

EMIGRATION LAWS AND POLICIES

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

AN UPDATED REPORT CONCERNING THE EMIGRATION LAWS AND
POLICIES OF ARMENIA, AZERBAIJAN, KAZAKHSTAN, MOLDOVA,
THE RUSSIAN FEDERATION, TAJIKISTAN, TURKMENISTAN,
UKRAINE AND UZBEKISTAN, PURSUANT TO 19 U.S.C. 2432(b)



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THE WHITE HOUSE,
Washington, January 18, 2002.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On September 21, 1994, President Clinton determined and reported to the Congress that the Russian Federation was not in violation of paragraphs (1), (2), or (3) of subsection 402(a) of the Trade Act of 1974, or paragraphs (1), (2), or (3) of subsection 409(a) of that Act. On June 3, 1997, he also determined and reported to the Congress that Armenia, Azerbaijan, Georgia, Moldova, and Ukraine were not in violation of the same provisions, and made an identical determination on December 5, 1997, with respect to Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan. These actions allowed for the continuation of normal trade relations for these countries and certain other activities without the requirement of an annual waiver.

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

As required by law, I am submitting an updated report to the Congress concerning the emigration laws and policies of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan. The report indicates continued compliance of these countries with international standards concerning freedom of emigration.

Sincerely,

GEORGE W. BUSH.

**REPORT TO THE CONGRESS CONCERNING EMIGRATION LAWS AND
POLICIES OF ARMENIA, AZERBAIJAN, KAZAKHSTAN, MOLDOVA, THE
RUSSIAN FEDERATION, TAJIKISTAN, TURKMENISTAN, UKRAINE AND
UZBEKISTAN**

This report is submitted pursuant to sections 402 and 409 of the Trade Act of 1974, as amended (“the Act”), following Presidential Determination Number 94–51 of September 21, 1994, and the accompanying report to the Congress, that the Russian Federation is not in violation of paragraphs (1), (2), or (3) of section 402(a) and paragraphs (1), (2), or (3) of section 409(a) of the Act; Presidential Determination Number 97–27 of June 3, 1997, and the accompanying report to the Congress, that Armenia, Azerbaijan, Georgia, Moldova and Ukraine are not in violation of paragraphs (1), (2), or (3) of section 402(a) and paragraphs (1), (2), or (3) of section 409(a) of the Act; and Presidential Determination Number 98–7 of December 5, 1997, and the accompanying report to the Congress, that Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan are not in violation of paragraphs (1), (2), or (3) of section 402(a) and paragraphs (1), (2), or (3) of section 409(a) of the Act.

Pursuant to Section 302(b) of Public Law 106–200, the President determined on June 29, 2000, that Title IV of the 1974 Trade Act should no longer apply to Kyrgyzstan, and pursuant to section 3002 of Public Law 106–476, the President determined on December 29, 2000, that Title IV of the 1974 Trade Act should no longer apply to Georgia. Therefore, this reporting requirement is no longer applicable to Kyrgyzstan and Georgia.

All current information indicates that the emigration laws and practices of Armenia, Azerbaijan, Kazakhstan, Moldova, the Russian Federation, Tajikistan, Turkmenistan, Ukraine, and Uzbekistan continue to satisfy the criteria set forth in sections 402(a) and 409(a) of the act in respect to all matters covered in those sections.

ARMENIA

The Armenian constitution guarantees the right of its citizens to freedom of foreign travel and emigration, and that right is respected in practice. Persons subject to military service can legally be denied permission to travel abroad, but this seldom occurs. Members of religious organizations other than the Armenian Apostolic Church are required by law to obtain prior permission from the State Council on Religious Affairs to travel abroad, but this law has not been enforced since 1997. Since independence in 1991, upwards of one million Armenian citizens, approximately one-third of the population at independence, have emigrated or reside semi-permanently outside the Republic of Armenia.

AZERBAIJAN

Azerbaijan's 1995 constitution guarantees the right of all its citizens to travel abroad. Azerbaijan's law officially recognizes and protects the right to emigrate. The Government of Azerbaijan respects these rights in practice, and there is active Jewish emigration to Israel. The Israeli Embassy in Baku reports that some 45 people have emigrated to Israel since Azerbaijani independence in 1991 and strongly commends the GOAJ for nurturing a free atmosphere for such travel. They report no instances of GOAJ harassment or restrictions toward Jewish Azerbaijanis wishing to emigrate.

KAZAKHSTAN

The right to emigrate is protected by Kazakhstan's constitution and is respected in practice. On July 26, 2001, Kazakhstan became the first country in Central Asia to abolish the requirement for an exit visa for Kazakhstani citizens temporarily traveling abroad. Outright refusal to grant exit visas for temporary or permanent departure is rare and has generally been connected with government opponents subject to pending legal cases. A law on national security prohibits persons who have had access to state secrets from taking up residence abroad for five years. The Government has applied the Law on State Secrets to block the foreign travel of one former official since the law's passage in 1999. That official has since been allowed to travel. Two opposition figures were temporarily denied permission to board an international flight in Almaty in July 2001 in connection with their invitation to testify before the House International Relations Committee. They missed the hearing, but were subsequently allowed to leave Kazakhstan.

MOLDOVA

The right of citizens to emigrate is guaranteed in Moldova's constitution and is respected in practice. Individuals wishing to emigrate must satisfy any outstanding financial and/or judicial obligations before emigrating. No reports of denial of emigration rights have been recorded in the first 6 months of 2001. Moldova's record on free emigration is one of the best in the newly Independent States. The government eliminated emigration restrictions in 1991, and few difficulties with emigration have been reported in the ten years since independence.

