

ETHNIC RELATIONS AND MIGRATION

MANAGING ETHNIC REPATRIATION EXPERIENCE: CENTRAL ASIAN STATES AND RUSSIAN FEDERATION

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ABSTRACT

The issues of state and legal regulation of ethnic repatriation in the post-Soviet countries that implement relevant programs are of great practical importance for their migration policy.

The paper discusses the general and specific features of the ethnic repatriation policy in three post-Soviet countries: Ka-

zakhstan, Kyrgyzstan, and Russia, aiming to identify the most successful approaches and practices for their execution.

The author analyzes the legislative acts of the three countries related to issues of ethnic repatriation and regulation of return migration between the 1990s and the present time.

KEYWORDS: return migration, ethnic repatriation, comparative analysis, Russia, Central Asian states, Kazakhstan, Kyrgyzstan, oralman, kayrylman.

Introduction

Conceptual Framework of Return Migration

Return migration is a specific type of migration, which includes the migration flows of previously departed migrants or their descendants to their historical homeland. Sometimes return migration takes the form of ethnic repatriation and includes ethnically and culturally similar groups of the population. This method is used in the migration policies of Israel, Japan, Hungary, Poland, Germany, Greece and other countries as a tool to improve the demographic potential and maintain a certain ethnic structure of the population.

Although there are no direct universal norms in the regulation of repatriation issues in international law, there are relevant universal principles and norms. For example, Arts 13 and 15 of the Universal Declaration of Human Rights of 10 December, 1948,¹ and Art 12 of the International Covenant on Civil and Political Rights of 16 December, 1966.²

According to the approach taken by the International Organization for Migration (IOM, 2004), “return migration” refers to the movement of persons returning to their country of origin or place of

¹ See: *The Universal Declaration of Human Rights (UDHR)* of 10 December, 1948, adopted and proclaimed by General Assembly Resolution 217 A(III) of 10 December, 1948, available at [<https://www.jus.uio.no/lm/en/pdf/un.universal.declaration.of.human.rights.1948.landscape.a4.pdf>].

² See: *International Covenant on Civil and Political Rights* of 16 December, 1966, available at [<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>].

permanent residence, usually after at least a year's sojourn in another country. This return may be voluntary or involuntary. Return migration may also take place through voluntary repatriation.³

At present (2019), IOM defines *return migration* in the context of international migration (the movement of persons returning to their country of origin after leaving their usual place of residence and crossing the international border) and in internal migration (movement of persons returning to their usual place of residence after moving away from it).

For statistical purposes, the United Nations Department of Economic and Social Affairs defines *returning migrants* as persons returning to their country of citizenship after being international migrants (short or long-term) in another country, and intending to stay in their country for at least one year.⁴

Despite the sufficient unambiguity of the concept of "return migration" proposed by the U.N. and IOM, it differs significantly from the content of the concept of "return migration" at the national level. Different concepts and terms are used to characterize the process of return migration in the regulatory legal acts and programs that are involved in organizing the return in various countries.

In addition, the term "re-emigration" is used in the context of return migration to describe the "movement of a person who, after having returned to his or her country of origin, emigrates again."⁵ In the Russian sources, the term "re-emigration" is often used to describe the process of emigrants returning to their country of origin, from which they had previously emigrated.⁶

The concept of "repatriation" is closely related to return migration, and there are two approaches to it that have developed in international law and migration policy.

The narrow approach defines "repatriation" as *the right of a refugee or prisoner of war to return to the country of which he is a citizen*, based on the provisions set forth in various international documents (Geneva Conventions, 1949, Protocols, 1977, provisions of the Laws and Customs of War on Land supplementing The Hague Convention (IV) of 1907; documents related to human rights, as well as legal customs). The right to choose repatriation belongs to the person himself, and not to the authorities holding him. The right to repatriate also imposes obligations on the state authorities of the host country to release such persons (soldiers and civilians), and on the country of origin to receive their citizens. The term "repatriation" also applies to diplomatic representatives and international officials during an international crisis.⁷

The term "repatriation" is used in the context of international humanitarian law. For this reason, the definition focuses on categories relevant to this area of international law. However, a more general right to return to one's country is also provided for in international human rights law, including the International Covenant on Civil and Political Rights (adopted on 16 December, 1966, entered into force on 23 March, 1976). The Convention Governing the Specific Aspects of Refugee Problems in Africa (adopted on 10 September, 1969, entered into force on 20 June, 1974), stipulates that repatriation must always be voluntary and no refugee can be repatriated against his or her will. It also imposes an obligation upon the country of asylum to "make adequate arrangements for the safe return of refugees who request repatriation" and on the country of origin to "facilitate their re-settlement and grant them the full rights and privileges of citizens of the country, and subject them to the same obligations." The term is also frequently used to refer to the repatriation of diplomatic envoys and in-

³ See: *International Migration Law. Glossary on Migration*, IOM, Geneva, 2004 p. 69, available at [http://publications.iom.int/system/files/pdf/iml_1_en.pdf].

