COMMISSION ON HUMAN RIGHTS UNDER THE PRESIDENT OF THE REPUBLIC OF KAZAKHSTAN

ANALYTICAL REPORT

CURRENT PROBLEMS IN THE PROTECTION OF THE RIGHTS OF MIGRANT WORKERS AND VICTIMS OF TRAFFICKING IN PERSONS IN THE REPUBLIC OF KAZAKHSTAN

Commission on Human Rights under the President of the Republic of Kazakhstan

Analytical Report — Current Problems in the Protection of the Rights of Migrant Workers and Victims of Trafficking in Persons in the Republic of Kazakhstan, under the general editorship of Kuanysh Sultanov, Tastemir Abishev. Astana, 2017. – 179 p.

The proposed Analytical Report of the Commission on Human Rights under the President of the Republic of Kazakhstan "Current Problems in the Protection of the Rights of Migrant Workers and Victims of Trafficking in Persons in the Republic of Kazakhstan" (the Report) presents a comprehensive analysis of the situation with the rights of migrant workers and victims of trafficking in persons in Kazakhstan.

The Report is approved by the Resolution of the President of the Republic of Kazakhstan Nursultan Nazarbayev of 2 December 2016, No. 32-43.309.

The Report provides a comparative assessment of the situation with the rights of migrant workers and victims of trafficking in persons, offers specific recommendations for the protection of civil, social, labour, economic and cultural rights of migrant workers and victims of trafficking in persons in Kazakhstan, and includes the results of special studies on the implementation of the recommendations of the two preceding Special Reports of the Commission.

Namely, the Report outlines issues in the legislation and law practice in the areas of combating illegal migration, trafficking in persons, provision of special social services to traffic victims, as well as at the level of social and legal protection of migrant workers, victims of trafficking in persons and possible solutions.

The Report is based on the results of human rights activities of the Commission on Human Rights itself, as well as its special investigations conducted over the elapsed period of time. The Report draws heavily from the data provided by state authorities, human rights NGOs, crisis centres, the International Organisation for Migration (IOM) Mission in Kazakhstan, the OSCE Programme Office in Astana, other international organisations.

The Commission's Report offers concrete recommendations for the prevention of illegal labour migration, the provision of a more severe punishment for traffickers in persons (including children), the attraction of highly qualified professionals to work in Kazakhstan, the improvement of the mechanisms for the protection of the rights of migrant workers and victims of human trafficking, as well as national mechanisms of referral and identification of victims of trafficking, the reduction of risks of occupational and social conflicts in the society, the reinforcement of the cooperation of the RK with CIS an EAEU member states through the conclusion of bilateral and multilateral agreements in combating crime associated with trafficking in persons, including migrant smuggling, and so forth.

The findings of this Report will be useful for the legislative, executive and judicial branches, law enforcement authorities, lawyers, representatives of the institution of extrajudicial protection of human rights, non-governmental organisations and other public associations, diplomatic services accredited in Kazakhstan.



This publication (the Report) was prepared with the technical support of the International Organisation for Migration Mission in Kazakhstan and the OSCE Programme Office in Astana. The content of the publication (the Report) does not necessarily reflect the official views of the IOM and OSCE.

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Introduction

In recent years, the world saw a continued increase in migration flows. According to UN estimates, the number of international migrants in 2015 reached 244 mln. people (compared to 175 mln. in the year 2000).

According to the UN, the growth in the number of international migrants exceeds the growth rate of the world population. As a result, the share of migrants among the total number of inhabitants of the planet in 2015 reached 3.3%, against 2.2% in 2000. In Europe, North America and Oceania, a share of international migrants constitutes at least 10% of the total population. In the countries of Africa, Asia, Latin America, the rate is less than 2%.

The report of the International Organisation for Migration (IOM), published on 19 April 2016, lists the top 10 countries with the largest number of migrants: 1. USA — 46.8 mln. migrants; 2. Germany — 12 mln. migrants; 3. Russia — 11.9 mln. migrants; 4. Saudi Arabia — 10.2 mln. migrants; 5. Great Britain — 8.5 mln. migrants; 6. UAE — 8 mln. migrants; 7. Canada — 7.8 mln. migrants; 8. France — 7.7 mln. migrants; 9. Australia — 6.7 mln. migrants; 10. Spain — 5.8 mln. migrants.

The main regions for settlement of migrants are Europe, Asia and North America. Over the past 20 years, migration has played a leading role in increasing the population of Europe by 25 mln. people.

On 10 November 2015, the European Border and Coast Guard Agency (Frontex) reported that 1.2 mln. illegal migrants had crossed the external borders of the European Union from 1 January to 1 November 2015. This is an absolute record in the history of the EU. However, Frontex does not give any estimates as to how many cases could have remained unregistered by the European border control agencies. The European Commission confirmed that the EU had faced the largest migration crisis since the Second World War.

The European Commission (EC) believes that another 3 mln. migrants can move to Europe until the end of 2016. The German authorities forecast the arrival of another 800,000 refugees in the country by the end of the year. According to MIA of the Federal Republic of Germany, during the 10 months of 2015, 758,000 refugees from the countries of the Middle East and North Africa entered Germany.



Figure 1 — Migrants by region of settlement

It should be noted that the migration flows are mainly represented by labour migration; its share in 2015 was 53%. Migration for the purpose of permanent residence in 2015 was 38%. Significant flows are formed by educational migration; its share in 2015 was 13%.

The competition for the skilled labour and bright minds has become a priority of the migration policy of not only the developed countries, but also the fast-growing countries of Asia, Europe and Latin America.

A wide range of instruments has been developed for both attracting and retaining skilled personnel. The developed countries have a choice in attracting skilled migrants, while the developing countries receive migrants who are not able to find employment and to live in the developed countries.

Educational migration is becoming an important factor in increasing competitiveness of the countries and building human capital.

In the world practice, the migration policy has a comprehensive nature and acts as part of the national social and economic policy. It has the following objectives:

to solve the problems of demographic growth (aging population, decrease in the share of the working-age population);

to encourage economic growth (transfer of highly qualified specialists).

The national policy of the Republic of Kazakhstan contemplates the migration policy as one of its important strategic directions which is oriented:

in the sphere of external migration — to stimulate ethnic repatriation (oralmans) and to attract qualified migrant workers;

in the sphere of internal migration — to solve the problems of the population settlement in the regions in accordance with the economic needs and with consideration given to the demographic situation in the regions.

The migration policy of Kazakhstan shall be comprehensive and closely linked and reconciled with the economic, demographic, national, regional and employment policies.

Given this circumstance, the President of the Republic of Kazakhstan Nursultan Nazarbayev in his address to the people of Kazakhstan "Kazakhstan 2050 Strategy: New Political Course of the Established State" drew particular attention to solving migration problems in Kazakhstan and strengthening control over migration flows from neighbouring countries.

Step 56 of the Nation Plan of the Head of the State "100 Concrete Steps to Implement Five Institutional Reforms" sets out the establishment of a favourable migration regime following the example of the USA, Canada and Australia to attract highly qualified specialists from abroad.

According to the Commission on Human Rights under the President of the Republic of Kazakhstan, it is necessary to take into account the following targets in the regulation of migration processes:

1) priority of the economic and demographic interests of the country while stimulating the inflow or outflow of migrants;

2) attracting the most qualified foreign specialists;

3) ensuring national security — preventing the "transfer of poverty", the

growth of social tension, the likelihood of penetration of extremism;

4) elimination of instances of illegal migration and trafficking in persons;

5) equality and respect of human rights.

Effective migration policy shall be aimed at achieving a balance of all five goals.

In light of this, Kazakhstan has to solve a complex task of creating a modern migration management system that would prevent and eliminate the consequences of illegal migration, instances of trafficking in persons and the outflow of skilled personnel abroad.

This Analytical Report of the Commission on Human Rights under the President of the Republic of Kazakhstan "Current Problems in the Protection of the Rights of Migrant Workers and Victims of Trafficking in Persons in the Republic of Kazakhstan" (hereinafter — the Analytical Report) deals with the analysis of the situation with the rights of migrant workers and victims of trafficking in persons in Kazakhstan.

The purpose of the Analytical Report is to inform the President, the Parliament and the Government of the Republic of Kazakhstan, and civil society institutions of the situation around the rights of migrant workers and victims of trafficking in persons in Kazakhstan, to identify gaps in the national legislation and law enforcement practice, to analyse the level of legal protection of migrant workers and victims of trafficking in persons, to raise their awareness of their rights, as well as core issues of protecting the rights of migrant workers and victims of trafficking in persons and ways to address them.

Furthermore, this Analytical Report, which consists of two interrelated parts, aims to:

prevent illegal migration and trafficking in persons;

attract highly qualified specialists to work in Kazakhstan;

designate priority directions of work on protection of the rights of migrant workers and victims of trafficking in persons requiring immediate and coordinated actions of all branches of government and NGOs;

draw the attention of the government agencies and the community of Kazakhstan to unfavourable situations and unsolved problems in the sphere of the rights of migrant workers and victims of trafficking in persons;

determine the main avenues of development of legislative and law enforcement practice in Kazakhstan in the field of the protection of the rights of migrant workers and victims of trafficking in persons;

establish close coordination of the national system for the protection of the rights of migrant workers and victims of trafficking in persons with the international legal systems;

implement the Standard for the Provision of Special Social Services to Victims of Trafficking in Persons in all regions of Kazakhstan;

develop legal literacy of migrant workers and victims of trafficking in persons;

perform phased implementation of the recommendations of the Special Reports of the Commission "On the Situation with the Rights of Migrants in the Republic of Kazakhstan" and "Current Issues Affecting Human Rights Protection in the Area of Combating Trafficking in Persons in the Republic of Kazakhstan" approved by the President of the Republic of Kazakhstan.

The proposed Analytical Report provides a comparative assessment of the situation around the rights of migrant workers and victims of trafficking in persons, gives specific recommendations for the protection of civil, social, labour, economic and cultural rights of migrant workers and victims of trafficking in persons in Kazakhstan, and includes the results of special studies of the Commission on implementation of the recommendations of the two Special Reports referred to above.

The Analytical Report is based on the results of human rights activities of the Commission on Human Rights itself, as well as its special investigations conducted over the elapsed period of time. It draws heavily on the data provided by the government agencies, non-governmental organisations and crisis centres of the Republic of Kazakhstan, the International Organisation for Migration Mission in Kazakhstan (IOM), the United Nations Development Program (UNDP) in Kazakhstan, the OSCE Programme Office in Astana and other international organisations, as well as the results of sociological studies "Human Rights in Kazakhstan: Public Opinion" conducted by the independent Association of Sociologists of Kazakhstan, a permanent member of the International Association of Sociologists (ISA), as well as the results of sociological studies conducted by IOM and relevant NGOs (Association of Legal Entities "Union of Crisis Centers" in Kazakhstan, "MediaLife" NGF and NGO "Sana-Sezim").

The Report also benefited from the information obtained during the visits by members and experts of the Commission on Human Rights of health, social protection, education and culture institutions, construction sites, retail outlets and other organisations. It also comprises the materials of international and republican conferences, round tables, seminars and trainings conducted by the Commission on Human Rights in cooperation with government agencies and NGOs of the Republic of Kazakhstan, the IOM Mission to the Republic of Kazakhstan, UNDP, the OSCE Programme Office in Astana and other international organisations in the field of human rights covering the period from 2013 to 2016. Finally, it includes the results of the syntheses and analyses of inquiries of individuals and legal entities submitted to the Commission on Human Rights.

Chapter I. Legal and Regulatory Framework Governing Labour Migration in the Republic of Kazakhstan

1. National legislative framework and law enforcement practice of labour migration regulation

The basis for the legal regulation of migration is the Constitution of the Republic of Kazakhstan. The Constitution stipulates the following as inalienable rights and freedoms: the right to free movement within the borders of Kazakhstan and the free choice of residence, except as otherwise provided by law; the right to freely leave the Republic, and for its citizens — the right to return to the Republic of Kazakhstan (paragraph 2, Article 21).

The Constitution also stipulates that foreign nationals and stateless persons enjoy rights and freedoms in the Republic of Kazakhstan and bear the obligations established for the citizens, unless otherwise provided for by the Constitution, the laws and the international treaties (paragraph 12, Article 4). The Constitution of the Republic of Kazakhstan guarantees everyone the right to freedom of labour and the free choice of occupation and profession. Involuntary labour is permitted only by a court sentence or under a state of emergency or martial law (paragraph 2, Article 24).

The main regulatory legal act governing migration issues in Kazakhstan is the Law of the Republic of Kazakhstan "On migration" as of 22 July 2011, with all the amendments and additions introduced.

1.1 Regulation of labour migration

The development of the legal framework for the regulation of labour migration is reflected in several Articles of the Law of the Republic of Kazakhstan "On migration" (Articles 5–7 of Chapter 1, Articles 34–43, 43-1 and 43-2 of Chapter 6). Article 34 lists the categories of immigrants arriving for the purpose of engaging in work activities, namely:

1) foreign workers — immigrants who arrived or were recruited by employers for the purpose of carrying out labour in the territory of the Republic of Kazakhstan, including those under intra-company transfers;

2) business immigrants — immigrants who arrived for the purpose of conducting business in accordance with the legislation of the Republic of Kazakhstan;

3) seasonal foreign workers — immigrants recruited by employers to perform work that is seasonal in nature due to climatic or other environmental factors, with the period of stay not exceeding one year;

4) labour immigrants — immigrants who arrived in the Republic of Kazakhstan as domestic workers for the purpose of performing works (rendering services) for natural-person employers in the households on grounds of a labour immigrant permit.

Protection of the domestic labour market is a priority in regulating labour migration. However, eviction of migrant workers legally admitted to the territory of the Republic of Kazakhstan in consequence of the situation in the labour market is not allowed.

Article 7 of the Law defines the conditions for stay of immigrants (foreigners and stateless persons) in the Republic of Kazakhstan. Article 37 governs the procedure for issuing work permits to foreign workers and permits to employers for recruiting foreign labour.

Work activities of citizens of the CIS member states are carried out in accordance with the above Law and treaties concluded by the states on a bilateral

and multilateral basis. This Article is reflected in the Treaty on Cooperation in the Area of Labour Migration and the Social Protection of Migrant Workers signed by the CIS member states in 1994.

The Law of the Republic of Kazakhstan "On the legal status of foreign citizens" of 12 January 2007 (Article 6-20) governs the fundamental rights, freedoms and duties of foreign citizens. According to Article 6 of the Law, foreign citizens can carry out work activities in Kazakhstan on the basis of and in accordance with the procedure established by the legislation and international treaties of the Republic of Kazakhstan: "Foreign citizens permanently residing in the Republic of Kazakhstan have the same rights in labour relations and have the same duties as the citizens of the Republic of Kazakhstan" with the exception of certain restrictions established by legislative acts of the Republic. Permanently residing foreign citizens have the same rights and duties in terms of social and pension security, health care, housing relations, the exercise of political, cultural and other rights.

Kazakhstan has not joined the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families, but some of its provisions are incorporated in the national legislation. For example, Article 3 of the Convention, the Law of the Republic of Kazakhstan "On migration" (Article 7) does not consider foreign citizens and stateless persons in the Republic of Kazakhstan as immigrants if they:

1) stay in the territory of the Republic of Kazakhstan for no more than ninety calendar days for the purposes other than those stipulated by Article 3 of this Law;

2) transit the territory of the Republic of Kazakhstan within a period not exceeding five days and nights;

3) are on duty in military units located in the territory of the Republic of Kazakhstan;

4) are members of diplomatic missions, consular offices and international organisations, including those accredited in the Republic of Kazakhstan;

5) are crew members of sea and river vessels or air, railway and motor transport located in the Republic of Kazakhstan;

6) arrive to the Republic of Kazakhstan for the purpose of missionary activity.

Regarding the adoption of the Law of the Republic of Kazakhstan "On amendments and additions to some legislative acts of the Republic of Kazakhstan on labour migration"

For the purpose of legalisation of migrant workers following the recommendation of the Special Report of the Commission on Human Rights "On the Situation with the Rights of Migrants in the Republic of Kazakhstan", in December 2013 the country adopted the Law of the RK "On amendments and additions to some legislative acts of the Republic of Kazakhstan on labour migration."

