



**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**

**Consideration of reports submitted by States
parties under article 73 of the Convention
pursuant to the simplified reporting procedure**

Initial reports of States parties due in 2005

Kyrgyzstan*

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Information on the list of issues of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families

1. Please provide information on the measures taken by the State party to harmonize its legislation with the provisions of the Convention.

1. The Government regulates the migratory process based on established trends in both internal and international migration; such regulation comprises the legislative framework, specialized government migration services and bilateral and multilateral intergovernmental agreements on migration. In developing domestic legislation on migration and conducting migration policy, the Government generally aligns itself with the main international standards on the rights of migrants. Accordingly, domestic legislation and other regulatory acts are harmonized with the fundamental rules and principles of international law.

2. Legislative trends in the Kyrgyz Republic are currently geared towards taking maximum advantage of international experience and international legal instruments on governmental regulation of international migratory flows. The regulation of such flows at the international level comprises a coherent regulatory framework based on the ratified standards of international organizations and international treaties. In Kyrgyzstan, government regulation of international migratory flows is based on the Constitution, articles 25 and 26 of which state that:

(1) Everyone has the right to freedom of movement and choice of residence and domicile in the Kyrgyz Republic;

(2) Everyone has the right freely to travel beyond the borders of the Kyrgyz Republic and to settle there in accordance with the international regulations on migration ratified or recognized by the highest State authorities.

2. Please provide information, including statistical data disaggregated by sex, age, nationality and migration status, on labour migration flows, including returns, and on other labour migration-related issues. Please also provide statistical data, or if precise data are not available then studies or estimates, on migrant workers in an irregular situation. Furthermore, please provide information on measures taken by the State party to establish a coherent and cross-comparable system of data collection on these issues.

3. According to statistics from the National Statistics Committee, the negative migration balance (number of persons emigrating) for 2008–2012 totalled 165,000. The migratory peak in this period occurred in 2010, with the events of April and June in Kyrgyzstan; the volume of migration significantly diminished in subsequent years. This situation may be explained by the expiry of bilateral agreements on simplified acquisition of citizenship between Kyrgyzstan and Russia, which is the destination of the majority of emigrants. Kyrgyzstan had a negative migration balance with all the countries of the Commonwealth of Independent States, excepting Tajikistan and Turkmenistan. The principal countries of emigration from Kyrgyzstan were Russia and Kazakhstan. Interregional population movements were, as before, towards the city of Bishkek and Chuy province, whereas the population of other regions has continued to diminish. Although the international migration balance remains negative, its size has significantly decreased in recent years.

4. It is worth noting that the definition of population migration used by the National Statistics Committee is the movement of persons (migrants) across regional borders (countries, provinces, districts, etc.), primarily linked to change of residence. A distinction

is made between internal migration (within the country) and international migration entailing the crossing of State borders. Data on migration is drawn from the statistical records of arrivals and departures that are collected by the State Registration Service upon registration at place of residence.

3. Please provide information on national legislation on migration policies. Please also provide information on bilateral and multilateral agreements with other countries in the area of migration, in particular with the Russian Federation and Kazakhstan.

5. The Government regulates the migration process based on established trends in both internal and international migration; such regulation comprises the legislative framework, specialized government migration services and bilateral and multilateral intergovernmental agreements on migration. In view of the fact that international migration is a major sociological phenomenon affecting all areas of the life of society, a legislative framework for regulating the migration process has been set up in the Kyrgyz Republic (International Migration Act, Internal Migration Act, Refugees Act, Domestic Labour Migration Act, Act on the Prevention and Suppression of Trafficking in Persons).

6. A strategic framework for national migration policy and a programme for its implementation were approved in 2004. In September 2006, the Government instituted a programme for national employment policy through the year 2010. The national programme for regulating the migration process, 2007–2010, was adopted in 2007. The national employment promotion and international labour migration regulation programme through 2020 was adopted in 2013. All of these texts facilitate measures to stem the flow of illegal migration.

7. International cooperation is carried out by Kyrgyzstan based on agreements at the multilateral, regional and bilateral levels on migration and related matters – primarily national security, the promotion of peace and regional stability and the prevention of armed conflict and refugee movements, but also labour relations, labour migration, social policy, citizenship and asylum and other political, economic and cultural rights and freedoms.

8. An intergovernmental cooperation agreement on labour migration and social protection for migrant workers was signed in Moscow on 15 April 1994 by the members of the Commonwealth of Independent States. In a separate category, there are model legislative acts on labour migration adopted by the Commonwealth's Interparliamentary Assembly, in particular the Charter of Social Rights and Guarantees of Citizens of the Commonwealth, approved by the Interparliamentary Assembly on 29 October 1994.