⁴ See: *Glossary on Migration. International Migration Law*, IOM, 2019, p. 56, available at [https://publications.iom.int/system/files/pdf/iml_34_glossary.pdf].

⁵ See: *Ibid.*, p. 168.

⁶ *Demografichesky poniatitny slovar*, ed. by L.L. Rybakovsky, Second revised and enlarged edition, Moscow, 2007, p. 251.

⁷ See: *International Migration Law. Glossary on Migration*, 2004, p. 55.

ternational officials in time of international crisis as well as of citizens caught in a crisis or in a disaster while abroad.⁸

In a broad sense, a *repatriate* is a person who, for reasons of a socio-economic or personal nature, voluntarily moves to the country of citizenship or origin for the purpose of permanent residence.⁹ In this regard, repatriation is often seen by some governments and the programs they implement as a form of return migration, i.e. the process of returning to the ethnic homeland. The country or region associated by people with their origin (even if they have not emigrated from there earlier) is usually considered their ethnic homeland, and, as a rule, this relationship is determined through ethnic and/or religious identification. The authorities of certain states directly use the concepts of “repatriation” and “repatriate” (for example, Israel and Greece) in normative legal and legislative acts, migration policies and resettlement programs.

Classification of Return Migration. Concept of Repatriation and Repatriates

There are several approaches to the classification of return migration.

Based on the principle of migrants' voluntary return to the country of origin:

- *Voluntarily returning migrants*, people who return to their country of origin of their own free will, without any interference from the host country. Voluntary repatriation can be organized (carried out under the auspices of the respective governments and UNHCR) or spontaneous (refugees return by their own means, with UNHCR and governments practically uninvolved in the return process).¹⁰ The term “stimulated voluntary return migration” is used, denoting a process carried out with the assistance of return and reintegration programs of international organizations or host countries, and refers to migrants who do not have a legal right to stay in the host country and who want to return to their countries of origin. These are the so-called Assisted Voluntary Return and Reintegration programs (AVVRs);
- *Forced migrants*, persons banished or deported to their country by the authorities of the host country.

Since 1979, IOM has been implementing Assisted Voluntary Return and Reintegration programs. IOM support for migrants through the AVVR includes a number of activities, usually comprising the following: pre-departure consultations, airline ticket purchase, administrative and tourist assistance and, if possible, reintegration assistance. Between 2005 and 2014, IOM provided assistance to an average of 34,000 migrants annually in returning to their homeland through AVVR. Due to the increase in migration in the recent years, the number of returnees has increased significantly. In 2016, support was provided to 98,400 migrants (32%—women, 27%—children, 3%—victims of human trafficking) who returned from 110 receiving or transit countries to 161 countries of origin.¹¹

In 2016, the majority of the AVVR participants (83%) returned from the European Economic Area (EEA), particularly from Germany, Greece, Austria, the Netherlands and Belgium (see Table 1). The flow of return migrants along the South-South vector, including that from transit countries, is

⁸ See: *Glossary on Migration. International Migration Law*, 2019, pp. 180-181.

⁹ See: *Glossary on Migration: International Migration Law*, ed. by Richard Perruchoud, IOM, Geneva, 2004.

¹⁰ See: *Glossary on Migration. International Migration Law*, 2019, p. 225.

¹¹ See: *World Migration Report 2018*, Chapter 2, IOM, Geneva, 2017, p. 15, available at [https://publications.iom.int/system/files/pdf/wmr_2018_en_chapter2.pdf].

increasing. For example, a large number of migrants returned from Niger and Morocco to Cameroon, Guinea, Guinea-Bissau and Senegal, which accounted for more than 6% of all return migrants in the world. The main regions of origin of the migrants who received AVVR assistance in 2016 were Southeastern and Eastern Europe and Central Asia (49%), the Asia-Pacific region (16%), the Middle East and North Africa (16%). In total, the top 10 countries of origin account for 72% of all AVVR recipients.¹²

Table 1

Number of AVVR Program Participants by Key Host (or Transit) Countries and Countries of Origin, 2016

Host or Transit Countries	Number of Participants	Countries of Origin	Number of Participants
Germany	54,006	Albania	17,976
Greece	6,153	Iraq	12,776
Austria	4,812	Afghanistan	7,102
Niger	4,788	Serbia	6,978
Netherlands	4,635	Kosovo/UN SC	5,889
Belgium	4,117	Ethiopia	5,675
Yemen	2,594	FYR Macedonia	4,986
Finland	2,116	Iran (Islamic Republic)	4,485
Djibouti	1,803	Ukraine	3,438
Norway	1,459	Russian Federation	2,058

Source: World Migration Report 2018, Chapter 2, IOM, Geneva, 2017, p. 15.

