecting migrant workers abroad, and the establishment of mutually acceptable attitudes with social, economic and cultural operators in the destination countries.

16. A reintegration mechanism is planned to provide employment for migrant workers returning home and to implement the Strategy; existing legislation will be amended accordingly.

17. The Strategy includes ways of encouraging migrant workers' family members to engage in economic activity through vocational training, business training, microcredit and legal self-employment. Between 2013 and 2015, the Migration Service, the Ministry of Labour and Social Protection and the National Bank will take measures to ensure that the employment service works with members of migrant workers' families to encourage them to become self-employed; and will develop a support mechanism and effective protection for the families left behind.

### **Replies to issues raised in paragraph 6 of the list of issues**

18. To publicize the Convention, it has been translated into Tajik and published in both Russian and Tajik, with the support of international organizations. Furthermore, in celebration of International Migrants Day on 18 December, State agencies, together with NGOs and international organizations, are holding various informative events (round tables, conferences and seminars) on the Convention for State officials and the general public. The Migration Service, with the support of the Organization for Security and Cooperation in Europe, IOM and the Centre for Human Rights NGO, has organized a mass information campaign on International Migrants Day in Soghd province regularly since 2007. Leaflets, calendars and posters are handed out to the general public and in State agencies with information on labour migration and the Convention, films on migration and the risks involved are screened, and an employment fair is held.

19. Various training activities are also organized to raise awareness of the Convention among State officials. The Government has worked with a number of international and local non-governmental organizations to provide training on combating human trafficking, including through the Convention, for staff of the Migration Service, the Office of the Commissioner for Human Rights, the procuratorial agencies, the courts and the social protection and employment agency. In recent years, staff of the Migration Service and other units involved in migration management have, when working with the IOM office, received systematic training on basic migration management that also includes the main provisions of the Convention. In 2009, the Migration Service, together with ACTED and the Centre

for Human Rights, organized a specialized course on international migration law, including the Convention, for all its staff at all levels. Experts from the Migration Service and the Centre for Human Rights then developed a special guide for Migration Service staff with a chapter on the country's obligations under the Convention.

### **Replies to issues raised in paragraph 7 of the list of issues**

20. The national report was drafted with the involvement of civil society organizations and international organizations (more than 20 local NGOs, such as the Bureau for Human Rights and the Rule of Law, the Nota Bene Foundation, the Centre for Human Rights, international organizations and the IOM mission). In addition to direct civil society participation in the drafting of the initial report in June 2010, the NGOs also organized hearings on the working draft, as a result of which they proposed approximately 60 recommendations, many of which the Government took into account. Representatives of local NGOs and international organizations working in Tajikistan were also involved in drafting the present replies.

### **Replies to issues raised in paragraph 8 of the list of issues**

21. National judicial and administrative mechanisms (judicial bodies, the procuratorial authorities, the internal affairs bodies and the Ministry of Foreign Affairs) receive and examine complaints by migrant workers and members of their families, as they do complaints and representations from other citizens, foreign nationals and stateless persons. Legislation also allows the Migration Service to deal with such complaints. In 2011, the Migration Service Office in the Russian Federation received 1,576 complaints and applications from Tajik migrant workers. Of those, 117 concerned non-payment of salaries by employers to a total of over 1.8 million Russian roubles; 59 of those were resolved successfully and 58 were referred to the Russian procuratorial authorities. In 28 cases, funds were provided to help the workers return to Tajikistan, 19 came from migrant workers being held in temporary detention centres, 9 concerned attacks on or killings of migrant workers, 7 were related to the non-fulfilment of employment contracts, 65 concerned recruitment, 37 were requests for assistance to transport the bodies of migrant workers, and 2 concerned the enforced detention of migrant workers by employers; these were resolved jointly by the Migration Service Office and the law enforcement agencies of the Russian Federation.

22. Between its establishment in May 2009 and 2010, the Office of the Commissioner for Human Rights received a total of two complaints from members of migrant workers' families. One of these concerned remittances. Until 2010, Tajikistan's banks would issue monetary remittances to members of migrant workers' families only on presentation of proof of their residence permit. With the assistance of IOM, the Office of the Commissioner for Human Rights has changed this practice, and a directive from the National Bank now obliges all the banks in the country to issue remittances without requiring that information. The second complaint concerned violations of migrant workers' rights by the Russian law enforcement agencies. That complaint was referred to the Ombudsman of the Russian Federation with a request for assistance. On the basis of the response from the Office of the Russian Ombudsman, the complaint is currently being examined by the Russian procuratorial agencies. The Office of the Commissioner for Human Rights is following the case.