THE RUSSIAN FEDERATION

Legal guarantees of the right to emigrate are enshrined in Russia's constitution and in law, and that right is respected in practice. Russian law details the procedures for obtaining travel documents and provides clarification of some controversial policies. However, it gives the government the right to deny permission to travel abroad for given periods up to ten years to Russian nationals who had access to classified material.

The law provides a measure of transparency by requiring that any denial of exit permission on secrecy grounds must (1) specify reasons for and duration of the restriction, and (2) indicate the full name and legal address of the organization that requested the re-

striction. The law also formalized the status of an interagency commission that hears appeals of Russian nationals refused permission to travel based on secrecy grounds. As of the writing of this report, the Commission had held three sessions in 2001. During these three sessions, the Commission reviewed 74 cases, lifting restrictions in 58 cases (78 percent), leaving restrictions in place in 9 cases (12 percent) and deferring decisions in 7 cases (9 percent). (These numbers are only a rough indicator of the commission's activity, as the level of secrecy involved in individual cases varies considerably and the Ministry of Foreign Affairs has not provided a full accounting.) NGOs such as "Movement Without Frontiers" that have worked with the commission from its initiation complain that the degree of transparency in the commission's work has recently decreased, as human rights activists are no longer granted free access to the appellants.

From 1995, through September 2001, out of 2,543 cases reviewed, the interagency commission lifted restrictions in 2,105 cases (83 percent). Since the start of the Commission in 1995, the annual percentage of positive decisions had appeared to decrease from 90 percent to 71 percent in 2000. So far, after nine meetings in 2001, the percentage of positive decisions is 77 percent. Human rights organizations point out, however, that this number includes only persons who appealed the decision to restrict travel to the commission. The total number of persons who were refused passports for foreign travel on secrecy grounds is thought to be much larger. Russia's Ministry of Internal Affairs, however, does not publish these statistics or release them to NGOs.

Russian law also grants the state the right to refuse travel abroad to individuals who are the subject of legal proceedings or convicts who have not served their sentences. In addition, it allows the state to deny travel abroad "temporarily" if an individual has evaded financial obligations imposed by a court, such as alimony payments. This rule has allowed relatives or former spouses to delay or even veto emigration plans of some Russian nationals.

In the previous legal regime, there was a requirement that Russian citizens obtain a special stamp from the Ministry of the Interior in addition to a passport before they emigrate. In early 1997, new legislation eliminated this requirement. However, the Interior Ministry continues to issue an exit stamp equivalent. The policy of the Federal Border Service (FBS) reportedly no longer requires the stamp, but, in practice, some FBS officers continue to require it.

TAJIKISTAN

Tajikistan's constitution provides for the right to emigrate, and this right is respected in practice. There is no law on emigration. Persons who wish to emigrate may do so with the permission of various ministries. Persons who wish to emigrate beyond the borders of the former Soviet Union must receive the approval of the relevant country's embassy in order to obtain their passport. Persons who settle abroad are required to inform the Tajikistan embassy or Tajikistan interests section of the nearest Russian embassy or consulate.

The Ministry of Security inhibits freedom of travel by requiring citizens who wish to travel abroad to obtain an exit visa, but exit

visas are rarely denied. This process sometimes includes lengthy interviews. The Ministry of Security sometimes withholds or delays exit visas when it believes that other ministries or NGO's are infringing upon its jurisdiction and have not adhered to its formalities for foreign travel.

TURKMENISTAN

Turkmenistan's constitution guarantees the right to emigrate, but in practical terms citizens must first obtain permission from the Ministry of Foreign Affairs. In order to emigrate, citizens must submit an application, an invitation from the country of destination, evidence of freedom from debts and other financial obligations, and written consent from family members. Divorced applicants with children must present an affidavit of consent from their former spouse, whether or not the children are emigrating. Those with military obligations must de-register with the Ministry of Defense. By law, the Ministry of Foreign Affairs must process the application and emigration documents within three months. Although the Ministry rarely denies such applications, some opposition figures have been prevented from emigrating.

Citizens are not permitted to travel outside the country without official permission. The government uses its authority to issue passports and exit visas as a means of restricting international travel and has exercised it more aggressively in the past two years. Most citizens are permitted to emigrate without undue restriction.

UKRAINE

Ukrainian law and the 1996 constitution guarantee the right to emigrate, and that right is respected in practice. All citizens are eligible for passports that permit free travel abroad. There remains a requirement to obtain an exit visa from the local Office of Visas and Registration (OVIR) for Ukrainians who intend to take up permanent residence in another country. Ukraine does not impose taxes or fees on those who emigrate. Reports of local bureaucrats assessing bribes for routine passport and exit visa issuances are common. However, human rights groups report that persons need only appeal to national-level authorities to resolve their status and establish their right to emigrate. Some draft-age men have been refused the right to emigrate pending clarification of their status with the military. Cases involving applicants who have had or have access to secret information usually take longer, but secrecy has not been used routinely as grounds for denying permission to emigrate. A large percentage of Ukraine's Jewish population has emigrated to Israel and the United States since Ukraine achieved independence in 1991.

UZBEKISTAN

Uzbekistan's constitution provides for free movement within the country and across its borders, and the government has generally respected this right. The government requires citizens to obtain exit visas for foreign travel or emigration, but grants these permits routinely. The government has in rare instances confiscated travel documents of specific individuals.

Exit visas are valid for a period of two years and no longer require an invitation from abroad. Several human rights activists were able to leave and reenter the country without encountering problems from the government. Uzbekistan rarely refuses to issue these visas.

The country hosts populations of ethnic Koreans, Meskhetian Turks, Germans, Greeks, Bukharan Jews and Crimean Tartars deported to Central Asia by Stalin during World War II. These groups enjoy the same rights as other citizens. Although they are free to return to their ancestral homelands, absorption problems in those countries have slowed their return.

