

## The Law of the Republic of Tajikistan

### “ON FORCED MIGRANTS”

The present law has been drafted in accordance with the Constitution of the Republic of Tajikistan, generally adopted international legal rules and the Universal Declaration on Human Rights and defines the legal Status of forced migrants, consolidates legal, economic and organisational safeguards for the defence and realisation of the rights and the legal interests of the Republic of Tajikistan’s citizens as well as [of] other persons permanently living in the territory of the Republic of Tajikistan and [who] have forcibly left it.

#### ARTICLE 1. DEFINITION OF “FORCED MIGRANT”

A forced migrant is a citizen of the Republic of Tajikistan or a person permanently living in the territory of the Republic, forced to leave his permanent residence in the territory of the Republic of Tajikistan because of violence committed against him or genuine danger of being persecuted for reasons of race, nationality, place of origin, certain social group, [or] mass disturbance of the public order in his place of permanent residence which is a considerable infringement of human rights.

A person who has committed a crime against humanity or other premeditated crime cannot be declared a forced migrant.

#### ARTICLE 2. PROCESS FOR SUBMITTING AN APPLICATION FOR THE STATUS OF FORCED MIGRANT

A person intending to obtain the Status of forced migrant, based on part 1, Article 1 of the present law, after he had left the place of his permanent residence, shall apply to the Central Department for Refugees, the Labour and Employment Ministry of the Republic of Tajikistan and its local bodies.

The mentioned bodies shall take a decision on registration of the application for the Status of forced migrant within three days, beginning from the day of submission of the application.

In case of special mass arrival of persons, as mentioned in Article 1, Chapter I of the present law, in a particular area of the Republic of Tajikistan’s territory, the decision on the above-mentioned person shall be taken by the Central Department for Refugees of the Labour and Employment Ministry of the Republic of Tajikistan.

#### ARTICLE 3. RIGHTS AND DUTIES OF THE PERSON, APPLYING FOR FORCED MIGRANT STATUS

Once an application for forced migrant Status has been registered, the applicant has the right:

- to obtain a warrant for temporary residence;
- to obtain reimbursement for travel and baggage transportation to the place of permanent residence
- to remain in the place of temporary residence and use public utilities free of charge pending the question on granting of the Status of forced migrant to him;
- to enjoy medical treatment and pharmaceuticals in state medical institutions;
- to be granted a lump sum allowance or other allowance in amount to be determined by the Council of Ministers of the Republic of Tajikistan;

An applicant for the status of forced migrant is obliged:

- to provide relevant bodies with information necessary for consideration of the grant of Status of forced migrant;
- to comply with rules and regulations established by the place of temporary residence;
- to submit to medical examination upon demand of health services.

#### ARTICLE 4. THE ORDER OF GRANTING THE STATUS OF FORCED MIGRANT

The decision on granting the Status of forced migrant is taken by the Central Department for Refugees of the Labour and Employment Ministry of the Republic of Tajikistan and its local bodies. The decision shall be made not more than one month from the day of registration of an application for the Status of forced migrant.

A person, granted the Status of forced migrant, shall be given an identification card in a prescribed form.

In case of refusal to grant forced migrant Status, the applicant shall be given written notification explaining the reasons for the refusal and the procedure of appeal no later than three days after taking the decision. The refusal to grant the Status of forced migrant can be appealed to the Supreme Soviet of the Republic of Tajikistan and to a court of law.

Until the final decision on the application is taken the person who submits the application enjoys the rights mentioned in Article 3 of the present law.

The status of forced migrant shall be granted for a period of 3 years.