23. In 2011, four complaints were received from migrant workers and members of their families, two of which concerned labour exploitation of the migrants by Russian employers, one concerned the illegal deportation of a migrant worker, and the fourth concerned the

unwarranted accusation of a migrant worker of causing a road accident. In two cases, the complaints were forwarded to the Migration Service, and two are currently under examination. To encourage active protection of migrant workers' rights by the Office of the Commissioner for Human Rights, the Russian Ombudsman and the Tajik Commissioner for Human Rights signed a cooperation agreement in October 2010, addressing, in particular, comprehensive assistance for migrant workers in protection of and respect for their rights.

24. In addition to the official structures that protect migrant workers' rights, there are also several NGOs, supported by international organizations, that help migrants when their rights are violated, either in their country of origin or the country of destination. They include the following voluntary organizations: the Centre for Human Rights, Mukhodzhirat, Vatanam, Kalam and Shakhrvand.

### **Replies to issues raised in paragraph 9 of the list of issues**

25. A new structure responsible for migration, the Government Migration Service, was set up in 2011. It has achieved some success over the past year, with development of the National Labour Migration Strategy for 2011–2015, and is currently working on a bill on labour migration from Tajikistan. Bilateral intergovernmental agreements have been signed with a number of countries: the Russian Federation, Kazakhstan, Kyrgyzstan, Belarus and Saudi Arabia.

26. The various State agencies do encounter problems in the regulating labour migration from Tajikistan, and these can only be resolved by cooperation between the country of origin and the country of destination. It must also be remembered that many countries of destination (including the Russian Federation) are not parties to the Convention and thus do not have the resultant obligations.

### **Replies to issues raised in paragraph 10 of the list of issues**

27. Given the importance and urgency of combating transnational organized crime, particularly trafficking in persons, Tajikistan ratified the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children in 2002. In January 2003, the Government, in an expanded session, was officially informed by President Emomali Rahmon of the importance of, and fundamental need to take, active measures to combat human trafficking in the country. The President instructed the Government to develop and take specific steps to that end, one of which was the introduction of the relevant changes to the Criminal Code, specifically establishing and strengthening criminal liability for offences related to trafficking in persons. The Human Trafficking Act was adopted in 2004. In 2005, the Government Interdepartmental Commission on Combating Human Trafficking was set up with representatives from the relevant ministries and departments. The Commission works actively with State, non-governmental and international organizations on matters related to human trafficking and, in 2006, it signed a memorandum of understanding with the IOM representation in Tajikistan on combating human trafficking. The aim of the memorandum is to build up cooperation through data exchange, research and training support for State officials, collaboration in detecting and returning victims of human trafficking to their countries, and the adoption of measures to protect and reintegrate the victims of trafficking in persons. Two IOM-funded shelters, in Dushanbe and Chkalov, currently provide support for victims of human trafficking. In 2011, the Government took over part of the funding for the shelters, specifically, payment of the electricity and other charges. There is also a support centre in Khujand that provides assistance for minors who

are victims of human trafficking. Annex 2 gives details of the number of victims of human trafficking assisted between 2005 and 2011.

28. A total of 399 victims of human trafficking, of whom 86 were minors, were detected between 2005 and 2011, with the help of IOM. Of that total, 210 (41 men and 169 women) were given accommodation in the Dushanbe shelter and 189 in the Chkalov shelter. Social workers, medical staff and psychologists worked continuously with all these individuals. One hundred and twenty-four victims of human trafficking received assistance, in the form of funding for their air tickets, to help them return to Tajikistan. Appropriate seasonal clothing was provided for 206 persons, and 151 received medical and psychological help. Training was provided to help with reintegration for 83 victims and members of their families. In addition to training, the victims also received equipment in the framework of IOM activities: 29 electric sewing machines, 26 welding sets, 2 electricians' kits, 1 painter's kit, 1 car mechanic's kit, 1 handyman's kit and 2 hairdressers' kits. Three of the victims received grants of 2,500 somoni.