9. By decision of the Intergovernmental Council of Heads of State of Belarus, Kazakhstan, Kyrgyzstan, the Russian Federation and Tajikistan, the main outlines of humanitarian cooperation among those States were approved and an agreement on travel of citizens without visas adopted in Minsk in 2000. In March 2005, the countries of the Eurasian Economic Community signed a protocol to the agreement, simplifying still more the arrangements for border crossings by citizens of the Community's member States. This made it possible to cross borders between countries without a visa, with only an internal identity document. One of the most important manifestations of cooperation to control the migration process in the Commonwealth of Independent States is the enactment of a set of joint measures to combat illegal migration, which has become a global problem whose scale and potentially severe impact could represent a serious threat to international stability and the sustained development of States.

10. A Framework Policy on Cooperation among the States Members of the Commonwealth of Independent States in Combating Illegal Migration, consisting of a set of basic principles and objectives for cooperation among the authorities in protecting countries,

societies and individuals from the threat of illegal migration, was approved on 16 September 2004.

11. A programme for the period 2009–2011, a convention on cross-border cooperation among members of the Commonwealth and an agreement concerning a council for interregional and cross-border cooperation were adopted on 10 October 2008. Taken together, these instruments, drafted and adopted by the Commonwealth in 2007, point to the development of a comprehensive approach to resolving issues of internal and international migration and legal and illegal labour migration.

12. A policy framework for further development of the Commonwealth, adopted by the Council of Heads of State of the Commonwealth on 5 October 2007 in Dushanbe, outlines the priorities for cooperation concerning migration by law enforcement bodies and migration services in the member States of the Commonwealth.

13. Another equally important text regulating intergovernmental cooperation on labour migration is the Convention on the Legal Status of Migrant Workers and Members of Their Families, signed on 14 November 2008 by the Heads of State of the nine members of the Commonwealth. This was the first basic document adopted by the Commonwealth to create a legal framework for future development of integrated cooperation in labour migration. It brings together many of the relevant provisions of universal and regional legislation currently in force and reinforces the fundamental rights of migrant workers. International labour migration flows between specific countries are likewise regulated by intergovernmental treaties and agreements.

14. Labour migration between the Kyrgyz Republic and the Russian Federation is regulated to a large extent by bilateral agreements. The legal aspects of relations between Russia and Kyrgyzstan are covered by 120 bilateral instruments which correlate the overall policies, tasks and mechanisms for cooperation between the two countries on labour migration.

15. The most recent meeting of a Russian-Kyrgyz working group to discuss problematic employment and social protection issues that have come up in carrying out agreements between the Governments of the Russian Federation and the Kyrgyz Republic was held in December 2008. The parties agreed on the need to set up a system for labour migration from the Kyrgyz Republic.

16. An agreement between the Kyrgyz Republic and the Russian Federation on future cooperation in regulating labour migration was signed on 3 October 2009. It provides for interaction between the parties concerning the retraining, advanced training and certification of the skills of migrant workers to bring them into line with the demands of labour markets in the Russian Federation and the Kyrgyz Republic.

17. A memorandum of cooperation in conducting programmes and projects aimed at addressing labour migration problems was signed by the Ministry of Labour, Migration and Youth of the Kyrgyz Republic and the fund for development of the “Good Neighbour” network (Russian Federation) in May 2011.

18. The sixth meeting of a joint Kyrgyz-Russian working group on migration issues was held on 5 July 2012 in the city of Troitsk (Russian Federation). The discussion covered a mechanism for organizing the recruitment and job placement of Kyrgyz citizens in Russia, to replace the existing informal migration channels.

19. A readmission agreement and an executive protocol for its implementation were concluded by the Governments of the Kyrgyz Republic and the Russian Federation on 11 October 2012 in the city of Bishkek. On 27 June 2013, the agreement was signed by the President of the Kyrgyz Republic and adopted by the Zhogorku Kenesh. Work has begun, in cooperation with the Social Fund of the Kyrgyz Republic, to develop arrangements for

access to pensions and social protection for citizens of the Republic temporarily employed abroad. The Republic is also continuing its efforts to update the legislative framework for its major labour migration partnerships.

4. Please provide information on training programmes organized by the State party for public officials working in the area of labour migration at national and local levels, including border police officers, social workers, judges and prosecutors. Please also indicate any measures taken to disseminate the Convention throughout the State party.