#### ARTICLE 5. SAFEGUARDING OF A FORCED MIGRANT'S RIGHTS IN PLACES OF TEMPORARY RESIDENCE

Pending determination of the question on place of permanent residence, which decision shall be made no later than six months, the Central Department for Refugees of the Labour and Employment Ministry of the Republic of Tajikistan and its local bodies shall provide the forced migrant with the following:

- rent-free accommodation in places of temporary residence. By request of the forced migrant, he can stay with his relatives or other persons by their consent without reimbursement of any accommodation expenses by the migration services;
- render assistance with placing him in a job in a place of temporary residence;
- to decide on the grant of unemployment allowances in case it is impossible to employ him;
- food assistance free of charge, in case of disability confirmed by relevant medical documents;
- allowances, in manner and amount determined by the Council of Ministers of the Republic of Tajikistan.

A forced migrant is, on the base of part 2, Article 6 of the present law, free to choose the place of permanent residence in the territory of the Republic of Tajikistan.

#### ARTICLE 6. THE DUTIES OF STATE BODIES AND INSTITUTIONS OF LOCAL GOVERNMENT RELATING TO FORCED MIGRANTS

Bodies of state government and institutions of local government are obliged:

- to give a list of populated areas for permanent residence [to be] recommended by the Central Department for Refugees of the Labour and Employment Ministry of the Republic of Tajikistan to a forced migrant and, also, information on living conditions and possibilities of employment in such areas;
- to provide a forced migrant, in process of choosing a place for permanent residence, with accommodation from special housing resources meant for forced migrants, or include him in the list of citizens who, according to housing legislation of the Republic of Tajikistan, are given the right of immediately obtaining accommodation from the state housing resources as well as by purchasing housing from citizens;
- to render assistance to forced migrants for joining housing cooperatives, obtaining land plots for individual construction, and also to grant credits on favourable conditions for the above-mentioned purposes, as prescribed by the Supreme Soviet of the Republic of Tajikistan;
- to render assistance to forced migrants in finding employment according to their profession (or speciality), qualification and taking into account the level of employment of the population in the relevant region. If necessary, to provide them with the possibility of professional training (retraining) and updating of qualifications;
- for the period of professional training (or retraining) to pay stipend to a forced migrant in such amount as determined by legislation currently in force of the Council of Ministers, the Republic of Tajikistan;

- where the forced migrants are employed in rural areas, to grant them with favourable conditions as established by legislation concerning persons moving to rural areas;
- to grant additional tax concessions and compensations to enterprises and organizations employing forced migrants in accordance with the legislation in force of the Republic of Tajikistan concerning reimbursement of expenses for the employment of the above-mentioned persons;
- through bodies of social welfare and in first and foremost order to provide forced migrants – unaccompanied invalids, the elderly, who need assisted help, with places in relevant institutions of social welfare;
- to render assistance in placing children of forced migrants in pre-school institutions and comprehensive schools, also in moving pupils and students up into relevant secondary, special and higher institutions of education;
- to render assistance to a forced migrant in his return to his previous residence and getting free travel and personal effects transportation.

#### ARTICLE 7. PAYMENT OF COMPENSATION TO FORCED MIGRANTS

The Department for Refugees of the Labour and Employment Ministry of the Republic of Tajikistan and its local bodies together with bodies for the protection of public order, shall take measures on returning to forced migrants the property left by them in places of their previous residence. If it is not possible to return it, then compensation shall be paid in manner and amount as determined by the Council of Ministers of the Republic of Tajikistan.

#### ARTICLE 8. THE GUARANTEES AND RIGHTS OF FORCED MIGRANTS

A forced migrant cannot be returned against his will to the place of his previous permanent residence. In accordance with legislation of the Republic of Tajikistan, actions of the migration service and other bodies of state government and officials which infringe upon forced migrants rights, can be appealed to a court of law.

#### ARTICLE 9. FORFEITURE AND DEPRIVATION OF THE STATUS OF FORCED MIGRANT

A person forfeits the Status of forced migrant if he:

- acquires the citizenship of another state;
- leaves the Republic of Tajikistan for permanent residence [elsewhere];
- obtains the Status of forced migrant by producing false information.