29. Monitoring is carried out between three and six months after the medical, psychological and legal assistance and help with reintegration are provided, to assess the outcome for the victims of human trafficking.

### **Replies to issues raised in paragraph 11 of the list of issues**

30. To ensure effective protection from repression and to encourage victims of slavery, enforced labour and other forms of trafficking in persons to make complaints, the Human Trafficking Act of 15 July 2004 lays out the principles of combating human trafficking and, specifically, the unavoidability of punishment for human trafficking, non-discrimination against the victims of human trafficking, provision of safe and fair treatment of victims, comprehensive use of preventive, legal, political, medical, social and economic measures, and collaboration with voluntary associations and NGOs. Support and aid centres are planned for the victims of human trafficking. The Act also includes social rehabilitation mechanisms and measures to protect the victims, and obliges diplomatic representations and consulates to provide help and protection for the victims of human trafficking and assistance for child victims of human trafficking.

### **Replies to issues raised in paragraph 12 of the list of issues**

31. In 2011–2012, the procuratorial agencies brought 29 criminal cases against 50 individuals on charges related to trafficking in persons. Two cases were brought against 2 individuals under article 130 of the Criminal Code (kidnapping), 5 cases against 6 persons under article 130<sup>1</sup> (human trafficking), 2 cases against 2 persons under article 131 (unlawful deprivation of liberty), and 20 cases against 26 individuals under article 167 (trafficking in minors). Of the total, 26 cases, of which 20 concerned human trafficking, involving 48 persons were referred to court for consideration on the merits.

32. The Office of the Procurator-General brought criminal charges against the director of Rustam limited liability company, Mr. R. Akhmadzhanov, who had fraudulently sent a group of 36 Tajik citizens to the Russian Federation and subjected them to slave labour there. After investigation, Mr. Akhmadzhanov was convicted.

33. A criminal case was also brought against the director of Poti AS limited liability company, Mr. M.M. Khiriev, and his son, Mr. G. Khiriev, who sent a group of 60 workers to the Russian Federation and subjected them to slave labour. They owe a total of over 1 million somoni (more than US\$ 200,000) in unpaid salary in the country. Mr. M.M. Khiriev and Mr. G.M. Khiriev were sentenced to different periods of imprisonment.



34. A criminal case was also brought against the director of Vostok Farm limited liability company, Ms. S.A. Mukhitdinova, who by fraud, i.e. promising to arrange for decent work in the Russian Federation, dispatched a group of more than 100 citizens to travel there, and sold them to third parties for between \$500 and \$700 each. They then had to work without pay in rock quarries in the Russian Federation. A case has been brought against Ms. S.A. Mukhitdinova under article 130,<sup>1</sup> paragraph 2 (b), (c) and (g), and article 247, paragraph 4 (b), of the Criminal Code, and is currently under investigation. All the persons were returned to their home country with the assistance of IOM.

35. Between 2010 and 2011, 35 victims of human trafficking received free legal aid with the help of the Interdepartmental Commission on Combating Human Trafficking and IOM, 7 benefited from legal counsel during the judicial examination, and 1 was given assistance for the recovery of moral and material damage. To prevent slavery and enforced labour, and other forms of human trafficking, all economic entities involved in recruitment of Tajik citizens to work abroad have to be licensed under the Act on the licensing of designated activities of 17 May 2004 and the Decision approving regulations on aspects of licensing designated activities of 3 April 2007. There are currently 18 such businesses licensed by the Migration Service to recruit migrant workers to work abroad. Their activities are subject to monitoring by the Migration Service. If they are found to have committed violations, their licence is suspended and, in the case of serious violations, cancelled.

### **Replies to issues raised in paragraph 13 of the list of issues**

36. Tajikistan currently has 33 diplomatic representations and consular authorities in 23 countries. In some countries it has both diplomatic representations and consular offices. In the Russian Federation, for instance, it has an embassy and two consulates; in Afghanistan, it has an embassy and three consular authorities; it has an embassy and one consular office in each of Kazakhstan and the United Arab Emirates. Tajikistan has also appointed two honorary consuls in the Russian Federation, three honorary consuls in Pakistan and one each in Ukraine and Malaysia. These diplomatic and consular representations act on the basis of the Vienna Convention on Diplomatic Relations and the Vienna Convention on Consular Relations, and enjoy all the rights and privileges they need to protect the rights of Tajik migrant workers abroad.