20. No such measures have been carried out, according to information from the national civil service.

5. Please indicate whether the State party has established a procedure to involve non-governmental organizations (NGOs) in the implementation of the Convention and the preparation of the State party's periodic reports under article 73 of the Convention.

21. The Kyrgyz Republic is working closely with NGOs: joint measures are being carried out, including to fulfil the main objectives of the Convention, and the research on migration done by NGOs is used in preparing documents for domestic use as well as the periodic reports under the Convention.

6. Please indicate whether the State party has taken any steps towards ratifying the International Labour Organization (ILO) Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143) and the ILO Domestic Workers Convention, 2011 (No. 189).

22. The matter is open to discussion.

7. Please indicate whether the Convention has been directly applied by officials in the administration and/or invoked directly before the courts and whether the courts have applied it; if so, please give examples. Please also provide information on: (a) judicial and/or administrative mechanisms competent to examine and decide on complaints by migrant workers and members of their families, including workers in an irregular situation; (b) the complaints examined by such mechanisms since the date of entry into force of the Convention and their outcome; (c) any redress, including compensation, provided to victims of such violations; and (d) any measures taken to inform migrant workers and members of their families about the remedies available to them for violations of their rights.

23. Most of the rules set out in the Convention are incorporated in the legislation of the Kyrgyz Republic, which is of course used by Government agencies. Machinery for defending their rights is available to migrant workers and members of their families on the same basis as to citizens of the Republic, and they may have recourse to the ordinary courts. Like citizens of the Republic, they have the right to redress by those responsible for harm done to them. Under Kyrgyz legislation, information in the possession of Government agencies may be accessed, and provision is made for free access electronically.

8. Please provide detailed information on the measures taken to ensure that all migrant workers and members of their families within the State party's territory and/or subject to its jurisdiction enjoy the rights provided for in the Convention without any discrimination.

24. According to article 16, paragraph 2, of the Constitution, adopted by referendum on 27 June 2010, the Kyrgyz Republic respects and guarantees the human rights and freedoms of all persons within its territory and jurisdiction. No one may be subjected to discrimination on the basis of sex, race, language, disability, ethnic background, faith, age,

political or other conviction, education, origin, wealth or other status, or other circumstances. The special measures envisaged under the law and aimed at offering equal opportunities to various groups in society, in accordance with international commitments, are not discriminatory.

25. Under article 3 of the Act on the Legal Status of Foreign Nationals, foreign nationals and stateless persons enjoy the same rights and have the same obligations as citizens of the Kyrgyz Republic, except in circumstances established by law or procedures set out in an international treaty to which the Kyrgyz Republic is a party. Foreign nationals are equal before the law in the Kyrgyz Republic, irrespective of sex, race, language, disability, ethnic background, faith, age, political or other belief, education, origin, wealth or other status, or other circumstances.

9. Please provide information on detention centres and conditions of detention for migrant workers, including details on whether: (a) persons detained for immigration reasons are ensured detention that is separated from convicted persons; (b) children and women in immigration detention are in gender- and age-appropriate conditions, including separation from adults or male detainees who are not family members; (c) women detainees are supervised by female personnel; and (d) where possible and appropriate, family-friendly facilities are provided.

26. There are no specialized centres in the Kyrgyz Republic for the detention of migrant workers and persons who violate the immigration regulations. It is worth noting, however, that under Kyrgyz legislation, women and children are detained separately from men and adults. Insofar as economically feasible, the Government ensures suitable conditions of detention for the above-mentioned categories of persons.

27. Furthermore, women and children are not placed in holding centres: this may be done only if there is a decision to that effect by a court in the place of detention.

10. Please provide details on any measures the State party has taken regarding alternative measures to detention. Please also provide information on measures taken to ensure due process during arrest and detention, including access to a lawyer, interpreter, consular and diplomatic authorities and adequate access to medical care.

28. The legislation provides for alternatives to detention (written pledge not to abscond from justice, house arrest, etc.) depending on the gravity of the offence. The laws on criminal procedure also lay down the entire legal procedure for arrest and the legal basis for detention. In accordance with article 20 of the Act on the Legal Status of Foreign Nationals, the latter have the right to appeal to the courts and other State institutions for the defence of their personal, property, family and other rights. They enjoy the same procedural rights in court as citizens of the Kyrgyz Republic.

29. Any foreign national in the Kyrgyz Republic has the right to contact the diplomatic or consular mission of his or her Government, and where none exist, those of another State authorized to defend the rights and lawful interests of citizens of the State of which the foreign national is a citizen.