Based on the degree of participation of state and international organizations in the process of return migration:

- *Directly or actively stimulated return migration* takes place wherever state programs for attracting and settling return migrants (repatriates), as well as voluntary return and reintegration programs (AVVR) are available and functional. The most ambitious return migration programs are currently being implemented by Israel, Germany, Russia, Greece and Kazakhstan. State programs in these countries have been carried out resolutely for several years, have clear goals and objectives, and are funded from the state budget.
- *Indirectly or incidentally stimulated return migration.* In this case, special state programs are absent or temporary, but there are measures in place to support return migrants, including certain sociocultural or professional groups. This approach is in place in certain Eastern and Northern European countries (i.e., Hungary, Poland, Czech Republic, Finland), as well as in Japan, Peru and Brazil;
- *Unorganized or spontaneous return migration.* In this case, the state is not involved and people return independently.

¹² See: Ibidem.

Based on the status of returning migrants in the host country:

- *Legal or documented returning migrants* whose status in the host country was completely legal and executed in full compliance with the law, and is accompanied by the receipt by the migrant of all necessary documents and registration procedures in the host country;
- *Irregular or undocumented returning migrants* whose status was unregulated in the host country for various reasons, i.e., they may have crossed the border in violation of the rules, did not register in full compliance with the rules, or did not receive permits to work in the host country.

Based on the historical features of the formation of return migrants' potential:

- *Return migration from states with previously established large diasporas due to mass emigration.* For example, the return migration of ethnic Germans from Russia and Kazakhstan to Germany, Jews to Israel, Pontic Greeks from the former U.S.S.R. to Greece, Japanese from Brazil and Peru to Japan;
- *Return migration from states that were previously colonies or occupied territories that hosted a significant number of migrants from the mother country.* For example, the return migration of the French and their descendants from the former French colonies, Spaniards from Latin America to Spain, Portuguese from Portuguese-speaking countries to Portugal, Japanese and Germans from the occupied territories after World War II;
- *Return migration from other countries that were previously parts of one state before its collapse.* For example, return migration from the former republics of the U.S.S.R. to the Russian Federation, or Serbs from parts of the former Yugoslavia to Serbia;
- *Conditional return migration to a third country, which is launched for ethical reasons.* For example, Germany launched a special program for the return of Jews in an attempt to rehabilitate themselves for the Holocaust and the waves of Jewish emigration caused by the fascist regime.

State and Legal Regulation of Ethnic Repatriation in Kazakhstan

One of the factors in Kazakhstan's development as a state is population growth. An important role in strengthening this aspect is played by population migration. One particular case is the process of repatriation of ethnic Kazakhs to their historical motherland.

After Kazakhstan gained independence in 1991, ethnic repatriation was elevated to the state policy level and work began on its legislative formulation. Thanks to this twist of fate, over 1 million Kazakhs scattered all over the world have returned to their homeland. The share of ethnic Kazakhs in the overall population structure increased from 40 percent in 1989 to 67 percent in 2017. The population of Kazakhstan in 1991 was 16.9 million, and the lowest population size 14.8 million was recorded in 2001. Since 2005 there has been a steady increase in the size of the population, and in 2019 Kazakhstan's population comprised 18.5 million people.

There was a problematic issue in ethnic repatriation, namely, the fact that repatriates tend to move to labor-surplus regions. For example, with regard to the countries of origin of ethnic repatriates, their largest numbers were settled in South Kazakhstan (21.6%), Almaty (16.8%), Mangistau (13%) and Zhambyl (9.3%) regions. The most active resettlement of ethnic returnees occurred be-

tween 2004 and 2008, a period that saw the arrival of 43.7% of ethnic returnees (439,400 people). This is due to the fact that during this period the most favorable social support measures were provided (allocation of state funds for the purchase of housing, relocation subsidies, etc.).¹³

Initially, the term “compatriots” was used in the legislation of the Republic of Kazakhstan in the context of return migration. Examples include the Decree of the President of the Republic of Kazakhstan dated 31 December, 1996 No. 3308 On the State Program for the Support of Compatriots Living Abroad; the Decree of the President of the Republic of Kazakhstan dated 21 November, 2005 No. 1673 On the State Program for the Support of Compatriots Living Abroad, for 2005-2007; the Decree of the Government of the Republic of Kazakhstan dated 25 April, 2006 No. 325 On the Formation of the Commission on the Affairs of Compatriots Living Abroad; Order of the Prime Minister of the Republic of Kazakhstan dated 29 December, 2010 No. 161-r On the Establishment of a Working Group to Work Out Proposals for the Development of the Action Plan for Development of Cultural, Educational and Informational Links With Compatriots Living Abroad.