37. To protect the rights of migrant workers in the countries of destination (Russian Federation, Kazakhstan), Tajikistan has opened consulates-general in the towns of Ufa and Yekaterinburg in the Russian Federation and Almaty in Kazakhstan. The Government Migration Service too has opened an office in the Russian Federation with the main task of protecting migrant workers' rights, and also has local offices.

38. One of the main tasks of the consular services of diplomatic representations is to monitor prisons where Tajik migrant workers are being held; they send quarterly information on the outcome of such monitoring visits to the Ministry of Foreign Affairs.

### **Replies to issues raised in paragraph 14 of the list of issues**

39. Migrant workers find work abroad under employment contracts for specific types of work. In general, the contracts specify the working conditions, including overtime, working hours, weekly rest days, paid leave, social protection, health care and termination of employment.

40. During the 2010–2011 period, the State Agency for Social Protection, Employment and Migration, which reports to the Ministry of Labour and Social Protection, issued

decisions on 236 companies involved in recruiting foreign workers to Tajikistan. The inspections covered issues related to working conditions, housing, social protection and rest days for the foreign migrant workers. Appropriate action was taken where violations of labour legislation were found to have occurred.

### **Replies to issues raised in paragraph 15 of the list of issues**

41. In April 1994, Tajikistan signed the Agreement between the Commonwealth of Independent States (CIS) member States on labour migration and social protection for migrant workers. Unfortunately not all the participating States are parties to the Convention and so the Agreement is not implemented. With the aim of ensuring social protection for migrant workers abroad, Tajikistan has developed a series of draft bilateral agreements that are currently under consideration by the countries of destination, such as Ukraine, the Republic of Korea and Qatar.

### **Replies to issues raised in paragraph 16 of the list of issues**

42. Tajikistan has also signed the following international agreements on migrant workers' rights:

- Agreement between the Government of Tajikistan and the Government of Kyrgyzstan on employment and social protection for migrant workers (6 May 1998)
- Agreement between the Government of Tajikistan and the Government of the Russian Federation on employment and protection of the rights of Tajik citizens in the Russian Federation and of citizens of the Russian Federation in Tajikistan (16 October 2004)
- Agreement between the Government of Tajikistan and the Government of Kazakhstan on employment and protection of the rights of Tajik citizens working temporarily in Kazakhstan and of citizens of Kazakhstan working temporarily in Tajikistan (4 May 2006)
- Memorandum of intent between the Ministry of Labour and Social Protection of Tajikistan and the government of Astrakhan province in the Russian Federation on employment and protection of the rights of Tajik citizens working temporarily in Astrakhan province (28 August 2006)
- Agreement between the CIS member States on labour migration and social protection for migrant workers (1994)
- Agreement between the CIS member States on the legal status of migrant workers and members of their families (2008)
- Agreement between the Government of Tajikistan and the Government of Belarus on temporary work of Tajik citizens in Belarus and of citizens of Belarus in Tajikistan (28 November 2011)

43. The Migration Service is responsible for the procedure for implementation and review of these international agreements.

### **Replies to issues raised in paragraph 17 of the list of issues**

44. Article 38 of the Constitution accords everyone the right to health protection. Within the limits established by the law, everyone shall be entitled to free medical care at State

health-care institutions. The State shall take steps to clean up the environment and promote popular sports, physical fitness and tourism. The Ministry of Health has issued orders on the procedure for medical consultations (emergency care) (26 September 2011) and the procedure for medical consultations for citizens leaving to work abroad and for foreign nationals in Tajikistan (3 November 2011). These stipulate that migrant workers and members of their families in an irregular situation have access to emergency medical services on an equal footing with Tajik citizens.

### **Replies to issues raised in paragraph 18 of the list of issues**

45. Under article 41 of the Constitution, everyone has the right to education. General primary education is compulsory. The State guarantees free general secondary and secondary vocational education, and, dependant on ability and on a competitive basis, specialized secondary and higher education, in State educational establishments. Other forms of education are provided in accordance with the law. Article 13 of the Act on the legal status of foreign nationals gives foreigners the right to education on an equal basis with Tajik citizens, in line with legally established procedure. Foreign nationals accepted in educational establishments have rights and responsibilities under the law, unless otherwise specified in legislation in force. There are currently 183 foreign nationals studying in the country's general educational establishments, 6 in secondary vocational establishments, and 2,506 in institutes of higher education. Foreign nationals' certificates are validated on the basis of the Instruction on the recognition and validation of educational certificates, titles and degrees of foreign States, confirmed by the Ministry of Education order of 28 January 2011.