30. In accordance with article 9 of the above-mentioned law, foreign citizens permanently residing in the Kyrgyz Republic may receive medical care on the same basis as citizens of the Republic. Medical care is provided to temporary residents under the terms set by the Ministry of Health.

11. Please provide information on measures taken to ensure that in criminal and administrative proceedings, including expulsion proceedings, migrant workers and members of their families, in particular those in an irregular situation, are provided with legal assistance and interpretation, as necessary, and that they have access to information in a language they understand.

31. Article 40 of the Constitution guarantees judicial protection of the rights and freedoms of all, as laid down in the Constitution, the international legislation and agreements to which the Kyrgyz Republic is a party and the universally recognized principles and rules of international law. The State also facilitates non-judicial and pre-judicial methods, forms and means of protecting human and civil rights and freedoms. Everyone has the right to defend his or her rights and freedoms by all means not prohibited by law. Everyone is guaranteed the right to qualified legal assistance. In situations envisaged by the legislation, legal assistance is funded by the Government.

32. According to the laws on criminal proceedings, individuals who do not know the language in which the proceedings are conducted must have them explained to them and be guaranteed the right to acquaint themselves with all case materials, give explanations, evidence and testimony, make statements and file applications in their native language or to avail themselves of the services of an interpreter. Court documents are furnished to the parties to the proceedings after translation into a language that they understand.

12. Please provide information on measures taken to ensure that: (a) migrant workers and members of their families are only expelled from the territory of the State party pursuant to a decision taken by a competent authority following a procedure established by law and in conformity with the Convention, and that this decision can be reviewed on appeal; and (b) pending such appeal, the person concerned has the right to seek a stay of the decision of expulsion.

33. Under article 39 of the Code on Administrative Responsibility, foreign nationals and stateless persons may be expelled from the territory of the Kyrgyz Republic in the event that they violate the terms of their stay in the country. A court may order the expulsion from Kyrgyzstan of a foreign national or stateless person as an administrative penalty. Under article 594, a person being prosecuted for an administrative offence may file a complaint to a higher institution (higher official) or to the courts. Article 598 stipulates that following the filing of a complaint, the imposition of an administrative penalty is postponed pending its review by a court (judge) or institution (official).

13. Please provide details on the consular services provided by the State party for Kyrgyz migrant workers abroad, including those in an irregular situation. Please indicate whether legal assistance is provided, including in detention and/or deportation cases.

34. Under Government decision No. 109 of 5 March 2013 on functional and structural changes in the executive branch of the Kyrgyz Republic, the functions of protecting the rights of citizens outside the borders of the Kyrgyz Republic, including international labour migrants, are now within the purview of the Ministry for Foreign Affairs, which fulfils the functions incumbent upon it through its consular authorities.

35. It is worth noting that the services of the consular authorities are provided on the basis of citizenship of the Kyrgyz Republic.

14. Please indicate whether migrant workers and members of their families in the State party can have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin whenever the rights recognized in the Convention are impaired, in particular in cases of arrest, detention and expulsion.

36. There are no restrictions in Kyrgyz legislation on recourse by migrant workers to the consular authorities of their country of origin to represent them and assist them in the defence of their rights.

15. Please indicate whether migrant workers and members of their families in the State party have recourse to the protection and assistance of the consular or diplomatic authorities of their State of origin whenever the rights recognized in the

Convention are impaired, in particular in cases of arrest, detention and expulsion. What legal and labour protection and enforcement mechanisms are in place to ensure that migrant workers, including in the agricultural and domestic work sectors, enjoy treatment not less favourable than that which applies to Kyrgyz nationals in respect of remuneration and conditions of work?

37. Any foreign national in the Kyrgyz Republic has the right to contact the diplomatic or consular mission of his or her Government, and where none exist, those of another State authorized to defend rights and lawful interests.

38. Under article 42 of the Constitution, everyone has the right to work, to make use of his or her occupational abilities and to choose a profession or trade, the right to labour protection and working conditions consistent with the requirements of safety and hygiene and the right to remuneration not less than the legally established minimum wage.

39. Under article 2 of the Labour Code, the following principles are recognized as regulating labour and related relations:

- The freedom to choose one's employment and to negotiate employment contracts, including the right to decide how to apply one's aptitudes and to choose a profession or type of activity;
- Freedom of labour relations;
- The prohibition of forced labour and of on-the-job discrimination.

