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Anti-Discrimination Centre Memorial protects the rights of discriminated minorities and migrants in Eastern Europe and Central Asia by carrying out monitoring, reporting, and advocacy on local and international levels and by opposing discrimination through litigation and human rights education.

Alternative information for the List of Issues to be raised by the UN CMW

**On Kyrgyzstan's implementation of the International Convention on the Protection of the Rights of
All Migrant Workers and Members of Their Families**

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As of February, 2022, 1 million 118 thousand Kyrgyzstanis work abroad ([data](#) from the Center for Employment of Citizens Abroad under the Ministry of Labor, Social Security and Migration). Most of them work in Russia (1 million 63 thousand); significantly less in Kazakhstan (about 30 thousand), in Turkey (about 20 thousand), and in other countries.

In 2021, \$2.76 billion was transferred to Kyrgyzstan, (\$380 million more than in 2020, and more than any time before). More than 97% of all money transfers of individuals were made from Russia ([data](#) from the National Bank of Kyrgyzstan, February 2022).

Obviously, Kyrgyzstan is in a difficult situation in terms of implementing the Convention, since most violations of the rights of migrant workers occur in Russia who does not participate in the Convention. At the same time, Kyrgyzstan's economy is extremely dependent on the earnings of migrant workers.

Having overcome the difficulties of the acute phase of the pandemic, in 2022 labor migrants faced another challenge. Russia's military aggression against Ukraine caused a catastrophic economic crisis, the risks of martial law and border closures. Russia's military propaganda creates conditions for chauvinistic and xenophobic sentiments, which again creates risks for labor migrants from Central Asia.

In this regard, it is extremely important that Kyrgyzstan insists on respecting the rights of its citizens working abroad, even in those countries where the Convention has not been ratified.

Issue 1. Insufficient state efforts to protect migrant citizens of Kyrgyzstan working abroad from discrimination and violation of their rights (including arbitrary detention and expulsions, deprivation of liberty in temporary immigration detention centers, especially in the context of the pandemic).

In Russia, migrant workers from Kyrgyzstan suffer from numerous violations of their rights, despite they have preferences due to Kyrgyzstan's membership in the Eurasian Economic Union. They face ethnic profiling, anti-migrant raids and police special operations, mass expulsions for minor violations, fraud by employers, non-payment or insufficient payments for their work, forced labor, difficulties in renting housing, lack of medical care, lack of real access of their children to school education and preschool institutions, various manifestations of racism and xenophobia.

Russia's migration policy is constantly going tougher, which is in contradiction with the real need and interest of the Russian public and private sector in migrant labor. In this regard, Kyrgyzstan does not persist in generally improving migration rules for its citizens abroad, preferring to gain just small privileges and temporary measures (such as amnesty for those migrants who have been blacklisted and cannot enter Russia for this reason – in February 2022, about 76 thousand people have an entry ban (data from the Center for Employment of Citizens Abroad under the Ministry of Labor, Social Security and Migration)).

For example, at the end of December 2021, an impractical requirement for medical examinations of foreigners (including children from 6 years old) every 3 months came into force in Russia (amendment from 29.12.2021, para 18 of Article 5 of Federal Law No. 115-FZ of 25.07.2002 "On the legal status of foreign citizens in the Russian Federation"). After a short time, this period was replaced by every 12 months, but the change in the law itself caused [criticism](#) of Kyrgyzstan parliamentarians and a [note](#) from the Embassy of Kyrgyzstan to the Russian Foreign Ministry. But the Kyrgyz side did not ask for general effective measures (like combating xenophobia and police arbitrariness, refusing to detain migrants during the pandemic, improving migration legislation), but just for "assistance in opening a separate corridor for citizens of the Eurasian Economic Union member states" to undergo medical examination, photographing and fingerprinting at the migration center in Sakharovo (the main center for processing migration documents for migrant workers in Moscow and the Moscow region).

According to the Federal Law of the Russian Federation 30.03.1995 No. 38-FZ "On prevention of the spread of the disease caused by the HIV in the Russian Federation", HIV-positive foreign citizens are still criminalized in Russia. If HIV+ is detected, they receive the status of undesirable for staying in Russia, their residence permits are cancelled, they are prohibited from entering Russia, they are subjected to deportation. The exception is made, within the framework of the right to protection of family life, for HIV-positive migrants who have close relatives in Russia.

The above-mentioned change in the rules on medical examinations obliges foreigners over 6 years old to have mandatory HIV testing annually. The continuation of repressive measures against HIV-positive migrants will lead to the situation that they will hide their disease and lose their legal migration status.

[According](#) to the Republican AIDS Center, as of 01.01.2022, 10535 HIV+ people are registered in Kyrgyzstan, and 45% of new cases of HIV infection in the country are detected at late stages, when treatment is already ineffective. This shows the insufficiency of state measures to support HIV+ citizens working in Russia.

In Russia, there is no judicial control over the reasons and term of detention of migrants and stateless persons in temporary detention centers; therefore, for those who are awaiting expulsion (impossible in the case of stateless persons), the detention can take up to two years (the term of execution of an administrative decision). In the context of the pandemic, this creates an additional risk for the health of migrants.