### **Replies to issues raised in paragraph 19 of the list of issues**

46. Under the law, all peoples and ethnic groups in the country may freely choose their language of education.

47. Article 4 of the Act on the State language of Tajikistan of 5 October 2009 gives all peoples and ethnic groups living in the country the right to use their mother tongue without restriction.

48. Education is currently offered in Tajikistan in Tajik, Russian, Uzbek, Kyrgyz, Turkmen and English; some higher education establishments have groups that use Russian or Uzbek as the language of teaching. There are 3,773 schools in the country, of which 1,167 teach in the languages of national minorities.

49. With the growing number of Afghan refugees and the general migratory flow from neighbouring Afghanistan, the Government supports teaching for Afghan children in every way possible. Moreover, to encourage refugee children to integrate into Tajik society, Afghan children are also free to attend Tajik school.

50. The main problem that schools have is the shortage of mother tongue textbooks and other teaching materials. There are a number of ethnic cultural associations, such as the Tatar-Bashkir, Azerbaijani and Korean associations, as well as ethnic ensembles and artistic groups that also encourage the development of ethnic identity and culture. Cultural events are held regularly, with well-known guests from the areas of teaching, culture and art from other countries; the Government thus helps migrants maintain closer links with their countries of ethnic origin.

## Replies to issues raised in paragraph 20 of the list of issues

51. The Migration Service's main responsibilities include providing regular information to migrant workers on job opportunities in the countries of destination, looking for employers and ensuring that companies are aware of the need for labour agreements (contracts) with foreign employers to include conditions guaranteeing social and legal protection for migrant workers. The Migration Service's Office in the Russian Federation and its foreign labour market monitoring section study the foreign labour market and help citizens to find employment. Once the issues are identified and agreed on with the employers, the information is passed to companies licensed to conduct such activities, for further communication and recruitment of citizens to work in other countries. In order to provide as much information as possible, the Service has an official website and maintains e-mail contact with the migrant workers, and with individuals and organizations acting on their behalf and in their interests. Its regional structures work along similar lines. The central office, which receives technical support from the IOM Tajikistan office, has a migrant worker advice and consultation section. Between the day it opened in September 2011 and December of that year, it dealt with complaints from 89 Tajik migrant workers on legal and social matters. In some cases, the necessary steps were taken (recruitment, help with returning home, learning a profession, studying a foreign language) and appropriate recommendations were made.

52. The Migration Service also has a joint project in Dushanbe with the Russian Federal Migration Service, the Ministry of Education and the Russian-Tajik Slavonic University to teach 100 potential migrant workers the professions that are in demand and the Russian language, and to improve their legal knowledge. The project is running from September 2011 to January 2012 and the migrant workers concerned are currently sitting examinations, after which, with the help of the Russian Federation's Federal Migration Service, they will find jobs in the Russian Federation.

53. To protect the social and legal interests of migrant workers abroad, a legal office has been set up, as of January 2012, within the Migration Service Office in the Russian Federation. It will represent the interests of migrant workers who submit complaints and appeals. The Migration Service is also planning, on agreement with the relevant State agencies in the Russian Federation, to expand the legal office's activities and to organize its work in other regions where migrant workers are temporarily employed.

54. The first information resource centre for migrant workers (subsequently renamed the Migrant Support Centre) in Tajikistan was opened in 2004, in cooperation with OSCE and under the IOM mission. Subsequently, in response to the demand for these services, IOM set up similar centres in six of the country's regions (Kūlob, Khūjand, Khorugh, Ayni, Hisor and Tojikabod) within the premises of local NGOs. They provide information on labour migration to the public through information sessions, mobile units and information events, and distribute leaflets on the hazards of labour migration (slavery, labour and sexual exploitation, HIV/AIDS, tuberculosis, family breakdown), recruitment regulations and procedures, registration in the main countries of destination, the organizations that offer services for migrants in the host countries, consular and diplomatic bodies, local law enforcement agencies, the institutions of the Commissioner for Human Rights, human rights defenders in the countries of origin and destination, diaspora organizations, international organizations and local NGOs.