The Law governs the issues of stay and work activities of migrant workers holding citizenship in countries with which the Republic of Kazakhstan has entered into agreements on visa-free entry and stay, and arriving in Kazakhstan for purposes of carrying out works (rendering services) for private citizens employing them as domestic workers.

As part of the implementation of the Law in 2015, the internal affairs bodies issued 141,254 permits, in 2014 — 72,555 permits.

Permits issued by internal affairs bodies enable a migrant worker to engage in work activities for a time period specified in their application; said time period can last one, two or three months.

The maximum period of uninterrupted temporary residence of a migrant worker in the Republic of Kazakhstan shall not exceed twelve months.

To obtain a permit one must make a preliminary payment of the individual income tax in the amount of 2 monthly calculation indexes for each month of the permit period (4,242 tenge, which is approximately 12 US dollars).

1.2. Projected need for migrant workers and recruitment of foreign labour

According to the Ministry of National Economy of the Republic of Kazakhstan, the country is experiencing an outflow of skilled labour and an influx of unskilled labour (workers without professional education).

This brings about the increase of the public expenditure:

to ensure replacement of the specialists travelling abroad;

to arrange vocational education and training of the incoming unskilled workers.

The maximum net outflow of employable migrants is evident in technical, economic and pedagogical professions.

These trends lead to the deterioration in quality of human capital in the country and require an immediate solution.

Migration processes have a significant impact on the development of the domestic labour market and improvement of the labour resources quality. Mediumterm forecasts of the labour market trends indicate a significant likelihood of labour imbalance.

The coming five years will see a slowdown of inflow of the work force.

Should the designated rates of the economic growth persist, the demand for labour force will be increasing rapidly. At the same time, the labour market deficit will be covered mainly by unemployed and self-employed persons, as well as through the recruitment of foreign labour. Today the majority of the self-employed in the country work in agriculture and trade and do not have the necessary skills to work at industrial enterprises (more than 50% of them have only secondary education).

According to the official projections of the Ministry of Health and Social Development of the Republic of Kazakhstan, a demand for labour in the Republic will increase by sixty thousand people annually. This can be explained by a number of factors, including Kazakhstan's accession to the WTO, which implies, first of all, the creation of an open labour market. According to the experts, the demand for foreign labour in Kazakhstan will grow due to new investment projects. The need for recruitment migrant workers can reach 60,000–100,000 people per year.

EAEU labour market integration will open the door for opportunities of attracting qualified personnel from Russia and Belarus to Kazakhstan, but at the same time, it will increase the risk of emigration of talented employees from the country. This will further exacerbate the need for motivation and retention of staff. Every year companies raise the level of salaries and pay bonuses to the employers, however, as practice shows, this is not enough to prevent the outflow of the workforce. The data at the beginning of 2014 shows that the average salary in Kazakhstan was 105,000 tenge, in Russia it was equivalent to 150,000 tenge, in Belarus it was equivalent to 97,000 tenge. It it also worth mentioning that the social infrastructure in Russia and Belarus is still superiour to that in Kazakhstan, so the skilled workforce may emigrate from Kazakhstan to other EAEU countries.

Attracting foreign specialists to the Kazakh economy remains one of the important policy directions in terms of labour migration.

In order to protect the domestic labour market, the Government of the Republic of Kazakhstan annually sets a quota for attracting foreign specialists to the Republic.

Kazakhstan attracts foreign labour to Kazakhstan to work in the sectors identified by the state as strategically important (nanotechnology, biotechnology, information systems, transport and communications, and other industrial and innovative fields).

The quota is defined as a percentage to the economically active population of the Republic of Kazakhstan.

In 2014, the quota was set at 0.7 percent of the economically active population of the Republic, which is 63,000 units (in 2013 it was 1.2% or 108.1 thousand units).

However the number of the issued permits does not reach the quota level. This is due to production decline in the sectors traditionally attractive for the foreign labour force (construction and manufacturing sector). The scope of labour migration in Kazakhstan is much larger than the number of foreign workers with official permits.



Figure 1 — Quota for attracting foreign labour, in ,000 persons

As of 1 November 2014, the local executive bodies issued 31,600 work permits to the foreign citizens in the territory of the Republic of Kazakhstan.

In 2014, in fulfilment of special terms of issuing permits, enterprises employing foreign workers created for Kazakhstani citizens 18,653 additional jobs, retrained 3,952 employees, ensured advanced training of 15,421 local workers and provided vocational training for 736 Kazakhstani workers.

A policy was implemented to replace foreign workers with the Kazakh ones; as a result, as of 1 November 2014, 40 foreign specialists were replaced by the local ones.

More than 50% of the total foreign labour is involved in the construction and mining industries (mainly oil and gas production).

As of 1 August 2014, the largest number of foreign workers were attracted to Atyrau Oblast (7,906), Astana city (7,720), Pavlodar Oblast (4,030), Almaty city (3,585), Mangistau oblast (2,782), Aktobe oblast (1,444) and South Kazakhstan Oblast (1,215).

The leading occupations were specialists and managers.

As for the structure of attracted foreign labour, Chinese nationals prevail. This fact can be explained by the relative geographical proximity of the territory of the People's Republic of China, as well as by its sizeable investments in the economy of the Republic of Kazakhstan.

After China, the biggest providers of foreign labour are Turkey and Uzbekistan.

Besides the quotas, an additional mechanism that limits and regulates foreign labour is the local content requirement.



Fig. 2 — Foreign Labour Force by Countries

An employer who recruits foreign specialists shall ensure that the following requirements related to the local content are met:

citizens of the Republic of Kazakhstan shall constitute at least 70% of the total headcount of the first and second category staff (management);

citizens of the Republic of Kazakhstan shall constitute at least 90% of the total headcount of the third and fourth category staff (specialists and skilled workers).

As at the close of 2013, there were 2,762 employers that used foreign labour.

Enterprises attracting foreign labour employ 357,713 Kazakhstani citizens, which makes 91.2% of the total workforce.

As of 1 May 2016, there are 33,065 active work permits. Main countries of origin are:

1) China — 14,237 people (43%); 2) Turkey — 3,918 people (11.9%);

3) Ukraine — 1,575 people (4.8%); 4) Great Britain — 1,455 people (4.4%).

Attracted foreign labour force by category:

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I. Chief Executive Officers and their deputies	1,753 people (5.3%);
II. Heads of structural units	5,609 people (17%);
III. Specialists	14,960 people (45.2%);
IV. Skilled workers	9,038 people (27.3%);
Seasonal foreign workers	1,705 people (5.2%).
Attracted foreign work force by indu	stry (foreign trade):
construction	18,900 people (57.1%);
mining industry	2,265 people (6.9%);
other services	3,291 people (10%);
manufacturing sector	1,783 people (5.4);
prof. research and technological activity	1,615 people (4.9%);
wholesale and retail trade	1,334 people (4%).

At present, the Government of the Republic of Kazakhstan is seeking to improve the investment climate in the country and focusing its effort to simplify the mechanisms of entry and stay of potential investors, attract highly qualified specialists to the economy, ensure demographic growth and balance of labour resources, and formulate effective regional policy through regulation of internal migration.

In order to create an enabling environment for doing business and to improve the country's investment attractiveness, the legislation exempts the following actors from the local content requirement:

1) small businesses;

2) public agencies and enterprises;

3) permits issued under the quotas for priority projects and countries of origin, for territories of special economic zones, as well as to foreign workers for employment;

4) representation offices of foreign corporations.

In order to accomplish these goals, in 2014 the authorities amended the legislation on investments to include provisions for guarantees of stability and special conditions for attracting foreign labour to legal entities that implement priority investment projects.

Active work is carried out to phase out the visa regime for the citizens of OECD countries.

The implemented measures resulted in simplified visa requirements for the citizens of 10 economically developed and politically stable countries heavily investing in the economy of Kazakhstan.

Thus, it can be concluded that efforts have been made to establish the conditions and mechanisms to attract the required highly qualified and qualified specialists working in a variety of fields, as well as entrepreneurs and investors. This will ensure the accumulation of human capital in the country.

1.3 Reform of the permit system

The Plan of the Nation of the Head of the State "100 Concrete Steps to Implement Five Institutional Reforms" provides for the establishment of a favourable migration regime, based on the experience of the US, Canada and Australia, to attract highly qualified specialists from abroad (Step 56).

In order to implement the assignments of the President of the Republic of Kazakhstan as of 4 May 2014 and in accordance with the instruction of "100 Concrete Steps" of the Plan of the Nation, the Law of the Republic of Kazakhstan "On amendments and additions to some legislative acts on migration and employment of population" was adopted on 24 November 2015.

The implementation of labour migration reforms will start in 2017.

The new approaches envisaged in the Law are, first and foremost, aimed at the creation of an open market of highly qualified specialists in the country. Thus, similarly to the experience of Canada, New Zealand and Singapore, this will introduce for the first time a simplified procedure for obtaining work permits for highly qualified specialists: managers, engineers, scientists (researchers) and teachers.

Attraction of these specialists will be carried out outside the quota, without a permit and without assigning to a specific employer. The main criterion for their entry into the country will be a high level of education and qualifications, which will be determined by means of a scoring system being introduced.

In addition, the current procedure for attracting foreign labour directly by the employers has also been revised. In this respect the following steps are planned to be taken:

the quotas for attracting foreign labour will be set by economic activity or by sector (as a percentage of the number of employees in the sector), rather that in the economy in general;

charges for the issue of permits will be introduced. That is, instead of various special conditions established by local executive bodies for the issue of permits, a differentiated rate of charges will be introduced for the attracted foreign labour, depending on the industries where they are attracted to and the categories of employees recruited. For instance, the lower the qualification of an employee, the higher the charge.

Attraction of foreign labour as part of the intra-company transfers in accordance with the WTO standards.

The Republic of Kazakhstan assumes the following commitments with respect to intra-company transfers and business visitors in terms of regulation of entry and temporary stay of foreign qualified specialists (executives, managers and specialists) in the Republic of Kazakhstan:

upon the country's accession to the WTO, quotas annually adopted by the Government of the RK toward persons transferred via intra-company transfers shall be abolished;

five years following the accession to the WTO, foreign companies shall no longer be required to pass the economic feasibility test to utilise intra-company transfers;

persons transferred through intra-company transfer shall be given the opportunity to extend the 3-year stay by 1 year provided that they pass the economic feasibility test upon the expiry of the 3-year period; currently the stay period for foreign specialists equals 3 years under the annually issued work permits;

a 50% limitation shall be imposed on the employment of foreign managers and specialists within a single company. At the same time, this restriction shall not be imposed on the foreign executives.

Regarding the creation of a permanent inter-agency working group on the improvement of migration policies

For the purpose of preparing proposals regarding the improvement of the procedure and the terms of issuance and (or) extension, termination of employer permits to employ foreign workforce, as well as to engage intra-company transfer, a working group has been established under the Ministry of Healthcare and Social Development of the RK by the order of the Minister of 24 March 2016 No. 216.

The working group is composed of representatives of the Kazakhstan Council of Foreign Investors Association, international organisations, governmental stakeholders.

Regarding the creation of an integrated database of migrant workers

Currently, for purposes of reinforcing the control over foreign workers, efforts are being made to integrate the automated information system known as "Foreign Workforce" with information systems of any relevant state bodies ("Berkut" single information system, Migration Police), mechanisms are being developed to introduce biometric control systems intended for foreign nationals.

1.4 Illegal labour migration

The uncontrolled influx of labour into any given industry, as a rule, creates economic and social problems.

By violating the migration legislation of the Republic of Kazakhstan, illegal migrant workers allow the employers to disregard labour legislation that affect them. The migrants who often work without an employment contract and receive under-reported wages create unhealthy competition in the labour market of Kazakhstan.

At the same time, despite the measures taken, the number of illegal foreign nationals attracted by individuals for work decreases insignificantly.

According to some sources, citizens of 105 countries are involved in the labour market of the Republic of Kazakhstan, and their number increases every year. As already mentioned, they are mostly residents of Uzbekistan, Tajikistan and Kyrgyzstan. In particular, according to official estimates, the approximate number of migrant workers from Uzbekistan in South Kazakhstan alone is in excess of 200,000, and the number of Kyrgyz citizens working in Kazakhstan has reached 50,000–60,000. According to the Ministry of Foreign Affairs of the Kyrgyz Republic, more than half of the migrant workers living in Kazakhstan are engaged in trade in street markets, illegally. Moreover, of them only one out of ten is registered at the consulate.

The SMEs in need of workforce tend to hire migrant workers who often end up outside of the legal boundaries.

One can assume that at present, in addition to traditional trading in street marketplaces, the main spheres of employment of illegal migrants in Kazakhstan are construction (mainly private projects) and agriculture (growing, picking cotton, vegetables, etc.). For example, from April to November, citizens of Uzbekistan, mostly ethnic Uzbeks, rent irrigation lands in the territory of Saryagash district of the South Kazakhstan Oblast bordering with Uzbekistan. About 7,000–10,000 people work on the rented land of 12,000–15,000 hectares; about 4,000 of them are the citizens of Uzbekistan.

Many issues of labour migration from Uzbekistan, Tajikistan and Kyrgyzstan to Kazakhstan are currently being exacerbated, as more and more illegal channels for the movement of labour emerge. Experts believe that possible negative consequences can be prevented by a more extensive use of the existing international experience.

Taking into account a steady tendency towards the growth of illegal labour migration from the countries of Central Asia, Kazakhstan needs a clear, meaningful, robust and comprehensive approach to tackling this problem. According to experts, the migration policy of the Government of the Republic of Kazakhstan, which facilitates the legalisation of migrants, is a step in the right direction. It is this approach that contributes most prominently to the economic and political security of Kazakhstan.

An important role also belongs to the transformation of Kazakhstan into a regional staging area for migrant workers and the uneven economic development of the countries of Central Asia.

Determining the exact number of migrant workers is a complex issue due to the problems of registration of migrants. For example, according to the statistical portal of the "Berkut" Single Information System, more than 4 million foreigners entered the country in 2015, of which 1,380 thousand were registered with the Internal Affairs Bodies, and only 30 thousand of the total number arrived with the aim of applying for a job.

The question of determining the real volume of labour migration is of fundamental importance for the development of an adequate employment policy in the country that cannot ignore the unaccounted flows of illegal labour migration.

According to the calculations made by the Ministry of Energy of the Republic of Kazakhstan by using the indicators of remittances abroad, the total number of migrant workers in Kazakhstan in the years 2013–2014–2015 hovered in the range of **330,000 to 460,000**.

At the same time, the activity of illegal migrants is reflected in the balance of payments item of the receiving country — "personal transfers" made by migrant workers from Kazakhstan to their families abroad.

Remuneration of non-residents reflects the legal employment rate of migrant workers.

The peak of personal transfers occurred in 2007, when the country saw a construction boom. Further, until 2010, there was an almost 2-fold decline in the flow of transfers, with a slight drop in legal migration.

In 2013 the volume of personal transfers exceeded the remuneration of nonresidents, which indicates an increase in the number of illegal migrant workers in Kazakhstan, although not as significant as in 2007–2008.

Money transfers from Kazakhstan are an important resource for development of the countries of origin of migrant workers, as they make it possible to improve the balance of payments of these states. The money wired and transported by migrants to their homelands does, indeed, matter for the economies of receiving countries like Tajikistan, Kyrgyzstan and Uzbekistan.

According to the National Bank of the Republic of Kazakhstan, money transfers were made mainly to the residents of such countries as the Russian Federation, Uzbekistan, China, Kyrgyzstan and increased from KZT 159.3 billion over 10 months of 2012 to KZT 189.6 billion over 10 months of 2013 (by 19%).

In the medium term, the countries of Central Asia are expected to see continued growth of external labour migration. The main push factors of these regions are:

agrarian overpopulation — the minimum limit of the fertile land area per person is reached;

unfavourable environmental situation in many regions of Central Asia;

political instability and aggravation of inter-ethnic relations;

lack of opportunities for decent employment, coupled with demographic trends (a large number of young people entering the labour market every year).



Figure 3 — Structure of remittances by countries over the ten months of 2013

At the same time, a factor that attracts migrant workers from Central Asia is that some CIS countries with higher incomes and wages require additional labour resources due to the population decline.

The complicated system of registration of migrant workers contributes to the growth of the informal business infrastructure. It is necessary to reform the system of registration of migrant workers.

