PARLIAMENTARY ASSEMBLY OF TURKIC STATES

COMMISSION ON EDUCATION, CULTURE, SOCIAL AND HUMANITARIAN AFFAIRS

THE ELEVENTH MEETING

Ankara, 14 May 2024

REPORT

FACILITATING CONDITIONS FOR LABOUR MIGRATION AMONG THE TURKPA MEMBER COUNTRIES (APPROXIMATION OF NATIONAL LEGISLATIONS)

INTRODUCTION

Crossing national borders to work is one of the key motivations behind international migration, whether driven by economic inequalities, seeking employment, or both. The additional impact of economic, political and environmental crises and shifting demographics, with ageing populations in some parts of the world and a “youth bulge” in others, contribute to rising labour migration.

The current global estimate of the UN Global Migration Database informs that there were around 281 million international migrants in the world in 2020, which equates to 3.6% of the global population. This number is 128 million more than in 1990 and over three times the estimated number in 1970. Among of those 281 million migrants 169 million of them are international migrant workers and they constituted 4.9% of the global labour force.

The remittance transferred globally by migrants and diasporas levelled up to 647 billion USD in 2022. For the record in 2019, before Covid-19 the remittance of migrants constituted around 718 billion USD and had slight drop down to 702 billion in 2020. The drop down of remittances along with the increase of migrants is displaying either the reduction in wages of the labour migrants and increase of life cost for them in residence countries, or the non-compliance of wages with the indexation of the inflation. Such state of affairs assumes a deterioration of conditions for labour migrants, as well as making them more vulnerable and affected by socio-economic challenges.

In order to protect their rights, voice out their human rights in equality with citizens of the resident state in socio-economic environment, guarantee a

decent life and fair paid work an international community had developed numerous Conventions and documents aimed to fulfil abovementioned issues. Additionally various programmes and projects are under implementation for the aim of protection life and rights of migrants, including the labour ones.

Internationally acknowledged documents on migrants' issues were elaborated under the umbrella of United Nations (International Convention On the protection of the rights of all migrant workers and members of their families, 1990) in general and International Labour Organization particularly (Migration for Employment Convention, 1949 (No 97); Migrant workers (Supplementary Provisions) Convention, 1975 (No 143)). Additional regulations and guidelines on fair management of migrant workers were shaped within other regional organizations too along with the universally applicable conventions on human rights.

Among member states of the Parliamentary Assembly of Turkic states (TURKPA) the issue of labour migrants are on the agenda as well, as all of them are countries of origin and a recipient country of migrant workers.

AZERBAIJAN

In Azerbaijan attaching great importance to universal democratic values and taking successful steps in the direction of integration to world community, solid measures have been implemented by government towards management and assurance of regulation of migration processes in compliance with international norms, protection of rights and freedoms of foreigners and stateless persons, taking care of migrants, and significant achievements have been gained in the area of protection of the rights of migrant workers and their family members. Migration Code of the Republic of Azerbaijan, also opened broad opportunities for progressive steps in this direction.

The involvement of foreigners and stateless persons in paid labor activities in the territory of the Republic of Azerbaijan is regulated by the legislation of the country. Regulation of labour migration processes in the country, the procedure for hiring migrant workers on the basis of a work permit, and the implementation of labour activities are regulated by the Migration Code of the Republic of Azerbaijan, the Labour Code, decision of the Cabinet of Ministers of the Republic of Azerbaijan on approval "Rules on Determining the Labour Migration Quota" and other legal acts. Allocation with the job of the migrant worker based on the work permit obtained from responsible authorities of the Republic of Azerbaijan by the employer for the potential worker from abroad.

Within the prescribed limits set by the legislation of the Republic of Azerbaijan migrant workers can use all rights equally with the citizens of the Republic of Azerbaijan and bear the duties corresponding to these rights in the country. To speed up the process of permission for obtaining the work permission for foreigners and stateless persons the process of the consideration of applications had been **reduced** from 20 working days to 10 working days. In addition, labour migration in the Azerbaijan Republic is

regulated on the basis of the labour migration quota approved by the Cabinet of Ministers of the Azerbaijan Republic and work permits issued by the State Migration Service of the Azerbaijan Republic.