55. The Migrant Support Centre also provides the following:

- Legal advice and support in cases of violation of the rights of migrant workers and members of their families, including families left behind

- Contact with human rights organizations in both the country of origin and the country of destination in cases of violation of the rights of migrant workers and members of their families
- Referral services for migrants (i.e., where the Centre cannot help, it refers the migrant or family member to an institution that can)
- Production of informational material, including educational films and video clips on various issues related to labour migration: cultural aspects (rules of conduct in the countries of destination), controls, and detention, deportation and removal, information questionnaires, information leaflets on work permits, registration regulations, medical checks, and how to complete migration cards
- Capacity-building for State officials in the area of labour migration, including issues related to information and advice for migrant workers and members of their families

56. The centres are currently supported and funded through various IOM programmes, but it is planned to bring them under the Migration Service, or into a social partnership with the Migration Service. IOM has provided technical assistance for the establishment of a public office within the Migration Service's central structure in Dushanbe, as well as in its office in the Russian Federation. In the future, the Government intends to continue this work, setting up similar public offices throughout the country's regions, wherever the Migration Service has its structures. In addition to the IOM-funded Migrant Support Centres, similar centres have been set up by the Red Crescent Society of Tajikistan in five of the country's regions (Roshtqal'a, Vose, Panj, Asht and Shahrison) and by OSCE in Khatlon province. Other information centres have also been set up by the Committee for Youth, Sport and Tourism, and the Committee for Women's and Family Affairs, to provide general information to the public on labour migration.

### **Replies to issues raised in paragraph 21 of the list of issues**

57. The Constitution gives citizens the right to participate, directly or through representatives, in political life and the governing of the State. On reaching 18 years of age, citizens are entitled to participate in referendums, to vote and, on reaching the age established by the Constitution, constitutional laws and legislation, to stand for election. Persons declared by a court as lacking legal capacity or who are being held in places of deprivation of liberty pursuant to a court sentence are not entitled to participate in elections and referendums. There are no restrictions on citizens' rights to participate in political life and the governing of the State in other countries. To realize these rights, polling district commissions are set up in all of the country's representations abroad, with the head of the representation acting as chair. Tajik nationals who live abroad may exercise their right to stand for election if they observe the legal requirements, which generally include that the person concerned must live permanently in the territory of the country for a certain period of time.

### **Replies to issues raised in paragraph 22 of the list of issues**

58. There have been various initiatives to simplify the procedure for money transfers by migrant workers to Tajikistan. Some microcredit organizations, together with the Zolotaya Korona, Anelik, Unistream, Leader and Blizko money transfer systems, provide migrant workers with special money transfers cards before they leave the country. The cards make the process of sending and receiving remittances much easier.

59. Another innovation by banking houses aimed at helping migrant workers is the introduction of services for opening deposit accounts. Migrant workers in the Russian Federation can use the Russian banking network to send their salaries to banks in Tajikistan through the Contact money transfer system; the bank automatically opens an account in their name and the money is thus deposited in the country.

60. In addition to facilitating the transfer of remittances, many banks in Tajikistan also offer travel loans to migrants. This form of short-term (up to eight months) loan allows migrant workers to take credit from the bank to pay their expenses when travelling to work abroad, and pay it and the interest due in accordance with the loan agreement. Such loans can be between \$1 and \$800, for a period of one to eight months. The interest rate is set in line with bank policy.

### **Replies to issues raised in paragraph 23 of the list of issues**

61. Tajikistan has signed double taxation agreements with 26 countries, including the main countries of destination for migrant workers from Tajikistan and of origin of migrants in Tajikistan: Afghanistan, China, the Islamic Republic of Iran, Kazakhstan, Kyrgyzstan, Poland, the Russian Federation, Turkey and the United Arab Emirates. The agreements meet the standards set by the Organization for Economic Cooperation and Agreement. They do not cover issues related to social security benefits, which are governed by each country's domestic legislation. They also do not cover specific issues related to the transfer of migrant workers' remittances.