Subsequently, the ethnically labeled term “ethnic Kazakhs abroad” began circulating in Kazakhstan government-level normative documents instead of the neutral concept of “compatriots living abroad,” (i.e., in the Resolution of the Government of the Republic of Kazakhstan dated 18 May, 2018 No. 280 On Approval of the Action Plan to Support Ethnic Kazakhs Abroad for 2018-2022).¹⁴

On 22 July, 2011, a new Law on Population Migration was adopted. The definition given to the term “oralman” in this law differs from that in the preceding legislation. For example, according to Art 1 of the new law, “an oralman is an ethnic Kazakh who permanently resided outside the borders of the Republic of Kazakhstan when the country acquired sovereignty, and his children of Kazakh nationality who were born and permanently resided outside the borders of the Republic of Kazakhstan, who arrived in the Republic of Kazakhstan for the purpose of establishing permanent residence in the historical homeland and received the corresponding status in the manner prescribed by this Law.”¹⁵ That is, this concept takes into account such criteria as historical homeland, status, ethnic Kazakh and children of Kazakh nationality.

According to the Law on Migration, the Government of the Republic of Kazakhstan establishes a regional quota for oralmans, and takes measures to provide state support to oralmans, ethnic Kazakhs and their families.

However, despite the obvious successes in state regulation of ethnic Kazakhs’ return to their historical homeland, there are also certain drawbacks.

The five established state centers for the adaptation and integration of oralmans are unable to fully, or even partially, ensure the flow of ethnic immigrants.

The concepts of “oralmans” and “locals” do exist in Kazakhstani society. Proper clarifications are not up to the mark in the sphere of information coverage and education, where oralmans are isolated as a distinct category of the population. Although Art 25 of the Law on Population Migration clearly states that the status of an oralman terminates after the oralman receives citizenship of the Republic of Kazakhstan, local residents and the repatriates themselves continue to call themselves oralmans.

On 29 May, 2008, the head of state Nursultan Nazarbayev gave an interview to the journalists of the Kazakh-language media, which caused a great resonance in society. In particular, he noted that

¹³ See: Decree of the Government of the Republic of Kazakhstan, dated 29 September, 2017 No. 602 On Approval of the Concept of Migration Policy of the Republic of Kazakhstan for 2017-2021 and The Action Plan for the Implementation of the Concept of Migration Policy of the Republic of Kazakhstan for 2017-2021.

¹⁴ See: Resolution of the Government of the Republic of Kazakhstan, dated 18 May, 2018 No. 280 On Approval of the Action Plan to Support Ethnic Kazakhs Abroad for 2018-2022, in: Legal Information System of Regulatory Legal Acts of the Republic of Kazakhstan “Әділем”.

¹⁵ See: Law of the Republic of Kazakhstan of 22 July, 2011 No. 477-IV On Population Migration, in: Legal Information System of Regulatory Legal Acts of the Republic of Kazakhstan “Әділем”.

it is necessary to abandon the use of the word “oralman,” which, as it were, divides the Kazakhs into permanent residents and newcomers. It is better to say “compatriots.”¹⁶

Therefore, certain preventive work has to be carried out with the media in order to modify their activities and develop an ethical approach to the choice of language in their materials. For example, such headlines in the media as “Here is the oralman—dumber than a rock,” “A stranger among his own people?,” “Hell for the oralmans,” “Oralmans are not just a risk factor. They are a one hundred percent risk!”, “Oralmans settled in a garbage dump in the Almaty region”, etc., do not contribute to the formation of positive ideas about oralmans in society, their integration into a new society, and interaction with local residents. Individual cases should not be extrapolated to the state of the entire society or to all oralmans in a chase for ratings. The media must be balanced and present positive materials on this subject, since there are numerous examples of the successful integration of oralmans in society and their contribution to the development of the region and the country. Negatively tinted informational materials are a criminogenic factor of discriminatory fragmentation of citizens into different categories, especially since the oralman status is temporary and is only valid until one acquires citizenship. If the media covers the subject of low-paying and hard work, then it needs to discuss unemployment and lack of jobs as a phenomenon that exists for all of the country’s population, rather than just for new repatriates. When certain crimes are committed by the oralmans or towards them, the “repatriate factor” is also overemphasized, while the motives and causes of these crimes remain unclear, and are unrelated to this factor in the vast majority of cases.¹⁷