For the purpose of the legalisation of migrant workers, in December 2013 the Law of the Republic of Kazakhstan "On amendments and additions in some legislative acts of the Republic of Kazakhstan on the issues of labour migration" was enacted.

The Law governs stay and work activities of migrant workers holding citizenship in countries with which the Republic of Kazakhstan has entered into agreements on visa-free entry and stay, and arriving in Kazakhstan for purposes of carrying out works (rendering services) for private citizens employing them as domestic workers.

Permits issued by internal affairs bodies enable a migrant worker to engage in labour for a time period specified in their application; said time period can last one, two or three months. Furthermore, a migrant worker can repeatedly apply for an extension of the permit for a period indicated in the application; the application is grounds for concluding an employment agreement with an individual (natural person) employer. The maximum period of uninterrupted temporary residence of a migrant worker in the Republic of Kazakhstan shall not exceed twelve months.

To obtain a permit one must make a preliminary payment of the individual income tax in the amount of 2 monthly calculation indexes for each month of the permit period.

Also, photo and fingerprint records of migrant workers have been introduced for the first time.

It has been made illegal for a natural person to conclude an employment contract on the performance of works (provision of services) at a household concurrently with more than five migrant workers at a time; natural personemployers shall be held administratively liable for any violation of this regulation.

2. International legal framework for the labour migration regulation

The international legal framework for regulating the migration processes of the Republic of Kazakhstan is composed of the main international conventions and treaties in this and the related fields.

As of 1 October 2016, the Republic of Kazakhstan has ratified more than **150** multilateral universal international human rights treaties, including eight of the nine fundamental human rights covenants and UN conventions (see Appendices to this Analytical Report).

In addition, the Republic of Kazakhstan has recognized the competence of the UN Human Rights Committee, the UN Committee Against Torture, the UN Committee on the Elimination of Racial Discrimination and the UN Committee on the Elimination of Discrimination against Women on individual complaints and reports of the citizens of the Republic of Kazakhstan, as well as foreign nationals, stateless persons, refugees, migrant workers, and repatriates permanently or temporarily residing in the territory of Kazakhstan.

An important step towards enhancing the human rights capacities of the citizens and improving the mechanisms for protecting human rights in the country was the signing of the Optional Protocol to the Convention on the Rights of Persons with Disabilities in 2008, as well as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, as part of the opening of the 65th session of the UN General Assembly in September 2010.

International treaties ratified by the Republic take precedence over its laws and are applied directly, except when it follows from the international treaty that a law is required for its application (paragraph 3, Article 4 of the Constitution of the RK). The Government periodically reports on the fulfilment of obligations under the international covenants and conventions to which Kazakhstan has acceded and responds to the recommendations of the UN Committees regarding their implementation.

Accession to the main international and sectoral conventions allows the Republic of Kazakhstan to bring national legislation into compliance with international standards. Following the accession to the Convention on the Rights of the Child to implement Article 32 of the Convention on the Prevention of Economic Exploitation of Children, Kazakhstan joined the ILO Convention No. 138 of 1973, "On the Minimum Age for Admission to Employment" and the ILO Convention of 1999 No. 182 "On the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour." Kazakhstan has also done a lot of work to improve its domestic legislation in accordance with the above international conventions. Moreover, following the ratification of the Optional Protocol to the Convention on the Rights of the Child with respect to trafficking in children, child prostitution and child pornography, Kazakhstan adopted a new Criminal Code, which provides for tougher penalties for the exploitation of minors.

In order to strengthen the legal framework in combating the illegal migration, in 2008 Kazakhstan ratified the UN Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing this Convention. In 2008, Kazakhstan also ratified the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the Convention against Transnational Organized Crime.

Kazakhstan has taken legislative measures to combat trafficking in persons. Resolution of the Government of the Republic of Kazakhstan of 26 September 2003 No. 983 established the Inter-agency Commission on Combating Smuggling and Trafficking in Persons (hereinafter — the Inter-agency Commission).

According to paragraph 4.12 of the Regulations on Inter-Agency Commission, the leadership is exercised by the chairmen of the Commission — the Minister of Internal Affairs of the Republic of Kazakhstan and the Minister of Health and Social Development of the Republic of Kazakhstan on a rotational basis at two-year intervals.

On 5 February 2008, the Republic of Kazakhstan ratified the Convention on the Prevention of the Slave Trade and Slavery of 25 September 1926 and the Protocol of 7 December 1953, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery as of 7 September 1956.

In addition, on 14 December 2005 Kazakhstan ratified the UN Convention against Trafficking in Persons and the Exploitation of the Prostitution of Others and the Final Protocol.

The Law of the Republic of Kazakhstan of 15 December 2008 ratified the International Convention for the Protection of All Persons from Enforced Disappearance.

From 9 to 10 March 2016, the Republic of Kazakhstan successfully defended the first National Report on the implementation of the provisions of the International Convention for the Protection of All Persons from Enforced Disappearance.

The fundamental international legal instrument in the field of protecting the rights of migrant workers is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted in 1990 and effective 1 July 2003.

In the matter of the international labour standards, Kazakhstan ratified **24 ILO Conventions** (the full list is given in the Annex).

Besides, there are several most important **ILO Conventions** concerning various aspects of protecting the rights of migrant workers, namely:

ILO Convention No. 97 on Migrant Workers of 1949.

The original version of this Convention was adopted in 1939; it was revised in 1949, and the revised version entered into force in 1952.

The main provisions of ILO Convention No. 97 are as follows:

exchange of information related to labour migration with the ILO Office and the ILO member state;

establishment by the ILO member states of a competent and free service to assist the migrant workers;

adoption of individual and joint measures with other ILO member states against any misleading propaganda on emigration and immigration;

facilitation of the departure, arrival and reception of migrant workers by the ILO member states;

providing migrant workers with necessary medical care and good hygienic conditions;

the principle of equal treatment with respect to payment and working conditions, benefits, social security, participation in trade unions, taxes and fees, access to justice as compared to the citizens;

cooperation with employment services of ILO member states;

possibility to stay in the country of destination for permanent migrant workers and their families in cases of loss of labour capacity;

possibility for migrant workers to make money transfers;

regulated relations on the basis of bilateral agreements with large flows of labour migration.

The Annexes to the Convention define recruitment, employment and working conditions for migrant workers recruited both under agreements on group transfers made under the control of the government or otherwise, as well as on the import of personal property, working tools and equipment by migrant workers.

ILO Convention No. 143 "On Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers" which is aimed at countering and limiting illegal labour migration.

The document was adopted in 1975 to complement the Migration for Employment Convention of 1949 and the Discrimination (Employment and Occupation) Convention of 1958. It entered into force on 9 December 9 1978.

The Convention consists of 3 Chapters: the first Chapter proposes measures to prevent and eliminate abuses in the field of migration; the second Chapter contains measures to ensure equality of opportunity and treatment; the third Chapter presents the final clauses.

The main provisions of ILO Convention No. 143:

respect of the basic human rights of all migrant workers;

identification of illegally employed migrant workers, including those placed in conditions contradictory to the relevant acts, international agreements and national legislation;

adoption of individual and joint measures to prevent the secret movement of migrants seeking employment and the illegal employment of migrants, as well as measures against facilitators and employers;

identification of measures to detect the illegal employment of migrant workers and imposition of sanctions on the illegal use of migrant labour;

equality with respect to employment guarantee and guarantee of other work in the event of loss of employment by a migrant worker legally residing in the country;

equality of treatment with respect to the rights of irregular migrant workers and members of their families in terms of the previous employment with regard to remuneration, social security and other benefits, access to justice and conditions of deportation;

development and implementation of appropriate national policies;

cooperation with ILO member states with a view of facilitating reunification of the families of all migrant workers residing lawfully in its territory;

the right to free choice of employment and recognition of professional qualifications.

There are other important ILO conventions provisions of which, we believe, should be taken into account when developing the international legal and national framework for regulating the processes of labour migration¹. Another important instrument is the ILO Recommendation No. 151 adopted in 1975 on migrant workers. It covers the entire legal sphere of regulating the labour migration. In 2008 they adopted the ILO Recommendation on the Rights of Women Migrant Workers which reflects the process of feminisation of global migrations and introduces the elements of gender-sensitive policies into the international human rights instruments².

Kazakhstan has not yet joined the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families and the ILO Conventions on the protection of the rights of migrant workers.

Work activities of migrants from foreign countries temporarily working in the Republic of Kazakhstan and the citizens of the Republic of Kazakhstan, temporarily working in the territories of other states, is also regulated by bilateral agreements. Below is a list of such bilateral agreements.

Bilateral agreements of the Republic of Kazakhstan on the protection of the rights of migrant workers:

¹ Namely: ILO Convention No. 105 "On the Abolition of Forced Labor" (1957); ILO Convention No. 111 "On Discrimination in the Field of Employment and Occupation" which defines the term "discrimination" (1958); ILO Convention No. 118 "On Equal Rights of Nationals and Foreigners and Stateless Persons in the Sphere of Social Security" (1962); ILO Convention No. 157 "On the Establishment of an International System for the Preservation of Social Security Rights" which extends the rights of migrants in comparison with ILO Convention No. 118 (1982).

² In 2006 Kazakhstan adopted the Strategy of Gender Equality in the Republic of Kazakhstan for 2006–2016, approved by Decree of the Presidentl No. 1677 on 29 November 2005. In 2009 they adopted the laws of the Republic of Kazakhstan "On the Prevention of Domestic Violence", "On State Guarantees of Equal Rights and Equal Opportunities for Men and Women." The strategy of the Republic of Kazakhstan for gender equality is aimed at ensuring equal rights and opportunities for all members of society regardless of gender. The ILO Recommendation to the Convention on the Rights of Women Migrant Workers can be taken into account in the implementation of the Gender Equality Strategy of the Republic of Kazakhstan.

Agreement between the Government of the Republic of Kazakhstan and the Government of the Kyrgyz Republic on work activities and social protection of migrant workers employed in agriculture in border areas as of 9 July 2002 (approved by the Resolution of the Government of the Republic of Kazakhstan on 16 January 2003 No. 29);

Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Tajikistan on work activities and the protection of the rights of migrant workers, citizens of the Republic of Kazakhstan temporarily working in the territory of the Republic of Tajikistan on work activities and the protection of the rights of migrant workers, citizens of the Republic of Tajikistan working temporarily in the Republic of Kazakhstan dated 4 May 2006 (approved by the Resolution of the Government of the Republic of Kazakhstan on 23 December 2006 No. 1248);

Agreement between the Government of the Republic of Kazakhstan and the Government of the Kyrgyz Republic on work activities and protection of the rights of migrant workers, citizens of the Republic of Kazakhstan temporarily working in the territory of the Kyrgyz Republic, on work activities and protection of the rights of migrant workers, citizens of the Kyrgyz Republic, temporarily employed in the Republic of Kazakhstan dated 4 July 2006 (approved by the Resolution of the Government of the Republic of Kazakhstan on 13 June 2007 No. 494);

Agreement between the Government of the Republic of Kazakhstan and the Government of the Socialist Republic of Vietnam on temporary employment of citizens of the Republic of Kazakhstan in the Socialist Republic of Vietnam and citizens of the Socialist Republic of Vietnam in the Republic of Kazakhstan dated 15 September 2009 (approved by the Resolution of the Government of the Republic of Kazakhstan on 17 June 2010 No. 601);

Agreement between the Government of the Republic of Kazakhstan and the Government of the People's Republic of China on temporary work activities of citizens of the Republic of Kazakhstan in the People's Republic of China and citizens of the People's Republic of China in the Republic of Kazakhstan (approved by the Resolution of the Government of the Republic of Kazakhstan on 8 July 2014 No. 784);

Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Korea on temporary employment of citizens of the Republic of Kazakhstan in the Republic of Korea and citizens of the Republic of Korea in the Republic of Kazakhstan in the framework of intra-company transfers (ratified by the Law of the Republic of Kazakhstan as of 29 March 2016 No. 478-V 3PK).

The rights of migrant workers of the CIS and EAEU countries in the Republic of Kazakhstan are also protected by the following conventions and agreements:

The Convention on the Legal Status of Migrant Workers and their Family Members of the Commonwealth of Independent States of 14 November 2008 (ratified by the Law of the Republic of Kazakhstan as of 31 December 2009); Agreement on Cooperation in the Field of Labour Migration and Social Protection of Migrant Workers of 15 April 1994 (ratified by the Supreme Council of the Republic of Kazakhstan on 8 September 1994);

Treaty on the Eurasian Economic Union of 29 May 2014 (ratified by the Law of the Republic for Kazakhstan on 14 October 2014);

Agreement on the procedure for investigating industrial accidents involving citizens of one of the member states of the Eurasian Economic Community when working in the territory of another member state of the Eurasian Economic Community.

In addition, The Ministry of Healthcare and Social Development of the RK has developed the Draft Law of the RK "On ratification of the Agreement on the Procedure of Investigating Industrial Accidents Involving Citizens of a Member State of the Eurasian Economic Community in Worker Capacity in the Territory of Another Member State of the Eurasian Economic Community." Currently the Draft Law is undergoing coordination and clearance with state stakeholders and accredited organisations.

Regarding the Agreement on the Legal Status of Migrant Workers and Members of Their Families

On 1 January 2015, the Treaty on the Eurasian Economic Community of 29 May 2014 entered into force. In this regard, the Agreement on the Legal Status of Migrant Workers and Members of Their Families of 19 November 2010 ceased to be effective.

The "Labour Migration" section of the Treaty on the Eurasian Economic Community is based on the agreements reached by the member states within the framework of the Agreement.

Pursuant to article 97 of the Agreement on Eurasian Economic Union, employers and (or) commissioners of works (services) of a member state are entitled to employ workers of member states disregarding any limitations concerning the protection of a national labour market. Furthermore, workers from member states are not required to seek a permit to engage in labour in the nation of the employer.

Member states shall not set or utilise limitations established in their legislations to protect the national labour market, with the exception of limitations provided in this Agreement and legislations of member states for purposes of ensuring national security (which includes sectors of strategic significance) and public order, against any occupations or places of stay of workers representing other member states.

In accordance with the Rules and Terms of Issue of Work Permits to Foreign Workers, as well as Employer Permits to Employ Foreign Workforce and Foreign Workers Transferred by Means of Intra-Company Transfer, approved by the Resolution of the Government of the RK of 13 January 2012 No. 45, the Parties to the Agreement shall be exempt from the provisions that set quotas for the foreign workforce and issuance of work permits to foreign workers and employer permits employ foreign workforce.

Chapter II. Analysis of the Implementation of the Recommendations of the Special Report of Commission on Human Rights under the President of the Republic of Kazakhstan "On the Situation with the Rights of Migrants in the Republic of Kazakhstan"

In order to protect the rights of migrant workers, and in pursuance of the instructions of the President of the Republic of Kazakhstan to resolve migration problems and strengthen control over migration flows from neighbouring countries, the Commission on Human Rights under the President of the Republic of Kazakhstan, with the support of the IOM Mission to the Republic of Kazakhstan, prepared a Special Report "On the Situation with the Rights of Migrants in the Republic of Kazakhstan" (hereinafter — the Special Report) in the first quarter of 2013.

The Commission's Special Report was approved by the Resolution of the President of the Republic of Kazakhstan of 29 December 2014 No. 32-47.327 and is issued to the Government and other state authorities of the RK to implement his recommendation.

The Special Report is based on the results of human rights activities of the Commission on Human Rights itself, as well as its special investigations conducted over the elapsed period of time. It draws heavily on the data of state authorities and non-government human rights organisations of the Republic of Kazakhstan, International Organisation for Migration Mission in Kazakhstan, other international organisations, as well as the results of sociological surveys entitled "Human Rights in Kazakhstan: Public Opinion" that had been conducted by the independent Kazakhstan Sociologist Association (ISA).

The Report also utilises information received by the members and experts of the Commission on Human Rights as they visited healthcare institutions, social protection institutions, education and culture institutions, construction projects and trading venues and other organisations; materials of international conferences, round tables, seminars and trainings held by the Commission on Human Rights jointly with state authorities and NGOs of the RK and international human rights organisations in the 2000–2012 period; results of aggregation and analysis of appeals and inquiries submitted by natural and legal persons to the Commission on Human Rights.