### **Replies to issues raised in paragraph 24 of the list of issues**

62. The Government Decree of 31 October 2008 approved regulations for issuing work permits to foreign nationals and stateless persons working in Tajikistan. They state that permits are issued for a period of one year. Foreign nationals or stateless persons must submit to the appropriate authorities the following documents: an application to the head of the Migration Service, a passport or identity document and copies thereof, a copy of the visa (for nationals of States subject to visa requirements), a migration card and a copy of the proof of payment for the work permit, photographs and a medical questionnaire available from the health services. The agency responsible considers the application and takes a decision on granting a work permit. Decisions are taken on a case-by-case basis, within 15 days of submission. Work permits are granted to persons aged 18 or over and are subject to an annual quota set by the Government. They are not granted if the applications or supporting documentation contain invalid data or false information. A work permit is provided to each foreign national and, with his or her agreement, to the employer or other person who provides a letter of authority concerning the issuing of the permit. Loss of the work permit must be reported to the Migration Service within 10 days, together with an application for the issue of a replacement permit, detailing the circumstances in which the original was lost. The supporting documents must be attached to the application. After verification of the circumstances of the loss and payment of the State fees, a replacement permit is issued to the foreign national within five days, against signature.

63. The agency responsible records the work permits issued and cancelled and reports every six months to the Government, the State National Security Committee and the State Statistics Committee. Work permits may be cancelled by the agency responsible if the foreign worker or the employer violates the law or if the work done by the foreign worker represents a threat to national security or makes it necessary to protect the rights and interests of the country's citizens. Any foreign national or stateless person who does not have a work permit is liable to prosecution under article 138, paragraph 3, of the Code of

Administrative Offences. Any physical or legal person, regardless of the form of ownership, who recruits a foreign national or stateless person who does not have a work permit is punishable under the law.

### **Replies to issues raised in paragraph 25 of the list of issues**

64. A total of 4,069 work permits were issued to foreign nationals in 2011. Of those, 325, or 8 per cent, were issued to nationals from CIS countries, and 3,744 (92 per cent) to nationals of other countries. No work permits were refused or abrogated in 2011.

65. Most migrant workers in Tajikistan come from neighbouring countries. In 2011, there were 2,408 Chinese nationals, 620 Afghan nationals and 141 Uzbek nationals working in the country. Domestic legislation does not ban seeking alternative employment if a migrant worker's employment contract is terminated early.

### **Replies to issues raised in paragraph 26 of the list of issues**

66. Tajikistan does not currently have any bilateral or multilateral agreements on frontier workers, although nationals of neighbouring States do cross its borders for temporary employment.

### **Replies to issues raised in paragraph 27 of the list of issues**

67. To cooperate and consult with the main destination countries of migrant workers, and to promote sound, equitable and humane working and living conditions for its nationals, Tajikistan has signed a series of agreements on labour migration, including with the Russian Federation, Kazakhstan, Kyrgyzstan and Belarus.

68. Since over 90 per cent of migrant workers from Tajikistan go to the Russian Federation, and given the need to regulate migratory flows, a joint working group has been set up on the basis of the intergovernmental agreement to consider its implementation; meetings are held alternately in Tajikistan and the Russian Federation.

69. The Council of Heads of Migration Agencies of the CIS countries has been set up to address the social and legal protection of migrant workers and to prevent illegal migration within the CIS countries. Its meetings are held in the different CIS member States in turn, and deal with pressing issues related to establishing sound and humane conditions for migrant workers. The Migration Service makes working visits to the Russian Federation, where, together with that country's Federal Migration Service, it holds meetings with migrant workers from Tajikistan to discuss ways of improving their situation. The Migration Service also invites the heads of the Federal Migration Service central structure and regional services to Tajikistan to find out about the country and to take part in meetings and presentations at various levels to further cooperation and the social and legal protection of migrant workers in the Russian Federation. Intergovernmental commissions set up to foster collaboration with the above-mentioned countries address economic, social, humanitarian, scientific and other issues, with labour migration being of particular importance.

### **Replies to issues raised in paragraph 28 of the list of issues**

70. In addition to the labour migration agreements with four CIS member States — the Russian Federation, Kazakhstan, Kyrgyzstan and Belarus — the CIS Agreement on Labour

Migration and Social Protection for Migrant Workers was also signed in 1994, as was the CIS Convention on the Legal Status of Migrant Workers and Members of their Families (2008). The agreement with the Russian Federation is of particular importance since that country is the destination of most migrant workers from Tajikistan.