Labour migration in Azerbaijan is regulated not only by specialized legal acts such as Migration Code and Labour Code, but also by the Law of the Republic of Azerbaijan “On state duty” and the other normative acts. Along with the national legislation, norms of the Internationally acknowledged UN Convention of 1990 “On the protection of the rights of all migrant workers and members of their families” are also applicable in Azerbaijan since its ratification in 1998.

For note, the rights of labour migrants are additionally ensured by compulsory state social insurance starting from 2006. It means that all migrant workers have are eligible to enjoy all socio-economic rights in Azerbaijan.

Other important matter on migrant’s issue is a management of inner migration in Azerbaijan. Norms of the Convention are also applicable to them. Inner migration in Azerbaijan acquired sharp features due to the Karabakh issue and forced relocation of people from their homes.

The state programmes and strategies in Azerbaijan are aimed at better qualitative development of socio-economic constituent of population’s lifehood. One of challenging and prestigious projects of the decade is to rebuild Karabakh region. It is planned by 2026 to invest into rebuild and development of Karabakh around 10 bln USD (18% of GDP of Azerbaijan) in cooperation with the foreign states and partners.

In accordance with the official statement in purposes of Karabakh’s rebuild and its further development a 150 thousand working places will be created for the inner forced migrants. At the same time, the corresponding changes to the legislation introduced in 2022 make it possible to consider applications related to obtaining work permits for foreigners and stateless persons to engage in paid labour activities in the liberated territories of the Republic of Azerbaijan in a shorter period of time. (by reducing the regulatory deadlines ~~by~~ 5 working days) and determined the extension of the work permit period by no more than 2 years each time.

Republic of Azerbaijan as a full-fledged subject of international relations and party to a Convention “On the protection of the rights of all migrant workers and members of their families” has obligations on making report on implementation of the Convention. Azerbaijan on regular base prepares the periodic reports for the UN Committee on the Convention. Hearings were held on the third periodic report presented in 2021.

The facilitation and management of the labour migration in Azerbaijan from legislative point of view has a solid legal base with provision of protection of rights and imposition of obligation for all parties of labour migration process. But the practical conduction of the process is a matter of other thing that has to be trained and explained to the parties for the reason of prevention of ineligible consequences.

KAZAKHSTAN

Republic of Kazakhstan in 2022 adopted a conceptual document on migration policy for the period of 2023-2027. The Concept was elaborated in accordance with the Presidential Decree and Presidential messages “On justice state. United nation. Wellbeing society”, “Unity of the people and system reforms – solid base of the country’s prosperity”. The Concept was elaborated by the Ministry of labour and social protection of the Republic of Kazakhstan with consideration of the past experiences and nowadays reality in migration processes.

Migration policy of Kazakhstanis formed out of the periods of migration situation in the country:

- 1991-2000 – outflow of population, decrease of birth rate, deterioration of socio-economic situation;
- 2001-2010 – economic growth, dynamic socio-political changes and reforms;
- 2011-2022 – conditions of globalization, influence of outer social and economic factors, decrease of ethnical repatriation rate and outflow of qualified specialists.

Starting from 2011 Kazakhstan had adopted a Law “On migration of population” that was concentrated on inner migration and equal allocation of population within the country, flow of population from big cities to less developed towns and villages of the northern, central and eastern parts of the country. There are many programmes “Serpin 2050”, “Eternal youth – to industry”, “With diploma to town” that have a good concept behind, but their implementation had faced some difficulties.

Within national migration policy Kazakhstan pays a lot of attention to repatriation of native kazakhs from other countries. Their come back to historical fatherland is conducted under the programmes “oralman” and “kandas”. For the period of 30 years almost 400 thousand families, approximately 1.1 mln ethnic kazakhs had arrived to Kazakhstan and obtained the kandas status. The kandas status gives certain privileges and allowances, such as free medical service, exemption from military service, allocation of funds to purchase a housing at the place of arrival, provision of quota places in schools and other educational institutions and others.