State and Legal Regulation of Ethnic Repatriation in Kyrgyzstan

According to the State Migration Service under the Government of the Kyrgyz Republic, over 900,000 ethnic Kyrgyz live outside Kyrgyzstan; about 50,000 ethnic Kyrgyz have returned to the Kyrgyz Republic; and more than 33,700 ethnic Kyrgyz who have returned to their historical homeland now live in Kyrgyzstan. Despite the fact that the regulatory legislative framework for resettlement processes does exist, resettlement itself today is unorganized and spontaneous. In most cases, the arriving kayrylmans resettle in violation of the state border crossing procedure and existing rules of sojourn in Kyrgyzstan, often with unresolved issues, such as the absence of discharge paperwork from their previous place of residence, unsettled issues of former citizenship, etc. The mechanisms of the migration processes have not been established or fully regulated, and the ethnic Kyrgyz encounter a number of administrative penalties in the form of fines when they arrive in their historical homeland.¹⁸

The first normative legal act related to ethnic repatriation was adopted on 29 August, 2001. It was the Decree of the President of the Kyrgyz Republic No. 264 On Measures to Support the Ethnic Kyrgyz Returning to their Historical Homeland, in which one of the priority directions of state policy was the provision of state support and assistance to ethnic Kyrgyz who arrived in the Kyrgyz Republic to establish permanent residence. In this decree, repatriates were classified into ethnic Kyrgyz refugees and other ethnic Kyrgyz who arrived to establish permanent residence and wish to

¹⁶ See: Interview of President of the Republic of Kazakhstan Nursultan Nazarbayev “We will Walk the Great Path in Unity”, 04.06.2008, available in Russian at [<https://centrasia.org/newsA.php?st=1212579240>].

¹⁷ See: Kh.M. Mataeva, D.A. Jampeisov, “Problemy i perspektivy preduprezhdeniya prestupleniy v sfere etnicheskoy repatriatsii,” *Kriminologicheskiy zhurnal Baykalskogo gosudarstvennogo universiteta ekonomiki i prava*, No. 3, 2013, pp. 170-171.

¹⁸ See: Website of the Ombudsman of the Kyrgyz Republic [<https://ombudsman.kg>].

accept the citizenship of the Kyrgyz Republic. The priority task of the state was to provide a simplified procedure for acquiring Kyrgyz citizenship. The Government of the Kyrgyz Republic was entrusted with the task of developing and ratifying the State Program of Support and Assistance to Ethnic Kyrgyz who Returned to their Historical Homeland and Live Abroad, with 1 December, 2001 as the deadline.¹⁹

Subsequently, the Decree of the Government of the Kyrgyz Republic dated 9 April, 2002 No. 217 “On Approval of Measures to Provide Support and Assistance to Ethnic Kyrgyz Who Returned to their Historical Homeland and Live Abroad” was adopted.

Five years after the directive of the President of the Kyrgyz Republic, the Government of the Kyrgyz Republic adopted the Decree of 19 October, 2006 No. 737 On Approval of the Kayrylman State Program to Assist the Ethnic Kyrgyz Returning to their Historical Homeland, for 2006-2008. This document introduced the term “kayrylman” into conceptual discourse. The term “migrant” is also used to refer to the ethnic Kyrgyz returning to their historical homeland. This state program indicated that the main content of the kayrylman status is to provide ethnic Kyrgyz migrants with a temporary legal status until the acquisition of citizenship of the Kyrgyz Republic, which will resolve the main tasks, namely, their documentation and registration, and also guarantee the execution of the right to work, education, and freedom of movement.²⁰

Six years after the adoption of the first normative legal act to support the return of the ethnic Kyrgyz to their historical homeland, the repatriation process began to be regulated by the Law of the Kyrgyz Republic dated 26 November, 2007 No. 175 On State Guarantees for Ethnic Kyrgyz Returning to their Historical Homeland, initiated, strangely enough, not by the Government, but by four deputies of the Jogorku Kenesh of the Kyrgyz Republic: S.N. Zhaparov, K.K. Tashiev, A.K. Keldibekov, U.Z. Ormonov. In this law, “a kayrylman is an ethnic Kyrgyz who is a foreign citizen or stateless person who voluntarily returns to his historical homeland and receives the status of a kayrylman. An Ethnic Kyrgyz means a person of Kyrgyz nationality who possesses the citizenship of a foreign state, or a stateless person of Kyrgyz nationality.”²¹