What measures are the Kyrgyzstan authorities planning in protection of the rights of migrants working abroad, related to: easing the migration policy and improving legislation of the migrants' destination countries in order to guarantee the rights of migrants in line with the Convention; the decriminalization of the HIV-positive status of migrants in the destination countries, conclusion of bilateral agreements with other countries on provision of therapy for HIV+; effective investigation of cases of police and judicial arbitrariness and hate crimes against migrant workers abroad; strengthening consular assistance abroad?

Issue 2. Insufficient and untimely efforts of the Kyrgyzstan Government to return citizens from abroad during the pandemic in the situation of closed borders and interrupted air traffic.

In mid-March 2020, amid the coronavirus pandemic, the authorities of many countries closed borders and restricted international air traffic. As a result, thousands of migrant workers, including citizens of Kyrgyzstan, have been stuck at Russian borders, railway stations and airports for a long time. Thus, near the Russian-Kazakh border in the Orenburg region in May 2020, for quite a long time there were more than 100 Kyrgyzstan citizens who tried to go from Russia by car to Kyrgyzstan through Kazakhstan, but could not cross the border due to quarantine measures. It was reported that Kazakhstan did not give permission for the transit of these people through its territory.

At the end of March 2020, about 200 migrants from Kyrgyzstan stuck at the airports of Moscow and Novosibirsk. They asked the Kyrgyzstan authorities to organize their return home; those who had been at the Novosibirsk airport for more than two weeks even went on hunger strike protesting against the inaction of the authorities. Some of the migrants waiting for the flight were accommodated in hotels, the rest were in the transit zone of the airport. Deputy Prime Minister Kubatbek Boronov stated that the authorities would take out all those with tickets from abroad, but the Kyrgyzstan authorities failed to organize the flight, and all Kyrgyzstanis were kicked out of the airport building on April 2. The flight took place only on April 22, when 176 Kyrgyzstan citizens could left Novosibirsk.

On April 9, 2020, the authorities (First Deputy Minister of Foreign Affairs Nurlan Niyazaliyev) officially [announced](#) their refusal to deliver the Kyrgyzstanis home from abroad at the time of quarantine.

The stop of air traffic and the closure of borders also led to overcrowding of temporary detention centers, where foreigners, including citizens of Kyrgyzstan, were awaiting expulsion. It was only a month after the closure of the borders, in mid-late April 2020, when Kyrgyzstan citizens detained in such centers were able to be sent with the specially organized charter flights. As far as we know, the Kyrgyzstan authorities have not made effective efforts to prevent migrants from being deprived of their liberty in deportation centers due to the risk of COVID infection.

In 2022, due to the Russia's military aggression against Ukraine, with the risk of martial law and the closure of borders , it's quite likely that migrant workers from Kyrgyzstan will be held hostage to this situation and again will not be able to return home safely and quickly.

What lessons have the Kyrgyz authorities learned from the past acute phase of the COVID-19 pandemic in terms of readiness for similar situations in the future (safe and rapid repatriation of citizens from countries where a state of emergency has been imposed, measures of economic support within the country, measures to reorient the economy in order to minimize dependence on migrants' labor abroad)?

Issue 3. Insufficient protection of the rights of migrant women working abroad

In recent years, there has been a steady feminization of migration from Kyrgyzstan: according to various sources, from 45% to 60% of the migration flow are women. Unlike migrants from other Central Asian countries, Kyrgyzstani women often go to work independently, with friends or relatives and acquaintances, rather than following their husband or as part of a family. Migration opens up opportunities for the emancipation of many women, playing a significant role in their social advancement and growth. But this is not always a free choice and a desire for emancipation; women and girls often sacrifice their interests for the sake of the family (they go to migration to pay off family debts or earn money for the survival of a family in Kyrgyzstan).

In addition to the usual hardships of migration faced by all migrant workers regardless of their gender, women experience additional difficulties: increased risks of gender-based violence, forced labor and various forms of exploitation; specific problems related to the health of mothers, newborns and children (frequent pregnancies and childbirth in migration, against the background of low knowledge in the field of reproductive health and contraception and taboo topics of sexual education; an increase in maternal mortality of external migrants (data from the Ministry of Health, 2018: from 18.2% to 33.3%); abortions in illegal clinics; abandonment of newborns in maternity hospitals); an increase in the incidence of tuberculosis and HIV in the context of migration (in the period 2008-2018, there was an increase in the number of HIV+ women by 3 times; sexual contact became the main method of transmission of the HIV - more than 60% of cases (doubled since 2008 - [data](#) from the Republican AIDS Center of the Ministry of Health of Kyrgyzstan, 2019); stigmatization of migrant women due to patriarchal attitudes of Kyrgyzstan society.

What measures is the Kyrgyz Government taking to protect the rights of migrant women from discrimination abroad and stigmatization at home? What measures are being taken to reduce the health risks of migrant women in the context of their work? Are gender-sensitive provisions being introduced into migration legislation and practices, including on the reintegration of women after returning back? What is being done to protect the rights of girls forced to work abroad, including their right to education?