The proportion of working quotas for kazakhs and foreign citizens are also had been regulated under the migration policy of the country. During last 8 years in Kazakhstan the working quota varied between 10 and 38 thousand people. The quota programme for foreigners to work in Kazakhstan also conducted within the Eurasian Economic Union and issue about 1,6 mln working permits.

In realization of migration policy Kazakhstan firstly is targeted on the enhancement and strengthening of the education system with education of the high qualified specialists in more required professions and invitation of the foreign leading educators with construction of relevant modern educational infrastructure.

Second dimension of migration policy is stimulation of business migration. It presumes elaboration of comfortable environment for business and foreign investments.

Third dimension of the migration policy is concerning on invitation of high qualified specialists and professionals to work in Kazakhstan. Current geopolitical changes are also providing good perspectives for the development of Kazakhstan's economy – it is about relocation of industry, new technologies, moving of qualified specialists, especially in IT sphere.

Concerning the protection of rights and interests of foreigners Kazakhstan more targeted on legislative support of refuges and foreigners without citizenship in accordance with the UN International conventions of 1951 and protocols on rights and pretention of refugees and people without citizenship. At the same time Kazakhstan is not a party to the UN Convention On the protection of the rights of all migrant workers and members of their families.

Kazakhstan, as many other countries of the region takes the position as country recipient and sending country of labour migrants and is planning to achieve a bilateral agreements on protection of rights of its citizens with the United Arab Emirates, Qatar, Republic of Korea and other states, where its citizens mostly are working. In realization of the Concept on migration policy of the Republic of Kazakhstan for the period of 2023-2027 it is planned at the first quarter of each year to prepare and sign bilateral agreements (memoranda) on ensuring labour and social rights of working migrants with the countries that attract more Kazakhstan's citizens (Türkiye, UAE, USA, United Kingdom and Northern Ireland, Republic of Korea, Israel, Qatar, Germany).

KYRGYZSTAN

As a landlocked country without exit to open sea and with the specificity of geographical environment, Kyrgyzstan in natural way is restricted in diversity of economic activity. In addition, socio-economic and political instabilities had formed a migration flow of population from Kyrgyzstan to neighbouring and long distant states. State recipients of migrants from Kyrgyzstan mostly are Türkiye, Kazakhstan and Russia. According to statistics there about 1.1 million Kyrgyz citizens are labour migrants all over the works, and migration process had affected households of more than 3 million people. Remittance of labour migrants is making almost 30% of GDP of Kyrgyzstan, which means the issues concerning the wealth of its migrants abroad is very scrupulous and important for the Kyrgyz Republic.

The legislation on migration of the Kyrgyz Republic includes numerous legal normative acts, among of them are Constitution of the Kyrgyz Republic, Law on Inner migration, Law on foreign migration, Law on Legal status of foreign citizens in the Kyrgyz Republic, Governmental Decree on medical care for foreign citizens, Law on Licencing and permit system of the Kyrgyz Republic that prescribes the quota issues for work permit for foreigners and other related legislative acts.

Kyrgyz Republic as a subject of international relation is a party to the UN Convention On the protection of the rights of all migrant workers and members of their families since 2003. In fulfilling the requirements of the norms of the Convention Kyrgyzstan on an ongoing basis monitors the migration flow in/out of migrants and performs regular improvements of the legislation in this sphere and implementation of norms.

One of significant documents concerning of the migration process is a document named “Concept of the migration policy of the Kyrgyz Republic for the period of 2021-2030” approved by Governmental Decree. The Concept on migration is concerned of implementation of rights and interests of the labour migrants abroad of the state. Along with the Concept on migration in purposes of stabilization of migration process and decrease of negative factors a Presidential Decree “On measures to enhance migration situation” was adopted in 2021.