40. Under article 9 of the Labour Code, every person has equal opportunities to exercise his or her labour rights and freedoms. No person's labour rights and freedoms may be restricted, nor may any person enjoy an advantage in exercising such rights, on the grounds of sex, race, ethnic background, language, origin, wealth, official position, age, place of residence, faith, political convictions, membership of civil society associations or any other considerations unconnected with the person's professional qualities as a worker and the results of his or her work. Unequal pay for equal work is not permitted. Differentiation, exceptions, preferences or restrictions determined by the specific demands of a given activity as prescribed by law or as dictated by the State's responsibility for persons in need of greater social and legal protection are not discriminatory.

41. Persons who believe they have been subjected to discrimination at work are entitled to apply to a court for the restoration of their rights, compensation for material damage and reparation for moral harm.

16. Please provide detailed information on the measures taken by the State party to ensure, in law and in practice, that all migrant workers and members of their families have adequate access to basic services including urgent medical care.

42. The legislation and international agreements of the Kyrgyz Republic stipulate that urgent medical care must be provided to everyone without exception, irrespective of nationality.

17. Please provide detailed information on what measures are planned in order to ensure that the children of migrant workers have full access to education, regardless of their migration status. In doing so, please also indicate whether these children are provided with education in their mother tongue.

43. According to article 45 of the Constitution, everyone has the right to education. Basic general education is compulsory. Everyone has the right to basic and secondary education, free of charge, in State educational institutions. The Government ensures universal instruction in the State and official languages, as well as one international language, from preschool to basic general education. The Constitution also sets out the

Government's obligation to arrange for the establishment of State, municipal and private educational institutions and the promotion of physical exercise and sports.

44. According to article 12 of the Act on the Legal Status of Foreign Nationals, the latter have the right to receive education on equal terms with citizens of the Kyrgyz Republic in accordance with the procedures laid down in the legislation. Foreign nationals accepted into Kyrgyz educational institutions have the rights and responsibilities conferred on pupils and students by Kyrgyz legislation.

45. There are private educational institutions in Kyrgyzstan that offer instruction in foreign languages (Turkish, English, etc.).

18. Please provide information on measures taken by the State party to ensure that during and upon termination of their stay in the State party, migrant workers and members of their families have the right to transfer their earnings and savings and, in accordance with the applicable legislation, their personal effects and belongings. Please provide additional information on the measures taken to facilitate the transfer of these private funds, particularly to reduce the cost of these transactions.

46. According to article 4 of the Act on Transactions in Foreign Currency, there are no restrictions on the transfer of foreign currency into and out of the country. Foreign currency may be imported and exported with no restrictions, as long as it is declared to the customs authorities.

47. According to article 13 of the same piece of legislation, there are no restrictions on expenditure from and payments to current accounts or on the transfer of capital into and out of the country.

48. Direct monetary transactions without recourse to accounts are currently the most popular means of transferring funds worldwide. Most migrants transfer their earnings by such transactions, without using accounts. On 1 April 2014, services were being provided by commercial banks throughout Kyrgyzstan using 20 different monetary transfer systems. The fees are set according to the rates of each system itself, depending on the type of foreign currency involved and the recipient country. The pricing policies of commercial banks are based on a price range for monetary transfers, with rates varying from 0.1 to 4.5 per cent depending on the type of system and the amount of money involved.

49. Under article 25 of the International Migration Act, migrant workers and the members of their families who reside with them may import to the Kyrgyz Republic goods for personal use and instruments and equipment required for work, and may also export such goods, instruments and equipment, for the duration of their contracts and in accordance with Kyrgyz legislation.

19. Please provide information on the measures taken, including legislative amendments, to guarantee migrant workers and members of their families the right to form and be part of the leadership of associations and trade unions.

50. Under article 14 of the Act on the Legal Status of Foreign Nationals, foreign nationals who are permanent residents of the Kyrgyz Republic have the right to join civil society organizations that do not pursue political goals on the same basis as Kyrgyz citizens, unless such membership runs counter to the statutes of such organizations.

51. The legislation on the registration of legal persons places no restrictions on the membership of foreigners.

20. Please provide information on the measures taken by the State party to review its legal framework to facilitate the exercise of voting rights by Kyrgyz migrant workers residing abroad.

52. A citizen of the Kyrgyz Republic who resides abroad may exercise his or her right to vote through diplomatic or consular facilities.

53. According to data from the Central Electoral Commission, migrant workers located in the Russian Federation will be able to vote in the upcoming parliamentary elections in only four Russian cities: Moscow, Saint Petersburg, Novosibirsk and Ekaterinburg.