In the interests of convenience, the results of the implementation of the recommendations of the Special Report of the Commission (as at 1 October 2016) are presented below in form of a table.

Analysis of the implementation of the recommendations from the Special Report "On the Situation with the Rights of Migrants in the Republic of Kazakhstan"

Recommendation	Implemen	Partially	Implement	Not	CHR's rationale based on materials provided by the
	ted	implement	ation in	impleme	authorized state bodies and NGOs, IOM
		ed	progress	nted	
	Recommer	ndations of Ch	apters 1 and 2	of the Speci	al Report
1. For purposes of reforming the international legal					
framework and the improvement of the national					
legislation in accordance with international					
standards for the protection of migrant worker					
rights, we recommend that the Government and the					
Parliament of the Republic of Kazakhstan ratify the					
following important ILO conventions:					
Convention No. 97 "Concerning Migration for					
Employment" from 1949;					
Convention No. 143 "Concerning Migrations in					
Abusive Conditions and the Promotion of Equality of					
Opportunity and Treatment of Migrant Workers",					
1975					Convention Assignt Discrimination in Education was ratified
2. We recommend ratifying the UN Convention					Convention Against Discrimination in Education was ratified
Against Discrimination in Education.					by the Law of the Republic of Kazakhstan of 28 January 2016, No. 449-V ZRK.
3. We recommend ratifying the Agreement on the					The Agreement on the Establishment of the Council of Heads
Establishment of the Council of Heads of Migration					of Migration Authorities of the Commonwealth of
Authorities, signed by leaders of CIS member states					Independent States (Dushanbe, 5 October 2007), as
on 5 October 2007 in Dushanbe.					amended on 10 December 2010, came into force for the
					Republic of Kazakhstan on the day of its signing. This
					Agreement's ratification by the Parliament of the RK is not
					required.
4. Within the framework of the Customs Union and					EAEU member states' efforts toward development and
the Single (Eurasian) Economic Space that comprises					approval of the corresponding regulatory legal acts for
Belarus, Kazakhstan and Russia, a migration					purposes of the implementation of the Agreement on the
agreement entitled "Agreement on the legal status					Legal Status of Migrant Workers and Their Family Members

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of migrant workers and their family members" was ratified, providing necessary regulations protecting the rights of migrants migrants. We recommend the development of a national regulatory framework for the implementation of agreements, to enshrine within said framework primary rights of migrant workers and their family members, as well as state bodies' powers related to migrant workers.	have been partially completed. The corresponding motivated work on the development of regulatory legal acts in this area will be continued by the EAEU member states.
5. We recommend the development of a trilateral cooperation within the Single Economic Space (including consultations with EAEU nations) in the field of improving conditions of safety and remuneration, social support and right protection for migrant workers and members of their families. Implementation of agreements with respect to the observance of labour legislation and protection of rights of migrant workers in the host nation must become the key area of developing the single migration and legal space and labour market of the Single Economic Space. Due to the fact that the majority of migrant workers arrive to Kazakhstan mainly from Central Asian countries such as Kyrgyzstan, Uzbekistan and Tajikistan, highest priority should be assigned to inter-governmental cooperation efforts with these neighbouring nations in the area of regulating labour migration and protecting migrant worker rights.	Development of multilateral cooperation under the auspices of the Single Economic Space of EAEU in the area of ensuring proper safety and remuneration conditions as well as social support and rights protection for migrant workers and members of their families remains at the stage of discussion and development.
6. It is recommended to sign and ratify a readmission agreement between two member states; reinforce cooperation between Central Asian countries, European Union, other developed nations; focus on the legal regulation of relations and the forging of cooperation with neighbouring	Within the framework of the Kazakhstan-2050 National Development Strategy, the Government adopted the 2014– 2016 Comprehensive Plan that provides for a large coverage of development areas of the nation's migration policy (enhancing control over migrant streams from neighbouring nations, creating favourable conditions for qualified human

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regions of the Russian Federation; develop the	resources, etc.).
cooperation of member states in the area of	To reveal and preclude any acts in violation of the
preventing illegal migration, including human	migration legislation, under the auspices of the Collective
trafficking.	Security Treaty Organisation, every year, in two stages,
	authorities conduct a special operation called "Illegal Alien"
	to combat illegal migration of foreign nationals and human
	trafficking, conducted concurrently in all member states of
	the Treaty (first stage took place in May 2016).
	Furthermore, to settle the process of return/readmission
	and admission of migrants staying illegally on the territories
	of the parties, efforts are being made to conclude
	readmission agreements.
	To date, the Republic of Kazakhstan has signed and ratified
	12 readmission agreements (Switzerland, Uzbekistan,
	Belarus, Hungary, Lithuania, Russia, Latvia, Moldova, Czech
	Republic, Germany, Norway and the Benelux).
	Another 13 readmission agreements signed with
	neighbouring and other foreign nations: Afghanistan,
	Bulgaria, Greece, Iran, Iraq, Canada, Cyprus, South Korea,
	Kyrgyzstan, Pakistan, Poland, Tajikistan, Ukraine — in
	development and at various stages of intra-governmental
	finalisation and coordination.
7. We recommend accelerating the ratification of	The Agreement on Eurasian Economic Union of 29 May 2014
the following agreements concluded between the	came into force on 1 January 2015. As such, the Agreement
governments of the Eurasian Economic Community	on the Legal Status of Migrant Workers and their family
(EEC):	members of 19 November 2010 ceased to be effective.
Agreement on the Procedure of Investigating	The "Labour Migration" section of the Treaty on the
Industrial Accidents Involving Citizens of a Member	Eurasian Economic Community is based on the agreements
State of the Eurasian Economic Community in	reached by the member states within the framework of the
Worker Capacity in Another Member State of the	Agreement.
Eurasian Economic Community;	Pursuant to article 97 of the Agreement on Eurasian
Agreement on the Partnership in Providing Hightech	Economic Union, employers and (or) commissioners of
Medical Care to Citizens of Member States of the	works (services) of a member state are entitled to employ
Eurasian Economic Community.	workers of member states disregarding any limitations
	concerning the protection of a national labour market.

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	Furthermore, workers from member states are not required
	to seek a permit to engage in labour in the nation of the
	employer.
	Member states shall not set or utilise limitations established
	in their legislations to protect the national labour market,
	with the exception of limitations provided in this Agreement
	and legislations of member states for purposes of ensuring
	national security (which includes sectors of strategic
	significance) and public order, against any occupations or locations of stay of workers representing other member
	states.
	In accordance with the Rules and Terms of Issue of Work
	Permits to Foreign Workers, as well as Employer Permits to
	Employ Foreign Workforce and Foreign Workers Transferred
	by Means of the Intra-Company Transfer, approved by the
	Resolution of the Government of the RK of 13 January 2012
	No. 45, the Parties to the Agreement shall be exempt from
	the provisions that set quotas for the foreign workforce and
	issuance of work permits to foreign workers and employer
	permits employ foreign workforce.
	Ministry of Healthcare and Social Development of the RK has
	developed the Draft Law of the RK "On ratification of the
	Agreement on the Procedure of Investigating Industrial
	Accidents Involving Citizens of a Member State of the
	Eurasian Economic Community in Worker Capacity in
	Another Member State of the Eurasian Economic
	Community". Currently the Draft Law is undergoing
	coordination and clearance with state stakeholders and
	accredited organisations.
8. We recommend to reform the system of permit-	For the purpose of the legalisation of migrant workers, in
based employment procedure in the RK. Permits	December 2013 the Law of the Republic of Kazakhstan "On
should be issued on a parity basis also to migrant	amendments and additions in some legislative acts of the
workers along with employers. It is precisely the	Republic of Kazakhstan on the issues of labour migration"
complex annual procedure of quota setting,	was enacted.
followed by the issuance of permits to employers	The Law governs stay and work activities of migrant

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who, under these permits, employ foreign workers,	workers holding citizenship in countries with which the
who, under these permits, employ foreign workers, that creates bureaucratic barriers and corruption risks.	workers holding citizenship in countries with which the Republic of Kazakhstan has entered into agreements on visa- free entry and stay, and arriving in Kazakhstan for purposes of carrying out works (rendering services) for private citizens employing them as domestic workers. As part of the implementation of the Law in 2015, the internal affairs bodies issued 141,254 permits, in 2014 — 72,555 permits. Permits issued by internal affairs bodies enable a migrant worker to engage in work activities for a time period specified in their application; said time period can last one, two or three months. The maximum period of uninterrupted temporary residence of a migrant worker in the Republic of Kazakhstan shall not exceed twelve months. To obtain a permit one must make a preliminary payment of the individual income tax in the amount of 2 monthly calculation indexes for each month of the permit period. The Law of the RK of 27 October 2015 "On amendments and additions to some legislative acts of the Republic of Kazakhstan in light of the country's accession to the World Trade Organisation" introduced changes to the Laws of the Republic of Kazakhstan "On employment" and "On migration" with respect to the procedure of conducting
	intra-company transfers (ICT) of foreign workers to the Republic of Kazakhstan.
	The Republic of Kazakhstan has accepted the following obligations regarding the liberalisation of the entry and temporary stay regimes for persons transferred via ICT:
	upon the country's accession to the WTO, quotas annually adopted by the Government of the RK toward persons
	transferred via ICT shall be abolished; 5 years after the accession to the WTO, foreign companies shall no longer be required to pass the economic feasibility
	test to utilise ICT;

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	32 persons transferred through ICT shall be given the opportunity to extend the 3-year stay by 1 year provided that they pass the economic feasibility test upon the expiry fo the 3-year period. Currently the stay period for foreign specialists equals 3 years under the annually issued work permits; a 50% limitation on the employment of foreign managers and specialists within a single company shall be imposed. Furthermore, in order to improve the procedure of employing foreign workers, in November 2015 the Parliament of the Republic of Kazakhstan enacted the Law of the RK "On amendments and additions to some legislative acts of the Republic of Kazakhstan concerning migration and employment" (hereinafter – the Law). The Law provides for the simplification of procedures of employment of foreign workforce by employers through paid permits and abolition of a number of requirements imposed on employers upon application for the permit. Also changes have been made to no longer require employers to obtain permits for foreign workers employed in the territory of special economic zones, with the total project cost exceeding one million monthly calculation indexes, during the construction and assembly works in special economic zones, and at the close of one year following the commissioning of a project. Furthermore, changes and additions have been introduced to the Rules and Terms of Issue of Work Permits to Foreign Workers, as well as Employer Permits to Employ Foreign
	Workers, as well as Employer Permits to Employ Foreign Workforce (Resolution of the Government of the RK of 28
	October 2015, No. 844), with respect to the abolition of
	special terms of issue of permits if a foreign worker is
0 Improve interaction between supert	engaged as a top manager or deputy top manager.
9. Improve interaction between expert	Under the auspices of the Collective Security Treaty
communities, civil society institutions and state	Organisation (hereinafter — CSTO), every year, in two
authorities of the RK in the field of migration	stages, authorities conduct a special operation called "Illegal

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relations with counterparts from CIS and EAEU member states.		alien" to combat illegal migration of foreign nationals and human trafficking, conducted concurrently in all member states of the Organisation. By the decision of heads of CIS states of 10 October 2014, the Programme for Cooperation of the Member States of the Commonwealth of Independence States Against Illegal Migration for 2015–2019 was approved. Using the existing contractual and legislative framework, close cooperation was successfully established between law enforcement agencies of CIS member states as well as EAEU, both on a bilateral and multilateral basis. Experts representing civil society and state authorities of the RK actively participate in round tables, seminars, conferences concerning the protection of migrant workers, as well as the implementation of international standards in the national legislation. National human rights organisations of countries of destination and origin coordinate and interact on the issues
10. Develop and adopt the Administrative Procedure Code of the Republic of Kazakhstan.		of protecting rights of vulnerable migrants.The Supreme Court of the RK has developed draft Administrative Procedure Code of the RK (APC). On 16 October 2015 the APC Concept was approved by the Inter-Agency Lawmaking Commission under the Government of the RK. Yet, at this point, efforts to develop and discuss the APC Draft are postponed as a result of its exclusion from the 2016 Plan of Draft Law Development of the Government of the RK until the concept model of administrative justice is defined.
	Recommendations of	Chapter 3 of the Special Report
1. We recommend reforming the system of permit- based employment procedure in the RK. Permits		For the purpose of the legalisation of migrant workers, in December 2013 the Law of the Republic of Kazakhstan "On

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should be issued on a parity basis also to migrant	amendments and additions in some legislative acts of the
workers along with employers. It is precisely the	Republic of Kazakhstan on the issues of labour migration"
complex annual procedure of quota setting,	was enacted.
followed by the issuance of permits to employers	The Law governs stay and work activities of migrant workers
who, under these permits, employ foreign workers,	holding citizenship in countries with which the Republic of
that creates bureaucratic barriers and corruption	Kazakhstan has entered into agreements on visa-free entry
risks.	and stay, and arriving in Kazakhstan for purposes of carrying
	out works (rendering services) for private citizens employing
	them as domestic workers.
	As part of the implementation of the Law in 2015, the
	internal affairs bodies issued 141,254 permits, in 2014 —
	72,555 permits.
	Permits issued by internal affairs bodies enable a migrant
	worker to engage in work activities for a time period
	specified in their application; said time period can last one,
	two or three months.
	The maximum period of uninterrupted temporary residence
	of a migrant worker in the Republic of Kazakhstan shall not
	exceed twelve months.
	To obtain a permit one must make a preliminary payment of
	the individual income tax in the amount of 2 monthly
	calculation indexes for each month of the permit period.
	The Law of the RK of 27 October 2015 "On amendments and
	additions to some legislative acts of the Republic of
	Kazakhstan in light of the accession of the Republic of
	Kazakhstan to the World Trade Organisation" introduced
	changes into the Laws of the Republic of Kazakhstan "On
	employment" and "On migration" with respect to the
	procedure of conducting intra-company transfers of foreign
	workers to the Republic of Kazakhstan.
	The Republic of Kazakhstan has accepted the following
	obligations regarding the liberalisation of the entry and
	temporary stay regimes for persons transferred via ICT:
	upon the country's accession to the WTO, quotas annually
	adopted by the Government of the RK toward persons

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transferred via ICT shall be abolished;
5 years after the accession to the WTO, foreign companies
shall no longer be required to pass the economic feasibility
test to utilise ICT;
persons transferred through ICT shall be given the
opportunity to extend the 3-year stay by 1 year provided
that they pass the economic feasibility test upon the expiry
fo the 3-year period. Currently the stay period for foreign
specialists equals 3 years under the annually issued work
permits;
a 50% limitation on the employment of foreign managers
and specialists within a single company shall be imposed.
Furthermore, for purposes of improving the procedure of
employing foreign workers in November 2015 the
Parliament of the RK approved the Law of the RK "On
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employment of foreign workforce by employers through
paid permits and abolition of a number of requirements
imposed on employers upon application for the permit.
Also changes have been made to no longer require
employers to obtain permits for foreign workers employed
in special economic zones, with the total project cost
exceeding one million monthly calculation indexes, during
the construction and assembly works in special economic
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Workforce (Resolution of the Government of the RK of 28
October 2015, No. 844), with respect to the abolition of
special terms of issue of permits if a foreign worker is