As a country sending working migrants Kyrgyzstan is elaborating a system of restitution of working migrants back home with the use economic mechanisms, such as affordable loans and credits, microfinancing, re-training and re-education etc. Governmental authorities are in the process of elaboration of the programmes aimed to mobilize the financial resources of working migrants and investment into small and medium sized business and use them as a savings.

Repatriation of working migrants to Kyrgyzstan is conducted also with the creation of additional jobs on the enterprises with the participation of foreign capital and foreigners. Involvement of foreign working power in Kyrgyzstan contributes to create additional jobs for Kyrgyz citizens, and by this decreases the number of working migrations out of the country.

Social security contributions of migrants are also a cornerstone matter of social welfare of citizens in future. One option of solvation of this issue is to make amendments into pension system of the country and signed agreements with partner countries on pension payment from migration resident country. The Kyrgyz Republic in 2019 had signed an Agreement on pension provision of workers of the state members of the Eurasian Economic Union. Kyrgyzstan had carried out all instate procedures to make the norms of the Agreement to come into force. Additionally, the Social Foundation of the Kyrgyz Republic is partnering with the National pension service of the Republic of Korea on payment of pension from Pension Foundation of Korea to Kyrgyz working migrants who made contributions as a part of an employment contract. Within the cooperation of the Turkic States Kyrgyzstan and Türkiye had signed an Intergovernmental Agreement on Social security that entered into force in 2020.

Kyrgyzstan and Azerbaijan as a party to other joint organizations are in the process of elaboration of mutual documents concerning the migration issues. Kyrgyzstan and Kazakhstan also signed and ratified the bilateral Intergovernmental Agreement On cooperation in migration sphere (2021). This document helps to protect rights and interests of migrants workers from both

sides, and makes contribution to rapprochement of ties and partnership between states.

TÜRKİYE

Due to its beneficial geographical location on the cross point of Europe, Asia and Africa Türkiye became a transit point of the migrants both legal and illegal ones. Additionally, the increasing demand for workers observed in the Turkish region has led to the fact that from the position of a country of transit movement, Türkiye has become a destination country for citizens of third countries. At the same time, many years of turbulence in the Middle East, the Caucasus and the Balkans led to a massive influx of population to Türkiye. After the 1980s, Türkiye became a country of not only sending working migrants, but also a country of recipient of migrants.

As a subject of the international law Türkiye is a party to various international conventions, protocols and movements concerning management of migration processes and other related issues. Türkiye is promoting the initiative to expand dialogue on transit migration in the Mediterranean region, which is led by the International Centre for Migration Policy Development (ICMPD). Since January 2006, Türkiye has assumed the chairmanship of the Budapest Process, an intergovernmental dialogue of 53 states, 4 observer countries and 13 international organizations, including the EU, aimed at preventing illegal migration, combating illegal migration and finding durable solutions to areas of migration management policies aimed at sustainable development. An important step by Türkiye in the fight against illegal migration was the creation, under its leadership, of the Working Group on the Silk Road Region, which contributed to strengthening interaction between the countries of origin, transit and destination of migration flows.

Abovementioned activity of Türkiye on migration sphere also related with the management of labour migration in the country. The International Labour Law (2016) No 6735 is the legal document that regulates the procedures and principles concerning the granting work permits and work permit exemptions for foreigners in the Republic of Türkiye. The whole process of the granting work permits and work permit exemptions to foreigners is conducted by the General Directorate for the International Labour of the Ministry of Labour and Social Protection in the Republic of Türkiye with the framework of the International Labour Law No 6735 and the other relevant legislation provisions. Obtained work permit in Türkiye under the conditions provided by law substitutes the resident permit. This norm is provided in the Law on Foreign citizens and international protection No 6458.