54. For the parliamentary elections in 2010, polling stations were opened in 23 Russian cities, but the participation rate among migrants was very low. As a result, it has been decided to open polling stations only in cities where there is a Kyrgyz consulate.

21. Please provide information on any measures taken by the State party to establish procedures or institutions for taking into account, with freely chosen representatives, the special needs, aspirations and obligations of migrant workers and members of their families both in States of origin and in States of employment.

55. Governmental agencies in the Kyrgyz Republic have public supervisory councils of which persons representing the interests of migrant workers may be members. There are also modalities for public discussion of bills, through which individuals, including migrant workers, may make proposals for improving the legislation in areas of concern to them.

56. There is also a system of e-Government through which a person may post his or her proposals and complaints on government websites. Government agencies have public liaison offices which persons may contact about matters of interest to them. There is also a single information number (189) for the entire Kyrgyz Republic that individuals may use for questions regarding migration, human trafficking, etc.

22. Please provide information on measures, including legislative measures, taken to ensure that migrant workers enjoy equality of treatment with Kyrgyz nationals in relation to access to educational and/or vocational institutions and services as well as housing and cultural life.

57. Article 57 of the Constitution states that everyone has the right to education.

58. Under article 49 of the Education Act, the training, refresher training and skills enhancement of citizens of other countries in the educational institutions of the Kyrgyz Republic, and conversely, that of Kyrgyz citizens in foreign educational institutions, is carried out on the basis of intergovernmental agreements concluded by the Kyrgyz Government and by agreements between intergovernmental organizations or with private individuals.

59. Foreign nationals in Kyrgyzstan have the right to enjoy the benefits of culture on the same basis as Kyrgyz citizens. Foreign nationals are obliged to respect historical and cultural monuments and other cultural property.

23. Please provide information on measures taken to facilitate the procedure of temporary residence in the State party for migrant workers and to ensure the realization of the rights enshrined in articles 49, 51 and 52 of the Convention. Please also describe the conditions that must be met in order for a residence permit to be granted to members of migrant workers' families, and the implementation of legislation and rules on family reunification.

60. Article 26 of the International Migration Act states that temporary residence may be authorized for foreign nationals and stateless persons who have travelled to the Kyrgyz Republic for a period exceeding six months and with a lawful source of income in the Kyrgyz Republic:

- (1) For contractual employment with work permit;
- (2) For studies in an educational institution with the permission of the institution;

(3) For investments in the territory of the Kyrgyz Republic.

61. Temporary residence authorization may be granted to foreign nationals and stateless persons:

(1) For a period not to exceed one year, with an annual extension for a period not to exceed five years;

(2) For a period set by employment contract or envisaged for carrying out another activity, including educational course work or research.

62. Temporary residence authorization may be granted to members of the above-mentioned persons' families.

24. Please provide information on measures taken to ensure that migrant workers enjoy equality of treatment with nationals in respect of protection from dismissal, unemployment benefits, access to public work schemes intended to combat unemployment and access to alternative employment in the event of loss of work or termination of other remunerated activity.

63. Article 18 of the International Labour Migration Act states that in concluding employment contracts for the recruitment of Kyrgyz citizens abroad and the employment in the Kyrgyz Republic of foreign labour, the principle of equality of rights of migrant workers with those of citizens of the Republic must be observed. The employment of migrant workers under degrading, harmful or dangerous conditions is prohibited.

25. Please provide information on any steps taken to improve the situation of frontier workers and to include a definition of frontier workers in national legislation, as well as on specific provisions related to the protection of their rights.

64. In the Kyrgyz Republic, international labour migration is regulated in accordance with the Constitution, the International Labour Migration Act and other normative legislative acts, including international agreements.

65. The International Labour Migration Act provides the following definitions:

- Circular (frontier) labour migration is the regular travel of Kyrgyz citizens to the territory of a neighbouring country and the travel to Kyrgyzstan of citizens of a neighbouring country to work while retaining permanent residence in the country of origin;
- A frontier migrant worker is a migrant worker who retains his or her habitual place of residence in a neighbouring country to which he or she returns every day, or at least once a week.

66. The above-mentioned Act also provides that State policy on international labour migration is based on the principle of adherence to the universally recognized rules of international law on human rights and social protection of migrant workers.

26. Please provide information on the measures taken by the State party to ensure that seasonal workers enjoy equality of treatment with national workers, particularly in respect of remuneration and conditions of work, and that the relevant authorities systematically monitor employers' compliance with the relevant international standards.