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	engaged as a top manager or deputy top manager.
2. We recommend the national human rights organisations of countries of destination and origin to coordinate and interact on the issues of protecting rights of migrants.	Chigageous a top manager of deputy top manager.Under the auspices of the Collective Security Treaty Organisation (hereinafter — CSTO), every year, in two stages, authorities conduct a special operation called "Illegal Alien" to combat illegal migration of foreign nationals and human trafficking, conducted concurrently in all member states of the Organisation. By the decision of heads of CIS states of 10 October 2014, the Programme for Cooperation of the Member States of the Commonwealth of Independence States Against Illegal Migration for 2015–2019 was approved. Using the existing contractual and legislative framework, close cooperation was successfully established between law enforcement agencies of CIS member states as well as EAEU, both on bilateral and multilateral basis. Experts representing civil society and state authorities of the RK actively participate in round tables, seminars, conferences concerning the protection of migrant workers, as well as the implementation of international standards in the national legislation. National human rights organisations of countries of destination and origin coordinate and interact on the issues of protecting rights of vulnerable migrants.
3. In order to improve the migration policy in the area of protecting the rights of migrant workers, we recommend creating a permanent inter-agency working group under the Ministry of Labour and Social Protection of Population.	For the purpose of preparing proposals regarding the improvement of the procedure and the terms of issuance and (or) extension, termination of employer permits to employ foreign workforce, as well as to engage intra- company transfer, a working group has been created under the Ministry of Healthcare and Social Development of the RK by the order of the Minister of24 March 2016 No. 216. The working group is composed of representatives of the "Kazakhstan Council of Foreign Investors" Association, international organisations, government stakeholders. Inter-agency working group for discussing relevant migration policy issues has also been created under MIA RK.
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4. In order to govern the pension coverage of migrant workers, which includes mandatory pension contributions, we recommend to consider the issues of entering into bilateral contracts establishing a mechanism of pension contribution transfers (withholding, transfer, conversion).	
5. In order to prevent illegal migration, we recommend that a Uniform Migrant Worker Database under MIA and MLSP of the RK be created, containing migrants' personal data, information on their health status, and any offences committed in violation of the Code of Administrative Procedures and the Criminal Code of the RK.	Currently, for purposes of reinforcing the control over foreign workers, efforts are being made to integrate the automated information system known as "Foreign Workforce" with information systems of any relevant state bodies ("Berkut" single information system, Migration Police), mechanisms are being developed to introduce biometric control systems intended for foreign nationals. The Ministry of Foreign Affairs of the RK is currently looking into the implementation of a comprehensive migration control system S5-Systems. This would make it possible to track foreign nationals' movement at a qualitatively new level of technological sophistication. Following the implementation of this system, the registration procedure will become virtually unnoticeable for foreign nationals, allowing them to completely avoid any contact with law enforcement agencies.
6. In order to foster and develop tolerant interethnical and interreligious relations, improve migrants' capacity for intercultural communication, we recommend that coordinated migrant adaptation and integration programmes and events be developed.	State of partial implementation was achieved for the recommendation 6 of Chapter 3 of the Special Report, prescribing the development of migrant adaptation and integration programmes and events in order to foster and develop tolerant interethnical and interreligious relations. In order to foster and develop tolerant and interreligious relations and interreligious relations and interreligious relations and improve migrants' capacity for intercultural communication, the Assembly of People of

		38 Kazakhstan, jointly with CHR, MHSD RK and MCS RK and NGOs, has held multiple round tables, seminars and conferences. MHSD RK jointly with the IOM Mission in the RK and NGOs has made awareness raising efforts on the topic of adaptation and integration of migrant workers in Kazakhstan.
		With the participation of relevant state bodies and civil society, the Assembly of People of Kazakhstan has developed and adopted the Doctrine of National Unity approved by the President of the Republic of Kazakhstan. The "Myangilik El" National Programme ("Eternal Nation") created by the President is also focused on reinforcing and fostering tolerant interethnical and interreligious relations in Kazakhstan.
7. We recommend following the example of Russia when it comes to forging relationships with international and non-governmental organisations in migrants' countries of origin — Kyrgyzstan and Tajikistan — for purposes of preparing migrants prior to their departure (focusing on Kazakhstan). Short-term preparatory seminars could provide legal and socio-cultural information facilitating the initial orientation of a migrant following their arrival in the RK. It is also advisable to arrange for Kazakh and Russian language courses as well as basic professional training for Kazakhstan-bound migrants.		
8. We recommend creating and introducing a modern national system for border and migration		Currently, for purposes of reinforcing the control over foreign workers, efforts are being made to integrate the

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control and a network of temporary detention facilities for foreign nationals, persons without citizenship, persons without a legal status, within the framework of checkpoints of the Border Service of the Republic of Kazakhstan.	automated information system known as "Foreign Workforce" with information systems of any relevant state bodies ("Berkut" single information system, Migration Police), mechanisms are being developed to introduce biometric control systems intended for foreign nationals. The Ministry of Foreign Affairs of the RK is currently looking into the implementation of a comprehensive migration control system — S5-Systems. This would make it possible to track foreign nationals' movement at a qualitatively new level of technological sophistication. Following the implementation of this system, the registration procedure will become virtually unnoticeable for foreign nationals, allowing them to completely avoid any contact with law enforcement agencies.
9. We recommend creating an open and accessible system for effective awareness raising among foreign nationals, stateless persons and migrant workers regarding the rules of entry and staying in the Republic of Kazakhstan, on the migration legislation, labour and social rights in the nation of deployment, culture and customs, language training programmes and courses.	MIA RK and its regional branches jointly with the Border Service of the National Security Committee of the RK have created an accessible system for awareness raising among foreign nationals, stateless persons and migrant workers regarding the rules of entry and staying in the Republic of Kazakhstan, the migration legislation of the RK. With the assistance provided by IOM's Mission in Kazakhstan, "Sana-Sezim" NGO and other specialised NGOs have published booklets on the labour and social rights of migrant workers. MHSD RK, via mass media, has disseminated information concerning pension contributions in the RK and the operations of the Unified Accumulative Pension Fund. MES RK has also utilised mass media to disseminate information regarding free Kazakh language courses.
10. We recommend making joint efforst with NGOs to create the institution of public control over the	In light of the enactment of the Law of the RK "On public councils", public councils have been established under the

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activities of authorised state bodies governing the migrant issues.	MIA RK and its territorial branches to put in practice public control over the activities of internal affairs bodies, including migration police bodies.
11. To MLSPP, MEBP, MJ, MES RK, akimats of the cities of Astana and Almaty, Almaty Oblast, Zhambyl Oblast, Karaganda Oblast, Mangistau Oblast, Atyrau Oblast and South Kazakhstan Oblast we recommend that in the regional budget a package of social public procurement be provided for NGOs engaged in protecting the rights of migrant workers and their family members.	In the budgets of MHSD RK, MNE RK, akimats of the cities of Astana and Almaty, Zhambyl Oblast, Akmola oblast, East Kazakhstan Oblast, Karaganda Oblast and Mangistau Oblast, funds have been earmarked as part of social public procurement for NGOs engaged in addressing pressing issues of migration and migrant worker rights protection. However, in 2012–2015, in the budgets of Almaty Oblast, Atyrau Oblast and South Kazakhstan Oblast no funds were earmarked as part of social public procurement by the state for funding the activities of NGOs engaged in the protection of rights of migrant workers and their family members.
12. We recommend that MTSPP RK and the Agency of the RK for statistics conduct a special investigation to identify the percentage of illegal labour migration in Kazakhstan.	MHSD RK and MNE RK have conducted special investigations into internal and external migration in the RK as well as into the percentage of illegal labour migration in Kazakhstan.
13. We recommend organising best practice exchange programmes for prevention of illegal migration and protection of rights of migrant workers, drawing from experience of the US, Canada, European Union states and Asia.	In order to exchange best practices for prevention of illegal migration and protection of rights of migrant workers, Internal Affairs staff and NGOs attend events both in Kazakhstan and abroad. IOM Mission in the RK, OSCE Programme Office in Astana and specialised NGOs on a regular basis hold educational seminars aimed at preventing illegal migration and protecting migrant workers' rights. To participate in experience exchanges in the area of preventing illegal migration, law enforcement personnel and NGO representatives have had multiple visits to the US,

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		United Kingdom, Sweden, Serbia and other European Union states.
14. All the draft state programmes and concepts, laws and other regulatory legal acts concerning migration, must undergo preliminary public expert examination and public discussion with the wide involvement of civil society organisations.		Draft state programmes and concepts, laws and other regulatory legal acts concerning migration have undergone preliminary public expert examination. Civil society organisation representatives regularly participated in discussing draft laws and other regulatory legal acts. In view of the enactment of the Law of the RK "On public councils" of 2 November 2015, draft regulatory legal acts are subject to mandatory discussion at public council meetings.
	Recommendations of C	hapter 4 of the Special Report
 To MLSPP RK we recommend diversifying the forms and mechanisms of issuing work permits for foreign workforce. To MLSPP RK and MEBP RK we recommend that special attention be paid to the actual presence in 		For the purpose of the legalisation of migrant workers, in December 2013 the Law of the Republic of Kazakhstan "On amendments and additions in some legislative acts of the Republic of Kazakhstan on the issues of labour migration" was enacted.
the Kazakhstani labour market of a large percentage of self-employed migrant workers engaged in sole proprietorship without registering as legal entities. There is a need to classify them as migrant workers, in accordance with the International Convention on		The Law governs stay and work activities of migrant workers holding citizenship in countries with which the Republic of Kazakhstan has entered into agreements on visa-free entry and stay, and arriving in Kazakhstan for purposes of carrying out works (rendering services) for private citizens employing
the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted by the UN General Assembly in 1990. The Convention stipulates: "the term "self-employed worker" refers to a migrant worker who is engaged in a		them as domestic workers. As part of the implementation of the Law in 2015, the internal affairs bodies issued 141,254 permits, in 2014 — 72,555 permits. Permits issued by internal affairs bodies enable a migrant
remunerated activity otherwise than under a contract of employment and who earns his or her		worker to engage in work activities for a time period specified in their application; said time period can last one,

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living through this activity normally working alone or	two or three months.
together with members of his or her family, and to	The maximum period of uninterrupted temporary residence
any other migrant worker recognized as self-	of a migrant worker in the Republic of Kazakhstan shall not
employed by applicable legislation of the State of	exceed twelve months.
employment or bilateral or multilateral	To obtain a permit one must make a preliminary payment of
agreements".	the individual income tax in the amount of 2 monthly
Kazakhstan's acceptance of self-employed migrants	calculation indexes for each month of the permit period.
on the legislative level will enable their entry into	The Law of the RK of 27 October 2015 "On amendments and
the legal boundaries of Kazakhstan, thereby	additions to some legislative acts of the Republic of
reducing the possibilities for the abuse of their	Kazakhstan in light of the accession of the Republic of
unregistered status.	Kazakhstan to the World Trade Organisation" introduced
	changes into the Laws of the Republic of Kazakhstan "On
	employment" and "On migration" with respect to the
	procedure of conducting intra-company transfers of foreign
	workers to the Republic of Kazakhstan.
	The Republic of Kazakhstan has accepted the following
	obligations regarding the liberalisation of the entry and
	temporary stay regimes for persons transferred via ICT:
	upon the country's accession to the WTO, quotas annually
	adopted by the Government of the RK toward persons
	transferred via ICT shall be abolished;
	5 years following the accession to the WTO, foreign
	companies shall no longer be required to pass the economic
	feasibility test to utilise ICT;
	persons transferred through ICT shall be given the
	opportunity to extend the 3-year stay by 1 year provided
	that they pass the economic feasibility test upon the expiry
	fo the 3-year period. Currently the stay period for foreign
	specialists lasts 3 years under the annually issued work
	permits;
	a 50% limitation on the employment of foreign managers
	and specialists within a single company shall be imposed.
	Furthermore, for purposes of improving the procedure of
	employing foreign workers in November 2015 the
	Parliament of the RK approved the Law of the RK "On

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	Republ employ The La employ paid p impose Also c employ in spe exceed the co zones, commi Further to the Worke Workfo Octobe special	ments and additions to some legislative acts of the ic of Kazakhstan with respect to migration and ment" (hereinafter — the Law). w provides for the simplification of procedures of ment of foreign workforce by employers through ermits and abolition of a number of requirements ed on employers upon application for the permit. hanges have been made to no longer require vers to obtain permits for foreign workers employed cial economic zones, with the total project cost ing one million monthly calculation indexes, during nstruction and assembly works in special economic and at the close of one year following the ssioning of a project. rmore, changes and additions have been introduced Rules and Terms of Issue of Work Permits to Foreign rs, as well as Employer Permits to Employ Foreign prece (Resolution of the Government of the RK of 28 er 2015, No. 844), with respect to the abolition of terms of issue of permits if a foreign worker is ed as a top manager or deputy top manager.
2. Current practice of only allowing Kazakhstani employers to obtain employment permits is not always most efficient, considering today's external migration circumstances. As an alternative to the existing Rules enacted by the MLSPP RK, we recommend developing rules that would enable foreign workforce to obtain legal work permits on their own. It is advisable to study the Russian Federation's experience with respect to the implementation of a patent system for migrant workers.	Decem amend Republ was en The worker Republ free en of carry employ As par	e purpose of the legalisation of migrant workers, in ber 2013 the Law of the Republic of Kazakhstan "On ments and additions in some legislative acts of the ic of Kazakhstan on the issues of labour migration" acted. Law governs stay and work activities of migrant s holding citizenship in countries with which the ic of Kazakhstan has entered into agreements on visa- ntry and stay, and arriving in Kazakhstan for purposes ying out works (rendering services) for private citizens ying them as domestic workers. t of the implementation of the Law in 2015, the il affairs bodies issued 141,254 permits, in 2014 —

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72,555 permits. Permits issued by internal affairs bodies enable a migrant worker to engage in work activities for a time period specified in their application; said time period can last one, two or three months. The maximum period of uninterrupted temporary residence of a migrant worker in the Republic of Kazakhstan shall not exceed twelve months. To obtain a permit one must make a preliminary payment of the individual income tax in the amount of 2 monthly calculation indexes for each month of the permit period. The Law of the RK of 27 October 2015 "On amendments and additions to some legislative acts of the Republic of Kazakhstan in light of the accession of the Republic of Kazakhstan to the World Trade Organisation" introduced changes into the Laws of the Republic of Kazakhstan "On employment" and "On migration" with respect to the procedure of conducting intra-company transfers of foreign
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5 years following the accession to the WTO, foreign companies shall no longer be required to pass the economic feasibility test to utilise ICT; persons transferred through ICT shall be given the opportunity to extend the 3-year stay by 1 year provided that they pass the economic feasibility test upon the expiry fo the 3-year period. Currently the stay period for foreign specialists lasts 3 years under the annually issued work permits; a 50% limitation on the employment of foreign managers

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	and specialists within a single company shall be imposed.
	Furthermore, for purposes of improving the procedure of
	employing foreign workers in November 2015 the
	Parliament of the RK approved the Law of the RK "On
	amendments and additions to some legislative acts of the
	Republic of Kazakhstan with respect to migration and
	employment" (<i>hereinafter — the Law</i>).
	The Law provides for the simplification of procedures of
	employment of foreign workforce by employers through
	paid permits and abolition of a number of requirements
	imposed on employers upon application for the permit.
	Also changes have been made to no longer require
	employers to obtain permits for foreign workers employed
	in special economic zones, with the total project cost
	exceeding one million monthly calculation indexes, during
	the construction and assembly works in special economic
	zones, and at the close of one year following the
	commissioning of a project.
	Furthermore, changes and additions have been
	introduced to the Rules and Terms of Issue of Work Permits
	to Foreign Workers, as well as Employer Permits to Employ
	Foreign Workforce (Resolution of the Government of the RK
	of 28 October 2015, No. 844), with respect to the abolition
	of special terms of issue of permits if a foreign worker is
	engaged as a top manager or deputy top manager.
3. As evidenced by the migration legislation of the	For the purpose of the legalisation of migrant workers, in
Russian Federation, a patent can be utilised to	December 2013 the Law of the Republic of Kazakhstan "On
perform works or render services for personal,	amendments and additions in some legislative acts of the
household or other such purposes not related to	Republic of Kazakhstan on the issues of labour migration"
entrepreneurial activities. The institution of the	was enacted.
patent on the legislative level will reduce the illegal	The Law governs stay and work activities of migrant workers
migrant labour rates and increase internal tax	holding citizenship in countries with which the Republic of
revenue of the country. The patent system will also	Kazakhstan has entered into agreements on visa-free entry
clarify the labour migration statistics. As such, we	and stay, and arriving in Kazakhstan for purposes of carrying
recommend the Government and the Parliament of	out works (rendering services) for private citizens employing

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the Republic of Kazakhstan to accelerate the	them as domestic workers.
enactment of the Law of the RK "On amendments	As part of the implementation of the Law in 2015, the
and additions in some legislative acts of the	internal affairs bodies issued 141,254 permits, in 2014 —
Republic of Kazakhstan on the issues of labour	72,555 permits.
migration";	Permits issued by internal affairs bodies enable a migrant
in the draft law on labour migration introduce a	worker to engage in work activities for a time period
regulation that would enable a foreign worker to	specified in their application; said time period can last one,
directly acquire a permit under a simplified	two or three months.
procedure from territorial branches of the	The maximum period of uninterrupted temporary residence
authorised body for migration, in order to	of a migrant worker in the Republic of Kazakhstan shall not
commence work in the employ of natural persons.	exceed twelve months.
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		engaged as a top manager or deputy top manager.
4. We recommend MIA RK to simplify and make more accessible the mechanism of temporary registration of foreign nationals from countries with		For the purpose of the legalisation of migrant workers, in December 2013 the Law of the Republic of Kazakhstan "On amendments and additions in some legislative acts of the
which Kazakhstan has a visa-free regime. There exists a need to make registration notification-based and extend the duration of temporary registration.		Republic of Kazakhstan on the issues of labour migration" was enacted. The Law governs stay and work activities of migrant workers

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Furthermore, we recommend MIA RK to expand the	holding citizenship in countries with which the Republic of
status of incoming foreign nationals to reflect the	Kazakhstan has entered into agreements on visa-free entry
period of stay and the activities in Kazakhstan.	and stay, and arriving in Kazakhstan for purposes of carrying
Study results demonstrate that a single migrant	out works (rendering services) for private citizens employing
works in Kazakhstan for 4–5 years on average. Yet, a	them as domestic workers.
migrant is not able to prove such a period of stay.	As part of the implementation of the Law in 2015, the
We recommend that MIA RK develop a mechanism	internal affairs bodies issued 141,254 permits, in 2014 —
that would take into account subsequent	72,555 permits.
registration of foreign nationals arriving from	Permits issued by internal affairs bodies enable a migrant
neighbouring countries, so as to enable monitoring	worker to engage in labour for a time period specified in
the actual total period of stay in Kazakhstan.	their application; said time period can last one, two or three
·····	months.
	The maximum period of uninterrupted temporary residence
	of a migrant worker in the Republic of Kazakhstan shall not
	exceed twelve months.
	To obtain a permit one must make a preliminary payment of
	the individual income tax in the amount of 2 monthly
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in special economic zones, with the total project cost
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October 2015, No. 844), with respect to the abolition of
special terms of issue of permits if a foreign worker is
engaged as a top manager or deputy top manager.