71. As noted above, the agreement included the establishment of a joint working group of representatives of the relevant authorities.<sup>4</sup> Between the signing of the agreement in 2004 and 2011, the group held seven sessions.

72. Tajikistan intends to raise the matter of an agreement on social insurance for migrant workers with its Russian colleagues in the near future.

73. The Migration Service is currently considering opening an office in Kazakhstan.

### **Replies to issues raised in paragraph 29 of the list of issues**

74. Migrant workers, including women, are recruited to work in foreign countries at their own wish in line with agreements (contracts) with local companies licensed to conduct such activities. However, as those companies do not meet all the demand from Tajik citizens, a large proportion of migrant workers leave independently, mainly to countries that do not have a visa agreement with Tajikistan.

75. Part of the Migration Service's day-to-day work is advising migrant workers only to leave for temporary jobs in countries where there is an official representation.

### **Replies to issues raised in paragraph 30 of the list of issues**

76. Tajikistan is not a transit country for foreign migrant workers.

77. Within the Migration Service, the Immigration Control Department is responsible for preventing illegal migration in the country, in collaboration with other agencies. In 2011, 274 administrative reports were drawn up for breaches of the residence regulations for foreign migrant workers in Tajikistan, and 120 persons were removed from the country on the basis of court decisions.

78. Tajikistan is a signatory to the 1998 Agreement between the CIS member States on Cooperation in Combating Illegal Migration. By mutual agreement with the Office of the Procurator-General, the Ministry of Internal Affairs and the State National Security Committee, the Migration Service systematically carries out preventive measures and special operations to prevent illegal migration: Nelegal (illegal), Granitsa (border), Filtr (filter) and Transport among others.

79. Operation Nelegal-2011, conducted by the member States of the Collective Security Treaty Organization between 19 September and 7 October 2011, identified 76 administrative offences by foreign nationals, with 29 individuals subsequently deported. Similar events are carried out on agreement with the CIS countries, and appropriate action plans are developed.

80. A total of 750,391 persons left the country in 2011; 83,836 of them were women. The women work mainly in the Russian Federation and Kazakhstan under the same conditions as men, in line with the employment agreements.

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<sup>4</sup> The 2004 agreement between Tajikistan and the Russian Federation covers the establishment and activities of the joint working group.



## Annex

<i>Articles of the Criminal Code</i>	2007	2008	2009	2010	2011
1. Art. 122: Forced removal of human organs or skin for transplant	0	0	0	0	0
2. Art. 130: Kidnapping	7	7	9	7	6
3. Art. 1301: Human trafficking	0	0	0	6	6
4. Art. 131: Unlawful deprivation of liberty	16	11	7	10	8
5. Art. 132: Recruitment of persons for purposes of exploitation	13	6	-	14	2
6. Art. 134: Coercion	5	4	1	1	3
7. Art. 138: Rape	66	76	54	72	66
8. Art. 139: Sexual assault	42	40	39	43	48
9. Art. 140: Sexual coercion	6	7	6	3	6
10. Art. 141: Sexual intercourse with persons under the age of 16	57	61	72	80	81
11. Art. 142: Depraved acts	19	19	5	13	15
12. Art. 149: Illegal restriction of a citizen's movement, free choice of place of residence, exit from or return to the country	0	1	0	0	0
13. Art. 167: Trafficking in minors	17	10	9	16	24
14. Art. 171: Substitution of a child	0	0	0	0	0
15. Art. 172: Illegal adoption	10	4	2	0	0
16. Art. 238: Enticement into prostitution	110	76	74	3	0
17. Art. 239: Establishment or keeping of brothels, procurement or living off the earnings of prostitution	0	1	4	109	102
18. Art. 335: Illegal crossing of State borders of Tajikistan	0	0	1	80	117
19. Art. 336: Violation of State border regime	19	24	29	0	0
20. Art. 339: Seizure or destruction of documents, stamps or seals	1	1	0	73	22
21. Art. 340, para. 3: Forgery, manufacture or sale of counterfeit documents, State honours, stamps, seals or forms for purposes of human trafficking	0	0	0	0	6
22. Art. 401: Mercenary activities	0	0	0	0	0
<b>Total</b>	<b>388</b>	<b>348</b>	<b>309</b>	<b>530</b>	<b>512</b>