67. The principle of equality applies to foreign workers in the Kyrgyz Republic. Chapter 4 of the International Labour Migration Act provides that in concluding employment contracts for the recruitment of Kyrgyz citizens abroad and of foreign labour in the Kyrgyz Republic, the principle of equality of migrant workers with Kyrgyz citizens must be observed, in accordance with domestic labour legislation.

68. The employment of migrant workers under degrading, harmful or dangerous conditions is prohibited.

69. The recruitment and use of foreign labour in the Kyrgyz Republic and the recruitment of Kyrgyz citizens for employment in business enterprises abroad is monitored by the State agency responsible for migration, in cooperation with other government agencies.

70. In cooperation with other government agencies, the State migration agency takes steps to prevent and eliminate unlawful migration and the unlawful employment of Kyrgyz citizens abroad and of foreign nationals and stateless persons in the Kyrgyz Republic.

71. The State migration agency monitors the activities of business enterprises of the Kyrgyz Republic involving the recruitment of Kyrgyz citizens abroad and the recruitment and use of foreign labour in the Kyrgyz Republic.

27. Please indicate whether the State party has undertaken appropriate consultation and cooperation with a view to promoting sound, equitable and humane conditions in connection with international migration of workers and members of their families; if so, please provide detailed information.

72. Legislative trends in the Kyrgyz Republic are currently geared towards taking maximum advantage of international experience and international legal instruments on governmental regulation of international migratory flows. The regulation of such flows at the international level comprise a coherent regulatory framework based on the ratified standards of international organizations and international treaties.

28. Please indicate the measures taken by the State party to combat the trafficking and smuggling of migrants, in particular women and children, including by effectively detecting the illegal or clandestine movement of migrant workers and members of their families, systematically compiling disaggregated data and bringing perpetrators of trafficking and smuggling of migrants to justice. In doing so, please provide detailed information on the number of reported cases of trafficking and smuggling of migrants, investigations, prosecutions, and the sentences imposed on perpetrators.

73. Campaigns to inform the population about the risks and dangers of unlawful migration and human trafficking and about the risks connected with travelling abroad for the purpose of entering into a marriage contract are carried out regularly in the Kyrgyz Republic.

74. The Code on Administrative Responsibility establishes heightened administrative responsibility for certain violations that undermine labour protection, the social welfare of citizens and public order and safety (arts. 66-2, 75, 75-1, 76, 77, 367, 389, 389-1 and 389-2).

75. In order to prohibit the cross-border transport of illegal migrants (art. 91-1), the Code includes section 2, on the responsibility of individuals who cross the State borders for personal affairs.

Please provide information on the measures taken by the State party to adopt specific legislation and policies to combat trafficking in persons, in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime of 2000 (Palermo Protocol).

76. Efforts to combat trafficking in persons are governed by the following legislative acts:

- (1) The United Nations Convention against Transnational Organized Crime, of 15 November 2000 (ratified by Act No. 74 of the Kyrgyz Republic on 15 April 2003)

and the two Protocols supplementing it: the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, of 15 November 2000 (adopted by General Assembly resolution 55/25 and ratified by Act No. 74 of the Kyrgyz Republic on 15 April 2003); the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, of 15 November 2000 (ratified by Act No. 74 of the Kyrgyz Republic on 15 April 2003);

(2) The Agreement among the States Members of the Commonwealth of Independent States on Cooperation in Combating Trafficking in Persons and in Human Organs and Tissues, of 25 November 2005 (ratified by Act No. 193 of the Kyrgyz Republic on 5 December 2006);

(3) The Act on the Prevention and Suppression of Trafficking in Persons, of 17 March 2005;

(4) The Criminal Code (arts. 124 and 204-1) of 1 October 1997, No. 68 (amendments);

(5) The Code on Administrative Responsibility (art. 77) of 4 August 1998, No. 114 (amendments);

(6) Government decision No. 14, of 14 January 2013, on the governmental programme to combat trafficking in persons in the Kyrgyz Republic, 2013–2016.

77. According to data for the period 2001–2013 from the research centre of the Ministry for Internal Affairs, investigative agencies logged a total of 226 cases of trafficking in persons. Of these, 39.8 per cent (90) constitute human trafficking for purposes of exploitation (slave trade); 45.5 per cent (103) constitute criminal acts for purposes of prostitution; and 13.7 per cent (31) constitute the sale of minors.

