

A REPORT ON MOST-FAVORED-NATION STATUS

COMMUNICATION

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

REPORT THAT NONMARKET ECONOMY COUNTRIES, RECEIVING MOST-FAVORED-NATION STATUS, DO NOT IMPOSE UNREASONABLE EMIGRATION RESTRICTIONS, PURSUANT TO 19 U.S.C. 2432(b)



JANUARY 6, 1999.—Referred to the Committee on Ways and Means and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

THE WHITE HOUSE,
Washington, December 29, 1998.

Hon. NEWT GINGRICH,
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 most-favored-nation (MFN) status for these countries and certain other activities without the requirement of an annual waiver.

As required 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 Number 94–51 of September 21, 1994, and the accompanying report to the Congress, that the Russian Federation is not in violation of paragraph (1), (2), or (3) of sections 402(a) and 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 paragraph (1), (2), or (3) of sections 402(a) and 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 paragraph (1), (2), or (3) of sections 402(a) and 409(a) of the Act.

All current information (which has changed little since the last report) indicates that the emigration laws and practices of Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, 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 of all matters covered in those subsections.

ARMENIA

Armenia’s constitution provides for freedom of movement within the country, foreign travel, emigration, and repatriation. There have been no reports of individuals being denied the right to emigrate in 1998. Up to one-third of the population has temporarily or permanently emigrated during the last seven years. Armenians wishing to emigrate still face a requirement to “deregister,” a process that can deny exit permission to those possessing state secrets, to those subject to military service, and to those whose relatives have made financial claims against them. Travel passports can also be denied to persons in these categories. In general, failure to “deregister” is not a barrier to emigrating, but may cause problems for those attempting to re-enter Armenia subsequently.

AZERBAIJAN

The Government of Azerbaijan officially recognizes freedom of emigration, and a law passed in June 1994 guarantees that right. This right may be limited only in cases involving military draft liability, criminal record or pending criminal charges, or previous access to state secrets (the latter limitation does not pertain to emigration to other NIS countries). Azerbaijan’s constitution provides

for the right of all citizens to travel abroad. The remaining Armenian population in Azerbaijan is 10,000–20,000, mostly people of mixed nationality or in mixed marriages. While official government policy is that Armenians are free to travel, low-level officials seeking bribes have harassed Armenians wishing to emigrate.

GEORGIA

The Government of Georgia maintains a policy of unrestricted emigration based on a 1993 law and constitutional provisions guaranteeing unrestricted freedom of movement. In 1998 there were no recorded cases in which an individual was refused permission to emigrate.

KAZAKHSTAN

Kazakhstan's constitution provides for the right to emigrate. This right is respected in practice. An exit visa is required for all Kazakhstani, 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 who claim that they are supported by the applicant must give their concurrence. The new Law on National Security prohibits persons who had access to state secrets from taking up permanent residence abroad for five years. Refusals to grant exit visas are rare.

KYRGYZSTAN

Kyrgyzstan allows most citizens to emigrate without undue delays and restrictions. Kyrgyzstan does not yet have a law on emigration and is following procedures outlined in a draft law on emigration that is under consideration by the parliament. Citizens who wish to emigrate must present an application and various documents to the Office of Visas and Registration (OVIR). A Soviet-era law prohibits emigration within five years of working with "state secrets," but no one is believed to have been banned from emigration under this statute in 1998. Emigrants are not prevented from returning to Kyrgyzstan.

MOLDOVA

Moldova's constitution guarantees the right of citizens to emigrate at will. Before emigrating, outstanding financial and judicial obligations must be satisfied. In 1998 there were no recorded cases in which an individual was denied permission to emigrate.

RUSSIA

Legal guarantees of the right to emigrate are codified in Russia's constitution and in law. Russian law details the procedures for obtaining travel documents and provides clarification of some controversial policies. However, the government may prevent Russian nationals who had access to classified material from traveling abroad.

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 restriction. 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 held 10 sessions in 1998, reviewing 422 cases and ruling favorably in 81 percent of these cases.

The list of "Refuseniks" (would-be émigrés, 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 1980's to around 20 in 1998.

Russian law also allows the state to prevent individuals who are the subject of legal proceedings or convicts who have not served their sentences from traveling abroad. In addition, the state may 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.

One holdover from the previous legal regime has been the requirement that Russian citizens obtain a special stamp from the Ministry of the Interior in addition to a passport before they emigrate. The American Embassy in Moscow has received reports that the Ministry of Interior stamp is no longer required for Russian nationals who are departing for permanent residence abroad. The Embassy is seeking official confirmation that this is now the normal procedure throughout the Russian Federation. The time for processing travel applications for a Russian national without a passport who wishes to travel abroad is approximately three months.

TAJKISTAN

Tajikistan's constitution provides for the right of every citizen to emigrate from and return to Tajikistan. The government generally respects these rights. Tajikistan does not yet have a law on emigration. As a result, the 1991 Soviet law remains in effect. The government does not raise any significant obstacles to emigration.

TURKMENISTAN

Turkmenistan's constitution guarantees the right of citizens to emigrate. Turkmen citizens who wish to emigrate must obtain permission from the Ministry of Foreign Affairs. Required documents are an application, invitation from the country of intended travel, evidence of freedom from debts and financial obligations, and written consent from family members. If the applicant is divorced and either taking or leaving a child, an affidavit from the former spouse consenting to emigration is also required. Those with military obligations must deregister with the Ministry of Defense. The Ministry of Foreign Affairs is legally mandated to process the application and documents for emigration within three months. Denials of permission to emigrate have been rare, though some government opponents have been denied the opportunity to emigrate.

UKRAINE

Ukrainian law and the 1996 constitution guarantee all Ukrainian citizens the right to emigrate. Ukraine has no requirement for exit permission and all citizens are eligible for passports that permit free travel abroad. The government still requires emigrants to obtain an exit visa from the local Office of Visas and Registration (OVIR). While intending emigrants may evade this requirement by using a tourist passport good for international travel, without the exit visa to emigrate they may face difficulty on their return to Ukraine. Effective January 1, 1998, old Soviet passports became invalid, and all Ukrainians, including those emigrating, must have passports issued by the Government of Ukraine. The processing of passport applications takes less than two months. Cases involving applicants who had or have access to secret information usually take longer, but secrecy has not been used routinely as grounds for denying permission to emigrate.

Ukraine does not impose taxes or fees on those who emigrate. Reports of local bureaucrats assessing bribes for routine passport and exit visa issuance 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 until their status with the military is clarified.

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 has largely completed the process of issuing new passports in place of old Soviet ones.

Exit visas are in principle easy to obtain, are valid for a period of two years, and no longer require an invitation from abroad. However, local authorities sometimes withhold or delay issuance of passports or visas for political and administrative reasons to prevent persons from making short-term trips abroad, including some individuals selected to participate in official exchange programs. Other persons have allegedly received their passports or exit visas only after paying bribes. Those who leave without an exit visa may be subject to severe penalties upon return.

Although in some instances emigrants from Uzbekistan are delayed by long waits for passports and exit visas, potential emigrants who can find a host country willing to accept them are able to leave the country.