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5. Due to the fact that a large proportion of migrant workers stay in Kazakhstan with their families, it is possible that they contemplate longer-term strategies of stay. It then follows that such migrants need to be adapted and integrated into the Kazakhstan society and liberated from their marginal status; also, it becomes important to avoid the emergence of permanent migrant enclaves in cities of the Republic.	The matters of the integration of migrants and their family members into the Kazakhstani society, the prevention of their marginalisation and the avoidance of the emergence of permanent migrant enclaves in cities of the Republic are being deliberated by the authorised state bodies. MNE RK, CHR and MHSD RK have prepared the corresponding analytical reports and notes on the integration of migrants that reside in Kazakhstan for prolonged periods of time together with their families.
6. We recommend MLSPP RK and the Agency of the RK for Statistics to conduct a special investigation into the percentage of illegal labour migration into Kazakhstan.	MHSD RK and MNE RK have conducted special investigations into internal and external migration in the RK as well as into the percentage of illegal labour migration in Kazakhstan.
7. We recommend MLSPP RK jointly with NGOs and entrepreneur associations to disseminate among migrant workers information regarding voluntary pension contributions in form of booklets, brochures and mass media.	MIA RK and its regional branches jointly with the Border Service of the National Security Committee of the RK have created an accessible system for awareness raising among foreign nationals, stateless persons and migrant workers regarding the rules of entry and staying in the Republic of Kazakhstan, the migration legislation of the RK. With the assistance provided by IOM's Mission in Kazakhstan, "Sana-Sezim" NGO and other specialised NGOs have published booklets on the labour and social rights of migrant workers. MHSD RK, via mass media, has disseminated information concerning pension contributions in the RK and the operations of the Unified Accumulative Pension Fund. MES RK has also utilised mass media to disseminate information regarding free Kazakh language courses.
8. MES Rk jointly with NGOs should raise awareness	The Children Rights Committee under MES RK, in

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among migrant workers concerning the inalienable right of migrants' children to receive secondary education.	cooperation with the UNICEF Office in Kazakhstan, IOM's Mission in the RK, CHR and NGOs, has conducted multiple awareness raising campaigns among migrant workers on the inalienable right of migrant children to receive secondary education.
9. Pursuant to article 35 of the Law of the Republic of Kazakhstan "On migration", foreign workers are obliged to have medical insurance. Pursuant to the Rules of Providing Medical Care to Immigrants ³ of the Ministry of Healthcare of the RK, medical services not included in the Guaranteed Volume of Free Medical Care shall be rendered on a paid basis, including those rendered under voluntary medical insurance or at the expense of the employer. We recommend MLSPP RK and MH RK, in cooperation with NGOs and insurance companies, to raise awareness among migrant workers regarding the voluntary medical insurance.	MLSPP RK jointly with NGOs and insurance companies have made efforts to raise awareness among migrant workers regarding the voluntary medical insurance. Furthermore, in 2016 the Law of the RK "On compulsory social medical insurance" was enacted. Pursuant to clause 2 of article 2 of this Law, foreign nationals and persons without citizenship with permanent residence in the RK, as well as oralmans, exercise rights and perform duties under the compulsory social medical insurance system on equal footing with the citizens of the RK.
10. We recommend developing the infrastructure of licensed private employment agencies, recruiting agencies engaged in job searches and employment of migrant workers.	As of 1 March 2016, there were 58 active private employment agencies in Kazakhstan. Private employment agencies, as legal entities, go through the registration process at judicial bodies of the RK under the procedure prescribed by the law, operate in all regions of the RK and are actively engaged in recruitment and employment.
11. We recommend non-governmental and international organisations to continue their efforts to enhance the level of legal literacy among migrant workers.	IOM Mission in the RK, OSCE Programme Office in Astana and specialised NGOs are actively engaged in improving legal literacy among migrant workers.

³Order of the Minister of Healthcare of the Republic of Kazakhstan of 30 September 2011 No. 665.

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i	implemen	partially	being	not	
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	(54%)	ed — 10	ed — 3	ted — 3	
		(28%)	(9%)	(9%)	

Findings of the analysis of the Implementation of the Special Report's Recommendations

Comparative analysis of the Secretariat of the Commission on Human Rights under the President of the RK demonstrates that as of 1 October 2016 the implementation progress for the recommendations of the Special Report of the Commission for the Protection of Migrant Worker Rights was at 54% on average, meaning that out of 35 recommendations of the Commission, 19 recommendations were fully completed.

10 recommendations were partially implemented, amounting to 28% of all the recommendations of the Commission.

Three recommendations were at the time in the process of development and implementation, amounting to 9% of all the recommendations of the Commission.

Three recommendations were not implemented at all, which amounted to 9% of all the recommendations of the Commission.

At present, the Government and the competent authorities of the RK, specialised NGOs continue their efforts focused on the practical implementation of partially implemented and unimplemented recommendations of the Special Report of the Commission.

Recommendations of Chapter 2 of the Analytical Report

We recommend the Government, competent authorities and NGOs of the Republic of Kazakhstan to continue working on the implementation of the remaining unimplemented recommendations of the Special Report of the Commission "On the Situation with the Rights of Migrants in the Republic of Kazakhstan" approved by the President of the Republic of Kazakhstan of 27 March 2013, No. 32-46.104.

Chapter III. Analysis of the Migrant Workers Rights Situation in the Republic of Kazakhstan

1. Concerning the state of legality in migration relations and human rights implementation

Migration policy is one of the strategic areas of the state policy of the Republic of Kazakhstan.

In accordance with the universally accepted international standards, a legal framework to regulate the migration issues was established in Kazakhstan.

According to Article 4 of the Law of the Republic of Kazakhstan "On migration", one of the main principles the state policy in the area of population migration consists in recognising and guaranteeing the rights and freedoms of migrants in accordance with the Constitution of the Republic of Kazakhstan, laws and international treaties.

The main objectives of the state policy in the area of migration are the protection of the rights and freedoms of migrants; international cooperation in the regulation of migration processes and the prevention and suppression of illegal migration.

According to Article 58 of the Law of the Republic of Kazakhstan "On migration" entry of immigrants into the territory of the Republic of Kazakhstan shall be made possible on condition that they meet the requirements of the legislation of the Republic of Kazakhstan that governs the procedure for entry, exit, stay and travel in transit, as well as international treaties ratified by the Republic of Kazakhstan.

Nursultan Nazarbayev, President of the Republic of Kazakhstan, in his Address to the Nation of Kazakhstan entitled "Strategy Kazakhstan 2050: a New Course of the Established State" of 14 December 2012 named ten main global challenges of the 21st century relevant to the Republic of Kazakhstan and the region. One of such challenges is the global demographic imbalance.

The global demographic imbalance increases every day. Low birth rates and ageing in many countries inevitably cause problems in the labour market including workforce shortage.

Over the last sixty years the Earth population has tripled and is expected to reach 9 billion people by 2050. The disparity between population size and population growth rates in developed and developing countries is rapidly increasing.

The growing demographic imbalance generates new waves of migration and increases social tensions worldwide.

Certain regions of Kazakhstan face unregulated migration pressure where illegal immigrants destabilise local labour markets.

The provisions of the Constitution of the Republic of Kazakhstan, bilateral intergovernmental treaties (agreements) between Kazakhstan and other states

concerning extradition, other international obligations of Kazakhstan in the sphere of human rights, are in conformance with international standards.

The Republic of Kazakhstan, in accordance with its Constitution, international commitments in the area of human rights and other regulatory acts, guarantees respect for the human rights in its territory during migration processes.

Nevertheless, the practice shows numerous cases of violation of the country's migration legislation by foreign nationals, migrants, citizens of Kazakhstan, stateless persons and officials.

The problem of illegal migration becomes more and more prominent against the backdrop of the processes happening around the world, and represents a threat to the stability and security of the entire world community.

Kazakhstan is one of the intermediate hubs of transnational channels of illegal migration, which is primarily due to the country's remarkable geographic location immediately on the route to the European countries; it is also a result of the opening in the recent years of new international, air, railway and auto routes, global development of transnational economic, humanitarian, cultural and religious exchange, corrupt practices of some representatives of the country's government authorities, inadequacy of immigration control system as well as considerable length and transparency of borders and maintenance of a free movement regime between the CIS countries. Moreover, a prominent role is played by the instability of the socio-political situation in the countries of origin of migrants, aftermaths of wars and military conflicts, internal political struggle in some countries of Asia and Middle East, growing activity of terrorist and religious extremist organisations.

It should be noted that illegal migration processes still take place at the state border of the Republic of Kazakhstan. Third-country nationals, the Pakistanis, Bangladeshis, Ceylonese, Afghans, Tajiks, Uzbeks etc. travel to Russia through Kazakhstan, illegally crossing the Kazakhstan-Russia border and bypassing checkpoints.

Investigative actions aimed to identify and eliminate illegal migration channels have revealed incessant attempts on the part of illegal migration organisers to find new methods and routes to pass through Kazakhstan. Recurrent instances of involvement of corrupt managers of tourist firms, migration and road police officers and line offices of internal affairs in such offences are welldocumented.

According to the NSC RK (National Security Committee of the Republic of Kazakhstan), corrupt practices of certain civil servants that control the channels for foreigners' entry into Kazakhstan are conducive to the success of criminal groups in arranging illegal migration channels, and in establishing and developing relations with civil servants and enjoying their protection for unimpeded entry, movement and stay of illegal migrants in the territory of Kazakhstan.

There is a tendency towards the growth of illegal labour migration to Kazakhstan, the so called "seasonal migrants". This mainly relates to the citizens of Central Asian countries within CIS — Uzbekistan, Tajikistan and Kyrgyzstan — with slow economic growth rates and low living standards. Due to these factors

the low-income part of the population seeks to leave the country in search of jobs and better living conditions. For a number of objective and subjective reasons, they often have to go abroad and find employment illegally, thus creating jobs deficit at the local labour market, as well as preconditions for the growth of unemployment. Meanwhile, Kazakhstan employers interested in cheap workforce readily hire illegal migrants, aggravating the situation in the labour market and underpaying significant amounts of taxes to the country's budget. Citizens of Tajikistan, Uzbekistan and Kyrgyzstan coming to Kazakhstan and searching for jobs are often fall prey to deception, fraud and exploitation on the part of employers. Agreeing to perform works without entering into contracts with persons who do not have corresponding licences, while staying in Kazakhstan illegally, makes these migrants potential victims exposed to similar criminal infringements.

Illegal labour migration and searching for effective ways of its regulation constitute one of the most pressing issues of the immigration policy of Kazakhstan. Making appropriate and timely decisions in this area can enable the country to harness the positive impact of immigration flows on economic development, demographic situation and migration security of the country. The main objectives in this context are not limited to only the strengthening of measures to eliminate illegal migration, but also include the creation of a favourable environment for the expansion of legal labour migration and legalisation of migrant workers.

2. Migration processes in the Republic of Kazakhstan

In the period from 1991 to 1 January 2016, 261,104 families or 957,772 ethnic Kazakhs returned to their historical homeland and obtained the oralman status, making up 5.1% of the total population of the country.

Most oralmans — 61,6% — came from Uzbekistan; 14.2% — from China; 9.2% — from Mongolia; 6.8% — from Turkmenistan; 4.6% — from Russia; 3.6% — from other countries.

According to the Ministry of Health and Social Development of the Republic of Kazakhstan (MHSD RK) the largest number of oralmans have settled in South-Kazakhstan (21.2%), Almaty (16.3%), Mangistau (13%), Zhambyl (9.4%) oblasts, and the rest — in other regions (40.1%). Half of all oralmans (55.6%) are of working age, and the rest are is minors under 18 years of age (39/9%) and pensioners (4.5%).

8.8% of working-age oralmans have a university degree, 20.6% — a vocational school degree, 60.8% — have finished secondary education and 9.8% are uneducated.

On 24 November 2015 the President of the Republic of Kazakhstan signed the Law of the RK "On amendments to some legislative acts of the Republic of Kazakhstan concerning migration and employment" in line the Plan of the Nation "100 Concrete Steps" with respect to the implementation of five institutional reforms in terms of further improvement of the migration and employment policy.

In order to encourage ethnic Kazakhs to return to their historical homeland, the Law:

grants ethnic Kazakhs the status of oralmans regardless of the region of settlement. Ethnic Kazakhs, unlike foreign citizens, will be able to obtain residence permits by applying to the migration police without proof of solvency;

grants a social package to ethnic Kazakhs in case of settlement in the regions determined by the Government, establishing the oralmans immigration quota. An oralman may also get support when moving from any region of the country to the other regions designated by the Government for settlement;

simplifies the procedure for obtaining citizenship to one year after obtaining a residence permit.

It is worth noting that over a million of foreigners are registered annually with the internal affairs bodies of the Republic of Kazakhstan. Up to 5 million persons travel in transit or stay in the country for less than 5 days and are not subject to registration.

For reference: 1 million and 380 thousand of foreigners (+31,1) were registered in 2015. 84% of them (1,164 thousand) were citizens of the CIS countries (+36,6%), most of them were citizens of Uzbekistan (797.9 thousand), Russia (166.2 thousand) and Kyrgyzstan (114.4 thousand).

Most of immigrants from non-CIS countries (217.5 thousand,+8,0%) were citizens of China (103.4 thousand) and Turkey (51.3 thousand).

There is still a growing number of citizens of Central Asian countries, most of whom are searching for jobs.

One of the important steps became the regularisation of the status of migrant workers, which also proves to be an effective method of combating illegal migration. Amendments were made to the legislation to simplify the procedure for obtaining work permits by individuals coming from the CIS countries (the Law "On introducing of changes and additions to some legislative acts concerning labour migration" providing for a simplified work permits issuance procedure).

At present, full-scale efforts are underway to legalise migrant workers.

In 2014, 72,000 foreign nationals were brought back from the "shadow sector" of the economy, in 2015 — over 140,000, and this figure continues to grow. The state earned over 1.3 billion tenge through taxes alone in 2015.

Having obtained the official status and legal income, foreign workers try to avoid breaching the national legislation. This contributes to the prevention of offences associated with them.

Currently the country has a legal framework that serves to protect foreigners' interests.