In accordance with the relevant legislation, four different types of work permit are regulated;

1. Temporary Work Permit: It is regulated for foreigners who be employed depending on an employer. The application for the temporary work permit is conducted online through the E-Government portal by the employer/employer representatives who will employ the foreigner. The applications of work permit

are conducted directly to the Ministry of Labour and Social Protection for foreigners who have a valid residence permit for a period of at least six (6) months in Türkiye, and abroad through work visa application to the embassies or consulates general of the Republic of Türkiye in the country where the foreigner is a citizen or legally resides. In case of positively evaluated application, the foreigner is given a work permit valid for a maximum of one year in the first application, provided that he/she works in a specific workplace belonging to a real or legal entity or a public institution or organization or in a specific job in their workplaces in the same line of business, with the condition of not exceeding the period of employment or service contract. In this context, an extension application can be made 60 days before the expiry of the first work permit regulated. In case the extension application is evaluated positively, the foreigner is given a work permit for a maximum of two years in the first extension application and a maximum of three years in following extension applications, depending on the same employer.

2. Indefinite Work Permit: Foreigners who have a long-term residence permit or a legal work permit for at least eight years in Türkiye can apply for an indefinite work permit. A foreigner with an indefinite work permit benefits from all the rights provided by a long-term residence permit. The foreigner with a indefinite work permit benefits from the rights granted to Turkish citizens, provided that his/her acquired rights regarding social security are reserved and he/she is bound by the provisions of the relevant legislation in the exercise of these rights, except for the regulations in private laws. A foreigner with an indefinite work permit does not possess the right to vote, to be elected and to hold public office, and is not obliged to perform military service.
3. Independent Work Permit: Foreigners who are members of professional occupational group may be granted an independent work permit, provided that the special conditions mentioned in other laws are fulfilled. In the evaluation of the independent work permit in the direction of international labour force policy, the foreigner's level of education, professional experience, contribution to science and technology, the impact of his/her activity or investment in Türkiye on the country's economy and employment, his/her capital share if he/she is a foreign company partner and other issues to be determined by the Ministry of Labour and Social Security shall be taken into consideration. Independent work permit is regulated for a period of time.
4. Turquoise Card: In the direction of the international labour force policy, a Turquoise Card is given to foreigners whose applications are appropriate according to the procedures and principles determined by the Ministry based on their level of education, professional experience, contribution to science and technology, the impact of their activity or investment in Türkiye on the country's economy and employment. Turquoise Card is a document that grants the foreigner the right to work and reside in Türkiye permanently and the right of residence to his/her relatives. Turquoise Card application is made directly to the Ministry of Labour and Social Security, and abroad through the Turkish foreign representation in the country where the foreigner is a citizen or legally

resides. Foreigners who can be granted a Turquoise Card are presented below;

a) Those who are evaluated as highly qualified labour force in terms of the level of education, wage, professional knowledge and experience, contribution to science and technology and similar features.
b) Those who are evaluated as highly qualified investors in terms of the level of investment or export, the size of the employment to be provided, the contribution to scientific and technological development and similar features.
c) Scientists or researchers who contribute to scientific and technological development or who conduct studies and research in the fields of science, industry and technology that are considered strategic for the interests of the country at the international level.
d) Those who are internationally successful in cultural, artistic or sporting activities.
e) Those who contribute to the international recognition or promotion of Türkiye or Turkish culture, and those who carry out activities at the international level on issues related to the national interests of Türkiye

Furthermore, in order to promote integration processes between Turkic states, Article 16 of the Law No 6735 on International Labour Force states that work permits may be regulated exceptionally for foreigners declared by the Ministry of Interior or the Ministry of Foreign Affairs to have Turkish ancestry and for citizens of the Turkish Republic of Northern Cyprus.

On the other hand, Article 48 of the International Labour Law specifies various fields and conditions under which foreigners can work in Türkiye without obtaining a work permit exemption. Work permit exemption applications within the framework of the activities and conditions regulated in this article are submitted by foreign works domestically through the Ministry, and abroad to the Turkish foreign representation in the country where the foreigner is a citizen or legally resides.