The person who forfeits the Status of forced migrant, within one month, has the right to appeal to a court of law the decision on the withdrawal of the Status of forced migrant, as taken by the Central Department for Refugees of the Labour and Employment Ministry of the Republic of Tajikistan and its local bodies.

ARTICLE 10. INTERACTION OF STATE AND  
NON-GOVERNMENTAL ORGANIZATIONS

State authorities shall assist public organizations and other Non-Governmental Organizations in rendering assistance to forced migrants and in developing corresponding programs in cooperation with such organizations.

ARTICLE 11 SAFEGUARDING SECURITY OF THE  
FORCED MIGRANTS ON THEIR WAY BACK TO THEIR  
PLACES OF PERMANENT RESIDENCE

State authorities are to safeguard the security of the forced migrants on their return to their places of permanent residence as well as the observance of their rights and legitimate interests.

ARTICLE 12. FORCED MIGRANTS' RIGHTS UPON  
ARRIVAL IN THEIR PLACES OF PERMANENT RESIDENCE

A forced migrant, after return to his place of permanent residence, has the right to:

- repossess the personal property and real estate left by the forced migrant under such circumstances as mentioned in Article 1 of the present law;
- receive a lump sum allowance or other cash benefit, the sum of which is determined by the Council of Ministers of the Republic of Tajikistan;
- stay at a place of temporary residence as determined by local authorities, being exempted from accommodation payment and [payment for] other communal services;
- receive free meals and foodstuffs in accordance with established standards;
- enjoy the medical services in state health facilities;
- receive credit on preferential terms as defined by the Supreme Soviet of the Republic of Tajikistan to reconstruct and build new houses and outbuildings to replace what has been destroyed;

- receive rehabilitation and work (study) and to receive upon demand from the manager of an enterprise, farm or institution an equivalent job, or, if need be, training courses to be retrained. Within training or updating courses, full-time employees shall be paid additional sums to reach average wages standard. Part-time employees are [to be] paid average wages;
- receive pension or allowances due in accordance with legislation for the period that such pension or allowances were forcibly delayed;

The migrant who returned to the place of permanent residence shall have their service record preserved and be paid by their previous employer for the entire forced truancy period, not to exceed three months.

### ARTICLE 13. RELIEF FUND TO FORCED MIGRANTS

To ensure favourable material conditions and compensation of expenses on accommodation at new and permanent places of residence on the territory of the Republic of Tajikistan and at the places of previous residence, a Relief Fund to help forced migrants is hereby established within the Central Department for Refugees, Labour and Employment Ministry of the Republic of Tajikistan.

Relief Fund is established on the basis of receipts from the state budget of the Republic of Tajikistan, other states and international organizations on the basis of agreements and other documents by the Republic of Tajikistan, province, town and district budgets, voluntary donations on the part of domestic and foreign enterprises, public organizations.

### ARTICLE 14. FORCED MIGRANTS RECEPTION AND ACCOMODATION EXPENSES COMPENSATION SOURCES

Expenses on the part of the local authorities and administration to receive and accommodate on their territory forced migrants are reimbursed from the budget of the Republic of Tajikistan and the Relief Fund of the Central Department for Refugees, Labour and Employment Ministry of the Republic of Tajikistan.

### ARTICLE 15. COMPETENT BODIES CONCERNING FORCED MIGRANTS

Matters regarding the grant of status, accommodation and employment of forced migrants are to be decided by the Central Department for Refugees, Labour and Employment Ministry of the Republic of Tajikistan or its local bodies.

The Central Department for Refugees of the Labour and Employment Ministry of the Republic of Tajikistan coordinates activities of the ministries and departments of the Republic of Tajikistan in charge of forced migrants.

ARTICLE 16. RESPONSIBILITY FOR THE  
VIOLATION OF THE LAW

Persons guilty of the violating the present law shall be punished as specified in the legislation of the Republic of Tajikistan.

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