16,642 work permits for employment under natural persons were issued in the 1st quarter of 2016. 375 employers were prosecuted under the administrative law for unlawful use of foreign labour.

Penalties for the violation of migration legislation were adjusted in the new versions of the Code of Administrative Offences, the Criminal and Criminal Procedure Codes of the RK: warning is issued for petty offences, deportation is available only through a court decision.

For the 1st quarter of 2016 238,954 foreign citizens were registered with the internal affairs authorities of Kazakhstan, including 41,110 non-CIS nationals and 197,844 nationals of the CIS countries.

20,302 violators of the rules of stay in the RK incurred administrative penalties; 2,336 foreigners were deported from the country.

In addition, immigrants who — under the procedure established by law — reported acts committed against them, and if said acts are considered grave or extremely grave crimes under the Criminal Code of the RK, shall be registered for the period required for the processing of the crime report (Resolution of the Government of the RK No. 190 of 7 April 2016). If the decision to initiate criminal investigation is made as a result of said crime report, registration is extended for the period required for the criminal investigation.

Over the past few years, the foreigner registration procedure has been considerably simplified, and measures were taken to reduce administrative procedures.

Foreign investors are fully exempted from the requirement to register with the migration police.

There is no need to visit police for the citizens of the 48 developed countries. Their registration is made by the Border Service upon the entry into Kazakhstan for the entire period of stay in the country. Re-registration when changing the place of residence is not required.

The same procedure has been introduced for citizens of 19 countries that have the right of visa-free entry for a period of up to 15 days (Resolution of the Government of the RK No.190 of 7 April 2016).

As of 2017 the visa-free regime has been established for the citizens of the 34 member countries of the Organisation for Economic Cooperation and Development (the Constitutional Law "On "Astana" International Financial Centre").

This means that all potential tourists are registered under the simplified procedure which is clearly specified in the legislation.

Information on the registration procedure and required documents has been published on websites of the Ministry of Interior of the RK, Department of Internal Affairs, on the e-government portal as well as on bulletin boards in service rooms of the migration police.

In addition, the citizens of Ukraine are free from registration for up to 90 days from the date of entry into Kazakhstan, and the citizens of Russia and Belarus — up to 30 days. Similar agreements with Kyrgyzstan and Armenia are currently being considered.

Registration with the police is currently required for the citizens of migration-risk countries, as well as countries with a visa-free regime — for the Central Asia region (Uzbekistan, Tajikistan) and Caucasus (Azerbaijan, Georgia).

Registration through the e-government portal is also available.

In 2013 this service was introduced for individuals expecting visitors from abroad. Automated registration has been also made available at all the hotels since 2014.

Since 2016 such a mechanism has been available for all legal entities. To do this, one only needs to have an Internet connection and obtain an electronic digital signature.

If a foreigner changes his/her address, the receiving party can also inform the internal affairs bodies through the web-portal.

This has allowed for the simplification of the procedure and the creation of a favourable environment for foreign nationals, as well as the minimisation of their contacts with police officers, reducing corruption in this sphere.

In accordance with the instruction issued by the Prime Minister of the RK, government authorities (Ministry of Interior, General Prosecutor's Office, National Security Committee, Ministry of Justice, Ministry of National Economy, Ministry of Health and Social Development, Ministry of Investment and Development) have explored the possibility of simplifying the procedure for prosecuting foreign nationals.

After the deliberation, the position of the Ministry of Justice has been supported: decisions on arrest and deportation are found to be infringing upon the basic human rights guaranteed by the Constitution (the right to personal liberty and the right of free movement and free choice of place of residence in the Republic of Kazakhstan). Therefore, in order to ensure impartiality and avoid subjectivity, such decisions should be made by courts.

At the same time, the sanctions imposed for violations of migration legislation are differentiated in the Code of Administrative Offences by the gravity of an offence.

Foreign nationals found in violation of the established deadlines of registration or departure from the Republic of Kazakhstan of up to three days receive a warning; such a decision is made on site by police or border service officers.

Whenever violations of migration legislation punishable by a warning are found at state border checkpoints of the Republic of Kazakhstan, and a foreign national or a stateless person admits guilt, an administrative offence protocol (report) is not drawn up. A foreigner or a stateless person must then leave the country without registration and visa on grounds of a decision made by the internal affairs bodies or by the border service of the NSC.

At the same time, it is not deemed appropriate to provide for any exemptions from registration or from liability for violation of the registration rules.

The migration crisis in Europe is a testament to the fact that the issues of control over the foreigners' stay are intertwined with the issues of ensuring public and national security. Uncontrolled flow of migrants from the Northern Africa and Middle East led to a rapid crime rate growth in a number of countries and transformed the problem into a severe political crisis.

In this regard, Kazakhstan has identified further steps to improve migration control.

The Ministry of Foreign Affairs of the RK is currently looking into the implementation of a comprehensive migration control system — S5-Systems.

This would make it possible to track foreign nationals' movement at a qualitatively new level of technological sophistication.

Following the implementation of this system, the registration procedure will become virtually unnoticeable for foreign nationals, allowing them to completely avoid any contact with law enforcement agencies.

Interaction of the MIA RK with the law enforcement bodies of other states in the field of countering illegal migration is carried out on the basis of the Agreement on Cooperation of the Member States of the Commonwealth of Independent States in Combating Illegal Migration.

Concrete efforts are made on an ongoing basis to expand the legal framework for cooperation in combating illegal migration, including measures within the cooperation frameworks with the CIS countries.

Kazakhstan is a party to the Agreement on Cooperation of Member States of the Commonwealth of Independent States in Combating Illegal Migration from 6 March 1998 (effective 20 February 2001) as well as the Agreement on Establishment of the Board of Heads of Migration Bodies of the CIS Member States of 5 October 2007 (effective on the date of its signing).

Within the framework of the Kazakhstan-2050 National Development Strategy, the Government adopted the 2014–2016 Comprehensive Plan that provides for a large coverage of development areas of the nation's migration policy (enhancing control over migrant streams from neighbouring nations, creating favourable conditions for qualified human resources, etc.).

To reveal and preclude any acts in violation of the migration legislation, under the auspices of the Collective Security Treaty Organisation, every year, in two stages, authorities conduct a special operation known as "Illegal Alien" to combat illegal migration of foreign nationals and human trafficking, conducted concurrently in all member states of the Treaty (first stage took place in May 2016).

Furthermore, to settle the process of return/readmission and admission of migrants staying illegally in the territory of the parties, efforts are underway to conclude readmission agreements.

To date, the Republic of Kazakhstan has signed and ratified 12 readmission agreements (Switzerland, Uzbekistan, Belarus, Hungary, Lithuania, Russia, Latvia, Moldova, Czech Republic, Germany, Norway and the Benelux).

Another 13 readmission agreements signed with neighbouring and other foreign nations: Afghanistan, Bulgaria, Greece, Iran, Iraq, Canada, Cyprus, South Korea, Kyrgyzstan, Pakistan, Poland, Tajikistan, Ukraine — in development and at various stages of intra-governmental finalisation and coordination.

Violations of the migration legislation

Regularisation of migration processes is one of the essential components in the array of measures taken by the Republic of Kazakhstan to ensure national stability. In this regard the prosecutorial authorities of the Republic of Kazakhstan specifically focus on the migration issues. According to the statistics in 2015 (2014, 2013) the prosecutorial authorities conducted 334 (315, 452) migration law compliance audits. 7,674 (9174, 16951) violations were revealed. 439 (341, 467) recommendations to eliminate violations were made, as a result of which 351 (315, 358) officials were prosecuted on disciplinary charges, 3,387 (2,758, 4,336) were prosecuted on administrative charges, and 15 (2, 15) were prosecuted on criminal charges.

Analysis of the audits conducted by the prosecutorial authorities reveals that competent authorities failed to adequately perform their duties with respect to taking measures to suppress illegal immigration, keep records and registration of foreigners and stateless persons, monitor their adherence to the rules of entry, exit and stay in the Republic of Kazakhstan, maintain inter-agency cooperation and so forth.

Foreign nationals' non-observance of the rules of stay in the country

Over the period of economic growth, Kazakhstan saw the inflow of illegal immigrants from less developed countries in search of work.

The prosecutorial authorities, both independently and jointly with the police, conduct raids to identify and eliminate illegal immigration.

For example, the prosecutor's office of Shortandy district (Akmola Oblast) identified in its jurisdiction 25 citizens of the Republic of Uzbekistan engaged in labour, even though the purpose of entry was indicated as "private" in their migration cards.

Similar violations are observed across the country.

During 2013–2014, 1,025,850 citizens of Uzbekistan visited Kazakhstan, including 28,295 (2.76%) registered as migrant workers; of 187,440 Kyrgyz citizens only 1,111 (or 0.6%) stated that they had arrived to work; over 90% indicated that they were visiting for leisure.

At the same time, the audits demonstrate that most of the immigrants who arrived with a private (leisure) purpose, end up working illegally, thus negatively affecting the economic interests of the country.

On the other hand, the internal affairs authorities, disregarding the above circumstances and the systematic analysis, continue to extend the periods of stay for the migrants who arrived with a private purpose.

Moreover, some foreigners stay in Kazakhstan for an unlimited time by illegally extending the periods of stay using false date-stamps in their passports.

It is established that foreign citizens use the services of various "intermediaries" who, at a certain charge, lodge a new registration application with the migration police, putting false date-stamps in their passports to indicate a false departure from the Republic of Kazakhstan and subsequent re-entry.

It should be noted that the migration police bodies have been charged with the responsibility to check the documents submitted for registration through "Berkut" Single Information System to verify the information provided against the actual data.

However, as the analysis showed, instances of forging are detected only during passport control by the Border Service units with the use of "Berkut" SIS upon foreigners' departure from the Republic of Kazakhstan. In total 204 such instances were established in the cities of Astana and Almaty and in Zhambyl and East-Kazakhstan oblasts.

In addition, uncontrolled stay of foreigners in the country is exacerbated by the police's failure to adhere to the Rules for Organising Operational Activities of Internal Affairs Bodies on the Prevention and Elimination of Illegal Migration in the Republic of Kazakhstan (approved by the order of the Minister of Internal Affairs of the RK dated 06/06/2012 No. 644).

The current legislation within the Civil Procedure, Administrative and Criminal Codes empowers the police to look into deporting a foreign national for any offence committed.

It was established by the General Prosecutor's Office that the deportation option has not been explored even against repeat offenders.

In particular, over 20,000 immigrants were found to have been prosecuted under administrative law 2 or more times over the analysed period.

14.5 thousand immigrants were prosecuted under administrative charges twice; 3.2 thousand — three times; 1.1 thousand — four times; 0.4 thousand — five times; 0.2 thousand — six times; 0.3 thousand — seven or more times.

It was revealed that the "Berkut" SIS had no records of border control being passed by 924 foreign nationals subject to deportation under court orders issued since 2014.

Therefore, as a result of improper enforcement of deportation orders, over 900 criminals and offenders from foreign states have possibly extended their stay in the country outside of the competent bodies' control.

Due to the lack of relevant data in the "Berkut" SIS, many instances were revealed where the State Border of the Republic of Kazakhstan was crossed by previously deported persons who were prohibited to enter the country for 5 years (in total 27 such instances were revealed; in particular, a citizen of Uzbekistan Z. Bektursynova crossed the border 17 times after the prohibition of entry was imposed).

As a result of the audit conducted by the General Prosecutor's Office, the recommendation on the elimination of violations of law was submitted to the Government of the RK.

In light of the above violations of migration laws, of particular concern are conflicts occurring at companies that employ foreign workers.

Analysis shows that escalation of minor confrontation into major conflicts is to a certain extent facilitated by the separation of staff by language spoken, immigrants' lack of awareness of the legislative requirements and associated liabilities, as well as local values, traditions and culture (especially in case of migrants from non-CIS countries).

In order to resolve the issue, it is recommended to learn from the experience of foreign countries (Great Britain, Russia) with regard to obliging all potential immigrants to pass exams in language, history and legislation.

Examinations should be preceded by short preparatory courses (*optional*) where foreigners would be able to learn the national or Russian languages, history of the country and basics of the national legislation at the required minimum level.

It will increase foreigners' legal awareness to the required level and help them learn elementary standards of conduct and legislative requirements aimed to keep public order.

By studying the history of Kazakhstan they will familiarise themselves with important and highly protected values of the country, and the corresponding stricter punishment (e.g. for disrupting inter-ethnic and inter-faith harmony).

Basic knowledge of the Kazakh and/or Russian languages will provide foreigners with the opportunity to overcome language barriers and, correspondingly, avoid potential conflict situations at the very early stage.

Concerning the problems in preventing illegal migration

For the purpose of identifying and eliminating violations of migration laws, Operation "Illegal Alien" is conducted annually with the involvement of human and material resources of relevant government authorities of Kazakhstan as well as the law enforcement and special authorities of Collective Security Treaty Organisation (CSTO) member states.

By the decision of the heads of the CIS states of 10 October 2014, the Programme for Cooperation of the Member States of the Commonwealth of Independence States Against Illegal Migration for 2015–2019 was approved.

In order to effectively prevent new security challenges and threats, the General Prosecutor's Office has adopted an array of contractual legal and organisational practical measures aimed at fostering cooperation with foreign partners and international organisations. To date, Kazakhstan has joined the main UN conventions on countering crime related to trafficking in persons, such as:

1) The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and the supplementing Final Protocol;

2) International Covenants on Civil and Political Rights, on Economic, Social and Cultural Rights, 1966;

3) The 1926 Slavery Convention, The Protocol Amending the Slavery Convention of 7 December 1953, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 7 September 1956.

Using the existing contractual and legislative framework, close cooperation was successfully established between law enforcement agencies of CIS member states, as well as with member states of SCO, EAEU, CICMA, CSTO, both on bilateral and multilateral basis.

The General Prosecutor's Office of the RK continues efforts toward entering into more agreements with foreign states in the area of combating crime.

On top of the neighbouring states, priority is also given to nations with which Kazakhstan has close trade and economic ties, as well as nations that possess considerable tourism potential, subsidised taxation for businesses and favourable investment climate. It should be noted that during the two stages of the Operation "Illegal Alien", 34,833 foreigners were prosecuted for violations of migration laws of the RK; 3,568 of them were deported.

339 criminal offences of migration laws were registered, including 14 for organising illegal migration channels.

Additionally, republican and regional "Migrant" operations were conducted jointly with the representatives of local executive and representative bodies, NGOs and mass media (115 operations).

The national security authorities achieved certain results in combating illegal migration in the course of counter-intelligence operations.

For instance, the NSC Department for West-Kazakhstan oblast jointly with the Russian FSS (Federal Security Service) Directorate for Saratov Oblast suppressed unlawful activity of the members of a transnational criminal group that in the period from May 2014 to April 2015 had organized a sustained channel for illegal transit of people from Uzbekistan to Russia through Kazakhstan.

Active members of the above-mentioned criminal group were citizens of the Republic of Kazakhstan, Russian Federation and Republic of Uzbekistan.

On 1 September 2015, by the ruling of the Uralsk city court, all of the accused in the case were found guilty and received various sentences.

In addition, the Border Service of the NSC of the RK, in cross-border cooperation, took part in six international actions which resulted in the detention of 2,710 violators of regime, including 1,884 foreign nationals, for violating the rules of stay in the Republic of Kazakhstan, 230 of which were prosecuted on administrative charges.

57 foreign citizens were deported from the country; 3 criminal prosecutions were started for the violation of migration laws in accordance with Article 392 (against 1 citizen of Tajikistan and 2 citizens of the Russian Federation).

Furthermore, 47 attempts of crossing the RK state border at checkpoints with fraudulent documents were revealed. Authorities established 833 instances of forgery of stamps in migration cards for registration of foreigners at places of temporary stay in the territory of the country and 353 cases of forgery of border service's seals (date stamps) certifying crossings of the national border. In reference to all of the above instances, materials within the competence of the Border Service of the NSC of the RK were submitted to the relevant law enforcement agencies. Moreover, authorities identified 11 cases of partial and full forgery of documents (3 cases of full forgery — passports of Sweden and Tajikistan, a Schengen visa and 8 cases of partial forgery), in respect of which the required procedural decisions were made in accordance with the procedure established by law.