The different types of work permit and work permit exemption provided to foreign workers in Türkiye are a positive instrument in terms of attracting qualified foreign labour force to the country, addressing labour force in sectors where there is a need, and enhancing the human capacity in Türkiye

Within the previous seven years for the citizens of TURKPA member, observer and guest states Türkiye had granted about 55 thousand permits for work (see the tables below).

Table 1: Total work permits

NATIONALITY	2016	2017	2018	2019	2020	2021	2022	2023*	TOTAL
Azerbaijan	1,886	2,458	2,996	2,978	2,945	3,612	4,493	4,177	**25,545**
Kazakhstan	999	1,353	1,799	2,860	961	2,051	4,742	5,274	**20,039**
Kyrgyzstan	3,054	6,374	13,454	11,003	3,505	4,570	6,648	7139	**55,747**
Uzbekistan	2,454	2,474	3,969	4,480	4,383	3,912	4,677	4,989	**31,338**
TRNC	69	65	70	71	44	72	87	55	**533**
Hungary	124	71	72	94	28	37	56	41	**523**
Turkmenistan	3,506	3,865	5,548	6,128	9,721	7,850	8,962	8,487	**54,067**

*Dates cover the period between 01.01.2023-30.09.2023

Table 2: Work permits by category

NATIONALITY	First Application	Extension	TOTAL
Azerbaijan	2,542	1,635	**4,177**
Kazakhstan	4,854	420	**5,274**
Kyrgyzstan	6,222	917	**7,139**
Uzbekistan	3,481	1,508	**4,989**
TRNC	23	32	**55**
Hungary	25	16	**41**
Turkmenistan	5,272	3,215	**8,487**

*Dates cover the period between 01.01.2023-30.09.2023

Table 3: Numbers of Work permit exemptions

NATIONALITY	2022-31.12.2022	2023-30.09.2023
Azerbaijan	107	1214
Kazakhstan	5	307
Kyrgyzstan	4	492
Uzbekistan	1	41
TRNC	0	1
Hungary	1	34
Turkmenistan	6	40

CONCLUSION

The migration policy of each TURKPA member state assumes the work on two main dimensions:

1. to protect rights and interests of their citizens who are working abroad by preparing multilateral and bilateral agreements with the recipient countries;
2. to make a positive saldo of working high qualified migrants in their own states.

In order to manage and facilitate work migration processes in the state Türkiye had signed bilateral labour agreements with Azerbaijan and Northern Cyprus. Additionally to the norms of national legislation on labour migration of Türkiye there are Agreements of partnership with Azerbaijan, Kazakhstan, Turkmenistan and Turkish Republic of Northern Cyprus, as well as an Agreement on Social protection with Azerbaijan, Kyrgyzstan, Hungary and Turkish Republic of Northern Cyprus.

Azerbaijan on bilateral base is signing agreements with partner countries, i.e. Intergovernmental Agreement between Azerbaijan and Turkmenistan On cooperation in sphere of migration (March 2020).

Kyrgyzstan and Kazakhstan beside of the bilateral agreements on facilitation to each other on migration issues also achieving good results in migration cooperation based on agreement on export of pensions within the EAEU.

The remarkable feature of the nowadays migration consists in the digitalization of the working migration along with the rapid development of the IT sphere. As an example there are many working visas, such as digital nomad, blue card, global talent visa etc., that are promoting call for work of high qualified specialists to work without departing from their states of origin that makes physical migration easier or reduces pressure on provision of socio-economic services of the state.

Geopolitical events, globalization of economy wars and conflicts influence on large migration of people (refugees, legal and illegal migration etc.). It also has to be in note that not all of working migrants have enough of educational background that could help them legally to obtained well paid work under the quota system of TURKPA member states. As a result of desperate situation working migrants are ready to neglect their own human rights but to earn some money for their families. In order to improve this situation a various International Conventions were elaborated. Being a part of this conventions, in some way guarantees for working migrants a decent life and work, which is one of ~~a~~ goals of Agenda 2030.