On a positive note, the law clearly defines the list of documents that are required to confirm nationality. Art 7 of the Law on State Guarantees for Ethnic Kyrgyz Returning to their Historical Homeland states that in the absence of a birth certificate, one of the following documents is submitted to confirm the nationality of the applicant:

- birth certificate of one of close relatives (parents, children, adoptive parents, brothers and/or sisters, half brothers and/or sisters, grandfathers, grandmothers, grandchildren);
- parents’ marriage certificate;
- birth certificate of one of the distant relatives (cousins).

The existence of this norm makes it possible to protect returnees from various abuses by authorities in granting the kayrylman status.

The law of Kyrgyzstan clearly states that the kayrylman status is a temporary legal status valid until the acquisition of citizenship of the Kyrgyz Republic.

The Law of the Kyrgyz Republic on State Guarantees for Ethnic Kyrgyz Returning to their Historical Homeland dated 26 November, 2007 No. 175 was amended and supplemented by the Law

¹⁹ See: *Decree of 29 August, 2001 UP No. 264 of the President of the Kyrgyz Republic On Measures to Support Ethnic Kyrgyz Returning to their Historical Homeland*, Centralized Databank of Legal Information of the Kyrgyz Republic.

²⁰ See: *Decree of 19 October, 2006 No. 737 On Approval of the Kayrylman State Program to Assist the Ethnic Kyrgyz Returning to their Historical Homeland, for 2006-2008*, Centralized Databank of Legal Information of the Kyrgyz Republic.

²¹ See: *Law of the Kyrgyz Republic on State Guarantees to Ethnic Kyrgyz Returning to their Historical Homeland, dated 26 November, 2007 No. 175*, Centralized Databank of Legal Information of the Kyrgyz Republic.

of the Kyrgyz Republic dated 27 January, 2015 No. 27, renaming the law and changing the content of certain norms.

In the title of the law, the words “returning to their historical homeland” are replaced by the words “moving to the Kyrgyz Republic.” Accordingly, the concept of “kayrylman” has been altered. According to the amendments, a kayrylman is an ethnic Kyrgyz who is a foreign citizen or a stateless person who voluntarily moves to the Kyrgyz Republic and receives the status of kayrylman.²²

On 30 September, 2016, the Government of the Kyrgyz Republic issued Government Decree No. 518, ratifying the “Kayrylman” program for assisting the ethnic Kyrgyz and kayrylmans residing in the Kyrgyz Republic for 2017-2022. The returnees are divided into two categories: ethnic Kyrgyz migrating to the Kyrgyz Republic and Kayrylmans. This seems to be due to the fact that after migrating to the Kyrgyz Republic, ethnic Kyrgyz continue to experience difficulties associated with defining their legal status and changing citizenship. This program has been specifically adopted to help not only the Kayrylmans, but also those who do not yet have this legal status.

State and Legal Regulation of Ethnic Repatriation in Russia

In the most recent history, Russia has been growing depopulated. The market reforms that followed the collapse of the U.S.S.R. had a significant impact on the physical and socio-psychological health, as well as on the demographic behavior of the Russian population. Fertility began to decline, mortality increased, and since 1993 the country has followed a depopulation trend. The population of Russia at the beginning of 2019 was 146.8 million people. According to the average version of the U.N. forecast, Russian population may decrease by 26.8 million people compared to the 1995 level by 2050.

Since 2006, the country’s leaders has implemented a number of measures to stabilize the demographic situation: ratified conceptual documents, adopting a number of demographic development programs at both federal and regional levels, and enacting social and demographic support measures. First of all, the maternal (family) capital was introduced, which led to an increase in the births of second and subsequent children. The increase in the number of women of reproductive age was another favorable demographic factor. The implementation of demographic policy measures allowed to increase the total fertility rate to 1.777. This is a good indicator against the background of economically developed countries, but insufficient for simple reproduction of the population. All this helped to partially stabilize the country’s demographic development by the mid-2010s: the main indicators established by the Concept of Demographic Policy for 2015 were achieved.²³ However, it was not possible to completely solve the demographic problems.