78. Of these cases, 158 (70 per cent) were sent to the courts, 127 persons were accused, 54 (23.8 per cent) were prosecuted and 13 search warrants were issued. A total of 13 of these cases (5.7 per cent) were dismissed under article 28, paragraph 1 (b), of the Code of Criminal Procedure, 9 under article 28, paragraph 1 (k), and 2 under article 225, paragraph 2.

79. Victims of trafficking in persons generally returned from Russia, Kazakhstan, the United Arab Emirates and Turkey. From 2001 to 2013:

- Of the persons subjected to slave labour, 47 were sent to Kazakhstan, 19 to the Russian Federation, 6 to Turkey, 5 to Austria, 1 to the United Arab Emirates and 1 to Uzbekistan;
- Of the women forced to engage in prostitution, 29 were sent to the United Arab Emirates, 26 to Turkey, 19 to Kazakhstan and 1 to Russia;
- 31 cases of newborn babies and young children sold in the Kyrgyz Republic were recorded.

80. According to article 124 of the Criminal Code, entitled “Trafficking in persons”, this offence is subject to a sentence of up to 5 years’ imprisonment or 5 to 10 years’ imprisonment, with or without seizure of property. Where committed with aggravating circumstances, this offence is subject to 15 to 20 years’ imprisonment with seizure of property.

81. It must be noted that article 124 was amended by Act No. 204 of 10 November 2011 to stiffen the penalties for such types of offences, the minimum sentence having been increased from three to five years.

82. It must also be noted that a branch for organizing efforts to combat crimes against public morals and trafficking in persons has been set up under the Central Criminal Investigation Department of the Ministry of Internal Affairs.

29. Please indicate whether the State party plans to develop and implement a national public policy to address the problem of trafficking in persons, and provide information on any programmes to assist, support and repatriate victims of trafficking.

83. Combating trafficking in persons is a priority in the Kyrgyz Republic's migration policy.

84. Despite the measures carried out under Government decision No. 515 of 13 September 2008, entitled "Plan of action to combat trafficking in persons in the Kyrgyz Republic, 2008–2011", which made it possible to address a number of problems connected with the harmonization of Kyrgyz legislation with international law, information campaigns and preventive action, the actions of the law enforcement agencies have not been sufficiently effective to prevent trafficking in persons. The solution of this problem is thus a pressing task, and further work is needed to prevent, uncover and eliminate offences involving trafficking in persons and to protect, rehabilitate and reintegrate victims of human trafficking.

85. Accordingly, with the aim of stepping up the fight against trafficking in persons and implementing the Act of 17 March 2005 on preventing and combating trafficking in persons, and in view of the existing cases of human trafficking in Kyrgyzstan, a programme to combat trafficking in persons in the Kyrgyz Republic, 2013–2016, was adopted by Government decision No. 14 of 14 January 2013.

86. The Kyrgyz Government's policy in this area is aimed at improving the legislative framework, increasing the population's awareness about the problems linked to trafficking in persons and making qualitative adjustments in the activities of the law enforcement agencies in respect of trafficking in persons.

87. With a view to harmonizing Kyrgyz legislation on combating human trafficking with the international obligations undertaken by the Kyrgyz Republic and to heightening criminal responsibility for trafficking in persons under the Criminal Code (art. 124), the penalty of 3 years' imprisonment was increased to 8 years, and the penalty of 5 years' imprisonment, to 8, and the offence was categorized as a serious offence. New categories of offences have been added, such as forced labour (art. 125, para. 1) and involvement of a person known to be a minor in the creation of pornographic materials or objects or as a participant in pornographic acts (art. 262-1).

88. Some progress has been made by the law enforcement agencies in recent years. For example, criminal groups that were engaging in trafficking in persons have been uncovered and prosecuted as a result of investigative efforts.

30. Please provide information on any measures taken to ensure that migrant workers and members of their family in an irregular situation in the State party have the possibility to regularize their situation in accordance with the provisions of article 69 of the Convention.

89. Foreign nationals have the possibility to regularize their stay in the territory of the Kyrgyz Republic in accordance with domestic legislation (International Migration Act, International Labour Migration Act).

31. Please indicate whether the State party plans to make the declarations provided for under articles 76 and 77 of the Convention.

90. The competence of the Ministry of Labour, Migration and Youth does not include making such declarations under articles 76 and 77 of the Convention.

32. Please provide any additional information on measures taken to implement the Convention, including relevant statistical data, as well as information on any other important developments in the State party relating to the provisions of the Convention.

91. No information available.