Issue 4. The need to bring the procedure of repatriation of migrant children in line with the latest standards of the rights of the child, including Joint General Comments No. 3 CMW/No.22 CRC (2017) and No. 4 CMW/No.23 CRC (2017)

ADC Memorial welcomes the fact that in Kyrgyzstan, in practice, migration detention of children in closed institutions governed by the Ministry of Internal Affairs before or upon repatriation is almost not used. The transit of children under 3 years of age has already been practically delegated to the social care bodies; there is a Regulation on the return to the Kyrgyz Republic of children - citizens of the Kyrgyz Republic left without parental care outside the Kyrgyz Republic (2013). The Regulation assigns responsibility for the entire process of returning children to Kyrgyzstan and their further arrangement to the authorized body for the protection of children (under the Ministry of Labor and Social Development); the bodies of the Ministry of Foreign Affairs, the Ministry of Health, the bodies responsible for the registration are also involved in the procedure, but not the Ministry of Internal Affairs.

Nevertheless, the repatriation of older children is carried out through the Center for the Prevention of Juvenile Delinquency (CPPN), subordinate to the Ministry of Internal Affairs, and children are delivered there from abroad by officers of the CPPN. As a rule, the CPPN plays the technical role of a place where children are transferred to relatives or employees of social institutions as soon as possible and where children do not stay longer than 48 hours. There are very few repatriated children in the CPPN; for example, in 11 months of 2021, only 16 children were delivered to the CPPN from abroad (2 children by officers of the CPPN from Kazakhstan, 14 children by employees of the competent authorities of Russia); at the same time, more than 1,200 children pass through the CPPN annually (lost or unattended children, those who flee from home or children's institutions, children in contact with the law) - [the press service](#) of the Ministry of Internal Affairs, December 2021. In the legislation, the procedure for the return of children to Kyrgyzstan from other

countries and from Kyrgyzstan to other countries is still regulated by the outdated Agreement on Cooperation of the CIS member States on the Return of Minors to their States of Permanent Residence (2002, the so-called Chisinau Agreement). According to this Agreement, the repatriation is handled by the Ministry of Internal Affairs via special closed children's institutions (definitely places of deprivation of liberty), although in most of the participating countries the repatriation system has been restructured over the past time, which creates difficulties for the interaction of these countries in the field of repatriation of children.

Thus, in order to completely get rid of repressive models from the procedure of repatriation of children, including the complete stop of migration detention of children, it is necessary to bring the legislation of Kyrgyzstan in line with modern international standards of children's rights (in particular, the Joint General Comments No. 3 CMW/No.22 CRC (2017) "On the General Principles Regarding the Human Rights of Children in the Context of International Migrations" and No. 4 CMW/No. 23 CRC (2017) "On State Obligations Regarding the Human Rights of Children in the Context of International Migration in Countries of Origin, Transit, Destination and Return."). This means replacing the outdated Chisinau Agreement with - preferably - bilateral agreements on the humane repatriation/readmission of children. Recommendations on relevant legislative changes have already been received by some post-Soviet countries (the [recommendations](#) of the UN CRC to Belarus (February 2020); inclusion of this problem in the [List of issues](#) addressed by the UN CRC to Ukraine (October 2020).

Does the Kyrgyzstan Government intend to bring legislation and practices on the repatriation of children in line with modern international human rights standards and replace the outdated Chisinau Agreement (2002) with more adequate bilateral agreements on the repatriation of children?

Issue 5. Violations of the right to freedom of speech and association in the context of cooperation with the UN CMW and the provision of alternative information to NGOs.

After informing the Committee about Kyrgyzstan's compliance with the Convention in 2015, the joint [report](#) of ADC Memorial and Bir Duino Kyrgyzstan to the UN CMW was put on the "list of extremist materials" by the court (2017), and the work of ADC Memorial was banned in Kyrgyzstan. The appeal of this court decision was successfully completed only in 2019, which required essential efforts and resources from the Human Rights defenders and undoubtedly hindered their activities.

What measures are the Kyrgyzstan authorities taking to create conditions for the independent and effective work of Human Rights organizations, to prevent repressions against NGOs and to guarantee safe cooperation of Human Rights defenders with the UN CMW?

Additional information can be found in the following publications:

["Women and children from Kyrgyzstan affected by migration"](#), a report by ADC Memorial and Bir Duino Kyrgyzstan, 2016

["Migrant workers in Kazakhstan: no status, no rights"](#), a report by FIDH, ADC Memorial, ILI, 2016.

Invisible and exploited in Kazakhstan: the plight of Kyrgyz migrant workers and members of their families, A report by FIDH, ADC Memorial, ILI, 2018

THE FRAGILE POWER OF MIGRATION: the needs and rights of women and girls from Tajikistan and Kyrgyzstan who are affected by migration, a [report](#) by IOM, 2018.

[Alternative information](#) by the Kyrgyz Family Planning Alliance and ADC Memorial for the UN CEDAW, the 76th Pre-session Working Group of the CEDAW, 2019.

Migrant Children in CIS Countries: Lack of Adequate Legal Norms Regulating Cooperation Between the Countries Involved, a [report](#) by ADC Memorial, 2018.