Since 2016, the country has entered a new phase of depopulation. It is characterized by a reduction in fertility due to a decrease in the number of women of reproductive age. The possibilities of increasing age-specific birth rates have been practically depleted, since delayed births took place in the past. Even if demographic policy measures allow to increase the total birth rate by 0.2-0.3 (which is unlikely for above-described reasons), it will hardly lead to an increase in the birth rate to 1.8-1.9 million, in order to balance out the number of births and the number of deaths

²² See: *Law of the Kyrgyz Republic on Amending and Adding to Some Legislative Acts of the Kyrgyz Republic, dated 27 January, 2015 No. 27*, Centralized Databank of Legal Information of the Kyrgyz Republic.

²³ See: *The Concept of the Demographic Policy of the Russian Federation for the Period until 2025 (Approved by Decree of the President of the Russian Federation of 9 October, 2007 No. 1351)*, available in Russian at [<http://base.garant.ru/191961/>].

in Russia. No particular progress is observed in the death statistics dynamics; stabilization is noted. Thus, one cannot but hope for the increased contribution of the migration component to Russian demographic dynamics.

In order to solve the pressing and urgent issues of demographic development, Russia has taken several measures in the sphere of drawing compatriots to return from abroad. In 1999, the Federal Law on State Policy Regarding Foreign Compatriots was adopted, and 2006 saw the implementation of the State Program to Promote the Voluntary Resettlement of Compatriots Living Abroad to the Russian Federation. Since 2012, the State Program to Promote the Voluntary Resettlement of Compatriots has been declared indefinite. According to the state migration policy concept ratified by the President of the Russian Federation on 13 June, 2012, at the first stage of the settlement, at least 200,000 compatriots are slated to be resettled annually prior to the end of 2015, 250,000 in 2016-2020, and 300,000 in 2021-2025.²⁴ Achieving the intended target figures was a problem. Since the launch of the state program and until 2015, 263,000 people moved to Russia, about 183,000 in 2015, over 146,000 in 2016, 119,000 in 2017, and 108,000 in 2018.²⁵ In total, thanks to the state program, it was possible to attract more than 800,000 compatriots to Russia over 12 years.

Almost half of the new arrivals choose to establish permanent residence in the Central Federal District. Also popular are the Siberian, Northwest and Volga federal districts.²⁶ The number of people moving to the labor-deficit regions of the Far East remains insignificant. The reasons, as even top-level officials agree,²⁷ are the unresolved issues, i.e., housing and difficulties in registration required to file the application for Russian citizenship. The problem with registration may be resolved by providing the opportunity for arriving compatriots to register at the addresses of local administrations in the receiving region.

The concept of compatriot was first formulated on 30 January, 1994 at the Congress of Russian Communities in the Declaration of the Rights of Russian Compatriots: “The following persons are recognized as compatriots:

- a) every person who had permanently resided in the territory of the U.S.S.R. and was a citizen of the U.S.S.R. if they consider the Russian language their native language;
- b) every person who was a citizen of the U.S.S.R. and permanently resided in its territory if they consider themselves a part of the Russian civilization, and have not voluntarily renounced this citizenship;
- c) the descendants of these persons.”²⁸

In the Decree of the President of the Russian Federation On the Main Directions of the State Policy of the Russian Federation Regarding Compatriots Living Abroad, dated 11 August, 1994,²⁹ and the Declaration on the Support of the Russian Diaspora and Patronage of Russian Compatriots of the State Duma of the Russian Federation of 9 December, 1995, the concept of compatriots denoted immigrants from the U.S.S.R. and Russia and their direct descendants, regardless of nationality and ethnicity, language, religion, nature of occupation, place of residence and other circumstances, who are not citizens of the Russian Federation and expressly declare their spiritual or cultural/ethnic con-

²⁴ See: “Putin utverdil Kontseptsiiu gosudarstvennoy migratsionnoy politiki RF do 2025 goda,” available at [http://rus.ruvr.ru/2012_06_13/77991379/].

²⁵ See: Website of the Federal State Statistics Service [<http://www.gks.ru>].

²⁶ See: Website of the Government of the Russian Federation [<http://government.ru/news/34207/>].

²⁷ Ibidem.

²⁸ See: “Documents of the Second All-World Congress of Russian Communities (Moscow, 29-30 January, 1994),” *Information Bulletin*, No. 1 (210), 30 May, 1994.

²⁹ See: *Decree of the President of the Russian Federation of 11 August, 1994 No. 1681 On the Main Directions of the State Policy of the Russian Federation Regarding Compatriots Living Abroad*, in: *Reference Legal System Consultant Plus*.

nection with the Russian Federation or any of the constituent entities of the Russian Federation and confirm this connection.”³⁰

The Federal Law of the Russian Federation on the State Policy of the Russian Federation Regarding Compatriots Abroad of 24 May, 1999, compatriots are defined as persons born in one state, living or residing in it and displaying the indications of a common language, history, cultural heritage, traditions and customs, as well as the descendants of these individuals in a direct descending line.

