

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, GEORGIA, KAZAKHSTAN, KYRGYZSTAN, MOLDOVA, THE RUSSIAN FEDERATION, TAJIKISTAN, TURKMENISTAN, UKRAINE, AND UZBEKISTAN, PURSUANT TO 19 U.S.C. 2432(b)



JANUARY 27, 2000.—Referred to the Committee on Ways and Means and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

THE WHITE HOUSE
Washington, January 7, 2000.

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

DEAR MR. SPEAKER: On September 21, 1994, I determined and reported to the Congress that the Russian Federation was not in violation of paragraph (1), (2), or (3) of subsection 402(a) of the Trade Act of 1974, or paragraph (1), (2), or (3) of subsection 409(a) of that Act. On June 3, 1997, I determined and reported to the Congress that Armenia, Azerbaijan, Georgia, Moldova, and Ukraine were not in violation of the same provisions, and I 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.

As require by law, I am submitting an updated report to the Congress concerning the emigration laws and policies of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, 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,

WILLIAM J. CLINTON.

REPORT TO THE CONGRESS CONCERNING EMIGRATION LAWS AND POLICIES
OF ARMENIA, AZERBAIJAN, GEORGIA, KAZAKHSTAN, KYRGYZSTAN,
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 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 sections 402(a) and 409(a) of the Act; Presidential Determination 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 sections 402(a) and 409(a) of the Act; and Presidential Determination 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 sections 402(a) and 409(a) of the Act.

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

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.

AZERBAIJAN

Azerbaijan's 1995 constitution guarantees the right of all its citizens to travel abroad. The right to emigrate is officially recognized and protected by Azerbaijani law, and that right is respected in practice. The government may only limit the right to emigrate in cases involving military draft liability, criminal record or pending criminal charges, or previous access

to state secrets (the last limitation does not pertain to emigration to other countries of the former Soviet Union). The right to emigrate has not been interfered with in 1999.

GEORGIA

The Georgian constitution and the Law on Immigration guarantee the right to emigrate, except in cases where emigration might endanger national security or the existence of democracy in Georgia. No cases blocking a citizen's right to emigrate have been reported. Georgia's Jewish community has largely availed itself of its right to emigrate, often in search of better economic opportunities.

KAZAKHSTAN

Kazakhstan's constitution provides for the right to emigrate. This right is respected in practice. An exit visa is required for all Kazakhstanis, including intending emigrants, who wish to travel abroad. Exit visas are routinely issued after a number of bureaucratic requirements have been met, such as provision of evidence that the intending emigrant has left behind no outstanding financial obligations. Close relatives with a claim to support from the applicant must give their concurrence. A law on national security prohibits persons who have had access to state secrets from taking up permanent residence abroad for five years. Refusals to grant exit visas are rare and are usually connected to those opponents of the government who are subject to pending legal cases.

KYRGYZSTAN

Draft legislation on emigration has been pending before the Kyrgyz Parliament since 1997 and continues to undergo revisions. In the interim, the Government of Kyrgyzstan follows procedures outlined in the draft. Citizens wishing to emigrate must present an application and supporting documents to the Office of Visas and Registration (OVIR) of the Ministry of the Interior. Under a Soviet-era law, anyone who has worked with state secrets must wait five years before attempting to emigrate. However, there is no evidence this provision has been enforced in 1999. In practice, the right to emigrate is respected.

MOLDOVA

The right of citizens to emigrate is guaranteed in Moldova's constitution. This right 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 1999.

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 to Russian nationals who had access to classified material.

Russian 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 restriction. Russian law also formalizes 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 held nine sessions in 1999. During its last five sessions, the commission has reviewed 146 cases, lifting restrictions in 131 cases (90 percent), leaving restrictions in place in 9 cases (6 percent) and deferring decisions in 5 cases (3 percent). (The Ministry of Foreign Affairs notes these numbers are only a rough indicator of the commission's activity, as level of secrecy involved in individual cases varies considerably.)

The list of "refuseniks" (would-be emigres, the bulk of whom have been denied permission to leave on secrecy grounds) maintained by human rights organizations has decreased from over 1,000 in the late 1980s to under 20 in 1999.

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. Persons who wish to emigrate may do so with the permission of various ministries.

TURKMENISTAN

Turkmenistan's constitution guarantees to citizens the right to emigrate, but procedurally permission must first be obtained 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 the children are emigrating or not. Those with military obligations must de-register with the Ministry of Defense. Under Turkmen law, the Ministry of Foreign Affairs must process the application and documents for emigration within three months. Although the Ministry rarely denies such applications, some opposition figures have been prevented from emigrating.

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. There were no known cases of exit visas being denied in 1999. A lapse in an Israeli-Ukrainian student exchange program this year led to concern about the ability of several hundred Jewish-Ukrainian students to travel overseas for study in Israel. While negotiations continued, the Ukrainian government took steps to ensure that the students in question could travel. A large percentage of Ukraine's Jewish population, perhaps as much as 50 percent, 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. 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. The country hosts populations of ethnic Koreans, Meskhetian Turks, Germans, Greeks 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.