The following are recognized as compatriots abroad:

- citizens of the Russian Federation permanently residing outside the Russian Federation.
- persons and their descendants residing outside the Russian Federation and, as a rule, related to peoples historically residing in the Russian Federation, as well as persons who have made the free choice in favor of spiritual, cultural and legal relations with the Russian Federation and whose direct ascendants previously lived in the Russian Federation, including: persons who were citizens of the U.S.S.R., living in the republics that were a part of the U.S.S.R., received citizenship of these states or became stateless persons; natives (emigrants) from the Russian state, the Russian Republic, the R.S.F.S.R., the U.S.S.R. and the Russian Federation who had appropriate citizenship and became citizens of a foreign state or stateless persons.³¹

Obtaining the status of a compatriot is possible exclusively through an application, and not automatically.

The above definition gave rise to a number of disputes, since in accordance with international law, in addition to Russian citizens entitled to their country’s protection, citizens of other countries were also mentioned as compatriots. Many scholars believe that the majority of residents of the newly independent states, the republics of the former U.S.S.R., as well as residents of some areas of Finland, Poland and Turkey, which were part of the Russian State at one time, can be classified as compatriots. It was also noted that the isolation of compatriots into different categories can lead to inequality between them.

According to Para 3 of Art 3 of the Federal Law of the Russian Federation on the State Policy of the Russian Federation Regarding Compatriots Abroad, dated 24 May, 1999, recognition of their compatriot status is an act of their self-identification, supported by public or professional activities to preserve the Russian language, native languages of the peoples of the Russian Federation, the development of Russian culture abroad, the strengthening of friendly relations between the country of compatriots’ residence with the Russian Federation, support for public associations of compatriots and the protection of the rights of compatriots or other evidence of the free choice of these persons in favor of spiritual and cultural ties with the Russian Federation.³²

This legal norm is another poignant matter in the federal law. In particular, the first issue is to determine who comprises the “public associations of compatriots,” what the basic condition or principle that allows to consider a certain organization one of them is, who makes the decision on how to classify these organizations, grants this status to them and analyzes their goals and objectives. Secondly, it is important to define who evaluates the effectiveness of organizations and on what conditions. The question of what degree of an individual’s activity or effectiveness is considered sufficient participation also remains open.

³⁰ See: *Resolution of the State Duma of the Federal Assembly of the Russian Federation of 8 December, 1995 No. 1476-i of the State Duma On the Declaration on the Support of the Russian Diaspora and Patronage of Russian Compatriots*, in: *Reference Legal System Consultant Plus*.

³¹ See: *Federal Law on the State Policy of the Russian Federation Regarding Compatriots Living Abroad, dated 24 May, 1999 No. 99-Φ3*, in: *Reference Legal System Consultant Plus*.

³² *Ibidem*.

All of the above issues are relevant, because if there is no clear legal basis for law enforcement practice, there will certainly be numerous abuses in granting compatriot status.

Conclusion

Summing up the results of the comparative study of poignant issues in state legal regulation of compatriot repatriation, it can be concluded that the problems encountered by repatriates in the countries under consideration are very similar.

In recent years, certain post-Soviet states have also begun to actively attract ethnically and culturally similar populations from abroad. The main goal pursued by Russia, which had launched its return migration program in 2006, was to build up its demographic potential in the context of the demographic crisis and to “gather the Russian population.” Kazakhstan and Kyrgyzstan aim to increase the share of “titular” nationalities in the ethno-demographic makeup of the population.

There are still very tangible problems in the countries under review, despite the establishment of migration legislation, adoption of special programs, and ratification of concepts. These include topical issues of clarifying certain important legal concepts, registration at the place of arrival, housing and employment. It directly affects the rights and obligations, return and settlement, adaptation and integration of persons involved in migration processes. All these are important elements of state stability and development.

Improving the effectiveness of state legal regulation with the common goal of achieving social stability and harmony, as well as a timely impact on public relations is a vital issue.

Based on on both positive and negative sides of international experience, for the purposes of state legal regulation repatriation has to be conceptualized not only as granting of citizenship in a simplified manner, but also as assistance in the subsequent adaptation and integration of returnees. In addition, adaptation and integration cannot be understood in the narrow sense as the provision of work and housing, rather, social, cultural, linguistic, psychological, legal aspects all need to be taken into account.