According to the Committee for Legal Statistics and Special Accounts of the General Prosecutor's Office of the RK, 341 persons were convicted under Article 393 of the Criminal Code of the RK (CC RK) (Article 330-1 of the CC RK effective 1997); 24 persons — under Article 394 of the CC RK (Article 330-2 of

the CC RK effective 1997); 2 persons — under Article 395 of the CC RK (Article 330-3 of the CC RK effective 1997).

3. Concerning the access of migrants to the labour market in the Republic of Kazakhstan

On equal terms with the citizens of the Republic of Kazakhstan, migrant workers have the right to obtain information from government authorities (within the scope of their competence) and employers regarding the rules of stay, conditions for carrying out work activities as well as rights and obligations envisaged by the legislation of the country of employment.

Sharing of information on the state of labour market in the Republic of Kazakhstan is made possible by the "Emplyoment" information portal (www.enbek.kz), containing information for jobseekers and employers.

It should be mentioned that over the past years the Federation of Trade Unions of Kazakhstan and its member organisations have sought to integrate obligations and measures on ensuring employment and creation of new jobs into agreements of all levels and collective treaties.

The Employment Road Map 2020 was developed with the participation of trade unions and is now being implemented as a logical continuation of the Employment Programme 2020, the main objective of which is the promotion of well-being of the population through the organisation of sustainable and efficient employment and the reduction of unemployment. As a result, the unemployment level decreased from 5.9% in 2010 to 5% in the Q2 of 2016.

According to the ILO report "World Employment and Social Outlook 2015", over 212 million people will be unemployed by 2019. At present the figure is 201 million.

Since the beginning of the global crisis in 2008, 61 million jobs were lost and, according to the ILO's forecast, the unemployment level will continue to grow.

At the same time, the self-employed, most of whom are not covered by the social security system, pose an issue of high concern and ambiguity for Kazakhstan.

Pursuant to the current legislation, pension support and social security cover the legally working self-employed whose number is low.

The number of the self-employed in Kazakhstan has undergone virtually no change over the last ten years, and today amounts to 2.6 million people or 30.2% of the total employed population.

The problems regarding the integration of workers employed in the informal sector of the economy into the legal market economy were discussed at various events and seminars including the Astana Economic Forum participated by the first leaders of different countries, Nobel prizewinners, heads of international organisations, ministers and world-famous economic researchers.

To strike a balance between the labour market and education, the Federation of Trade Unions and its member organisations have since 2011 been participating

in the development of the National Qualifications Framework jointly with the government authorities and republican associations of employers.

Technical and vocational education in the country is undergoing modernisation. 16 regional and 14 sectoral boards and the National Board have been created, comprising representatives of sectoral and territorial associations of trade unions.

The national and regional qualifications frameworks are currently under development; the frameworks incorporate the development and quality standards for qualifications in accordance with the labour market requirements.

It is expected that the implementation of the National Qualifications Framework will enable long-term planning of demanded professions and help ensure a balance between labour market and education system.

Within the General Agreement for 2015-2017 the social partners assumed commitments to ensure the creation of the national database of current and projected vacancies, development and implementation of programs for retraining, advanced training and mobility of persons over 50 years of age etc. implement measures aimed at the introduction of dual education, development of the National Qualifications Framework and professional and educational standards, modernisation of the uniform rate and qualification guidelines for occupations of manual workers and the unified qualification guidelines for positions of managers, specialists and non-manual workers.

Kazakhstan has been a member of the ILO for over 20 years, and this imposes the obligation to apply and adhere to international regulatory acts on human rights protection, including the issues of labour migration.

At present, a number of regulatory legal acts on migration policy are adopted, the internal legislation is being improved and efforts are underway to eliminate the causes for illegal migration and create favourable conditions for social security of migrant workers in the country.

In our view, one of the latest and most important decisions made with the participation of representatives of IOM and NGOs was the introduction of amendments into the Law of the RK "On migration" on 10 December 2013, with respect to the procedure for the issue of work permits for engaging in work activities in the employ of natural persons, which had not been provided for before.

Furthermore, recently various events (round tables, training seminars, regional meetings) were held to discuss labour migration and employment; they were organised by the Ministry of Health and Social Development of the RK, international organisations (ILO, IOM, UN Women, OSCE) with the participation of representatives of the Federation of Trade Unions and NGOs. The events made it possible to share experiences, recommendations and presentations.

For the purpose of ensuring decent employment for migrant workers and establishing legal relations between the employer and employee it is recommended to continue the efforts toward the ratification of ILO Conventions No. 97 Concerning Migration for Employment and No.143 Concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers under the new 2015–2017 General Agreement.

4. Equal rights and opportunities for migrant workers

According to Article 6 of the Law, foreign citizens can carry out work activities in Kazakhstan on the basis of and in accordance with the procedure established by the legislation and international treaties of the Republic of Kazakhstan...", "foreign citizens permanently residing in the Republic of Kazakhstan have the same rights and have the same duties in labour relations as the citizens of the Republic of Kazakhstan". The new Labour Code of the RK of 23 November 2015 also provides for the equality of rights and opportunities for foreign and local workers.

According to Article 14 of the Constitution of the Republic of Kazakhstan, no one shall be subject to any discrimination on the basis of origin, social, property status, occupation, sex, race, ethnicity, language, attitude towards religion, convictions, place of residence or any other circumstances.

These constitutional provisions were further elaborated in the new Labour Code of the Republic of Kazakhstan.

For instance, according to Article 6 of the Labour Code, labour-related discrimination is prohibited.

No one may be subjected to any discrimination in exercising their labour rights on the basis of sex, age, physical disabilities, race, nationality, language, material, social or official position, place of residence, attitude to religion, political convictions, or membership of public associations. Discrimination shall not include differences, exceptions, preferences and restrictions determined by any requirements inherent in the nature of the work or dictated by the state's concern for people in need of increased social and legal protection. Persons who believe they have been subject to discrimination in labour relations shall have the right to seek legal remedies in court or other institutions in the manner established by the laws of the Republic of Kazakhstan.

Therefore, the Republic of Kazakhstan, in accordance with the Constitution, laws and international treaties, guarantees protection of the rights and freedoms of migrant workers.

It should be noted that labour conditions and remuneration both for local and migrant workers are governed by the same norms and provisions of the RK legislation. In reality, conclusion of an employment contract with a migrant worker becomes possible only after the employer obtains a special permit from the competent government authority.

According to sub-paragraph 4), paragraph 1, Article 26 of the Labour Code, conclusion of an employment contract with foreign and stateless persons temporarily residing in the territory of the Republic of Kazakhstan shall not be permitted without obtaining the permission of the local executive body to employ foreign workforce, or until a foreign worker obtains the work permit under the procedure established by the Government of the Republic of Kazakhstan, or until a migrant worker obtains the permit issued by internal affairs bodies under the procedure established by the Ministry of Internal Affairs, or where there is a

breach of restrictions or limitations established by the laws of the Republic of Kazakhstan.

It should be noted that the provisions of sub-paragraph 4), paragraph 1, Article 26 of the Labour Code are not applicable to foreign workers employed by a state authority.

Another restrictive provision, established by Article 6 of the Law "On the legal status of foreign nationals", stipulates that foreigners temporarily staying in the Republic of Kazakhstan can become private entrepreneurship entities. Engaging in entrepreneurial activity as small and medium enterprises without establishing a legal entity is not allowed, however.

The most frequent violations of migrant workers' rights occur with respect to non-regulated migrants and consist in their employment without registration of documents and/or conclusion of an agreement or contract. It is "beneficial" for some employers to hire foreign workers who do not have an official permit, especially now, during the crisis or post-crisis development, migrants from other Central Asian countries are willing to do any work to earn their living. Migrant workers are more dependent on the employer who can pay them less or not pay at all, keep them in submission and use the absence of registration and the work permit for intimidation, or threaten not to pay wages.

Nevertheless, despite being illegally employed (migrants with an indefinite status), migrant workers should have access to legal remedies to protect their rights. For example, if a migrant has worked in a country of destination in violation of the legislation, and the employer has not paid him/her salary, the migrant should have access to legal remedies in order to get remuneration for his labour, even if he/she has violated the migration law provisions.

Recognition of diplomas of migrant workers from CIS and non-CIS countries

In accordance with paragraph 7, Article 39 of the Law of the Republic of Kazakhstan "On education", documents confirming education issued by foreign educational institutions shall be recognised in the Republic of Kazakhstan on the basis of international treaties (agreements).

In the absence of international treaties (agreements), nostrification of education certifying documents received by the citizens of the Republic of Kazakhstan at foreign educational organisations and issuance of relevant certificates to them shall be carried out in the manner established by the competent body in the field of education.

According to paragraph 3, Article 97 of the Treaty on the Eurasian Economic Union of 29 May 2014 (hereinafter — the Treaty) for purposes of the engagement of workers of the member states in labour in the Republic of Kazakhstan, education certificates issued by educational organisations (educational institutions, organisations in the field of education) of the member states shall be recognised bypassing the relevant procedures established by the legislation.

The exception here concerns cases where a citizen of a member state of the Treaty applies for employment in educational, legal, medical or pharmaceutical fields in the Republic of Kazakhstan. In such cases the citizen of a member state of the Agreement shall undergo the procedure of education certificates recognition established by the legislation of the Republic of Kazakhstan.

5. Conditions and safety of migrant labour

The purpose of the labour legislation of the Republic of Kazakhstan is legal regulation of labour relations and other relations directly related to employment, aimed at protecting the rights and interests of the parties to labour relations and the establishment of minimum guarantees of rights and freedoms in labour.

One of the basic principles of the labour legislation of the Republic of Kazakhstan is the prohibition of any discrimination at work and the assurance of equality of rights and opportunities for employees.

The current labour legislation is applicable to employees and employers located in the Republic of Kazakhstan, including migrant workers.

According to sub-paragraph 9), paragraph 2, Article 23 of the Labour Code, the employer shall be obliged to provide employees with working conditions in pursuance of the labour legislation of the Republic of Kazakhstan, individual and collective employment contracts.

Employer's obligations include the creation of necessary sanitary and hygiene conditions for employees, provision and repair of employees' special clothes and footwear, providing them with preventive treatment agents, detergents and disinfectants, medical first-aid kits, milk or equivalent food products and/or special products for dietary (therapeutic and preventive) nourishment, personal and collective protective equipment according to the standards established by the competent government authority in the field of labour (sub-paragraph 4), paragraph 2, Article 182 of the Labour Code).

The employee has the right to a workplace equipped in accordance with the health and safety requirements, the provision of amenities, personal and collective protective equipment in accordance with the health and safety requirements, as well as individual and collective employment contracts.

Therefore, all the necessary rights of employees (including legal migrant workers) to decent and safe working conditions have been regulated by the current labour legislation of the Republic of Kazakhstan.

This means that in cases of legal employment, labour conditions and safety are, for the most part, guaranteed. When hiring a non-documented migrant worker, employers — especially small or medium entrepreneurs — save not only on salaries, but also on the provision of labour conditions and safety.

Most migrant workers do not have special education or relevant work experience.

As was mentioned by the experts of IOM Mission in Kazakhstan, migrant workers and victims of human trafficking were acquiring their construction skills already at work, and victims of human trafficking were involved in labour that did not require special skills. The use of personal protective equipment was a rare occurrence among victims of human trafficking, and inconsistent among migrant workers. Most of the described injuries could be avoided with the proper use of personal protective equipment. Both groups of respondents noted negative impact of severe climatic conditions including cold, heat and dust. Migrant workers and victims of human trafficking had working days of equal intensity and duration; however, the extent of control over their schedules was different. Victims of human trafficking were made to work very long hours, and even if they had breaks, they were strictly limited; migrant workers had more opportunities to manage their time and breaks as well as to control when their workdays or assignments were over. Construction is a high-risk industry; neither group had proper protection of their heads, ears, eyes, respiratory organs, hands and feet.

Irregular migrant workers were afraid of law enforcement and migration authorities because they had concerns over their legal status; they avoided possible gatherings and detentions through regular agreed bribery of police. Two victims of human trafficking out of 29 respondents accused migration police officers of participation in their exploitation as those police officers were paid for assistance in their abduction.

In order to ensure safe working conditions and compensation for harm to employees' health and life at work, the system of compulsory insurance of civil liability of the employer has been established.⁴ The provisions of the Law "On compulsory insurance" are applicable to all workers — local and migrant workers alike. In the absence of a compulsory insurance agreement between the employer and the employee, the harm inflicted on the life and health of the employee shall be compensated by the employer.

In 2010 the Law dated 7 February 2005 No. 30-III was amended to introduce compulsory insurance of the employer against accidents in the performance of labour (service) duties (the Law of the RK dated 30.12.2009 No.234 "On changes and additions to some legislative acts of the Republic of Kazakhstan on compulsory and mutual insurance and taxation").

Right to labour remuneration

As stated in the analysis conducted under the aegis of the ILO, the current legislation of the RK does not include many of the key international standards promoted by the ILO Conventions and the International Convention on the Protection of Rights of All Migrant Workers and Members of Their Families (1990). This, for instance, relates to irregular migrant workers in terms of protecting their rights in case of non-payment of their due salaries from the previous place of work.

The ILO Convention No. 143 contains articles on compulsory disbursement to migrants of their due remuneration and possibly benefits for the previous work performed under illegal terms of employment. According to sub-paragraph 4),

⁴ Law of the RK of 7 February 2005, No. 30-III "On compulsory insurance of civil liability of the employer for the infliction of harm on the life and health of the employee in the performance of labour (service) duties"

paragraph 1, Article 26 of the Labour Code, conclusion of an employment contract with foreign and stateless persons temporarily residing in the territory of the Republic of Kazakhstan shall not be permitted without obtaining the permission of the local executive body to employ foreign workforce, or until a foreign worker obtains the work permit under the procedure established by the Government of the Republic of Kazakhstan, or until a migrant worker obtains the permit issued by internal affairs bodies under the procedure established by the Ministry of Internal Affairs, or where there is a breach of restrictions or limitations established by the laws of the Republic of Kazakhstan.

The legislation of the Republic of Kazakhstan does not contain any other provisions that would ensure remuneration and benefits to migrants for their work including any work performed during the period before execution of the decision on their administrative deportation from Kazakhstan. This could include ensuring their right of access to justice and opportunity for the extension of the period of their stay in the RK for a period necessary to exercise this right.

It should be noted that according to paragraph 3 Article 38 of the Labour Code of the RK, in the event of absence and/or improper execution of an employment contract due to the employer's fault, the latter shall be liable in the manner established by the laws of the Republic of Kazakhstan. In this case, labour relations shall be deemed to have started from the date when the employee began working and, accordingly, the employer shall be obliged to pay all the amounts due to the employee (salary, compensation for unused leave etc.).

The term "migrant worker" used in the Convention on the Legal Status of Migrant Workers and their Family Members of the Commonwealth of Independent States, ratified by Kazakhstan in 2009, is in compliance with the international standards. The term is defined as follows:

migrant worker shall mean a national of one of the Parties as well as a stateless person permanently residing in the territory of one Party, legally staying and legally engaged in remunerated activity in the territory of the other Party where he is not a national and does not permanently reside.

Therefore, to defend the right to "equal treatment at work", including the right to remuneration, a migrant worker along with the Labour Code should refer to the Convention on the Legal Status of Migrant Workers and their Family Members of the Commonwealth of Independent States.

It should be noted that unskilled migrants may not have enough skills or knowledge to report on the violations of their labour rights. That is why labour inspectors should more often visit enterprises, construction sites, farms and other facilities where primarily low-qualified migrants work, and, following visits and inspections, take necessary measures for the restoration of violated labour rights of the specified category of migrants.

6. Current issues of ensuring the rights of migrant workers' children

One of the basic principles of the education policy of the Republic of Kazakhstan is equality of rights to high-quality education for all children, including children of migrant workers. According to Article 30 of the Constitution of the RK free secondary education is guaranteed at public educational institutions. This provision has been also reflected in the Law "On education" which corresponds to Articles 28 and 29 of the Convention of the Rights of the Child.

According to the reports of education authorities, 3,402 migrant children coming from other countries study at general education schools. The largest number of them live in the cities of Almaty (1,423) and Astana (351), South-Kazakhstan (418), West-Kazakhstan (331), Karaganda (235) and Zhambyl (111) oblasts.

Acceptance of foreigners' children into the education system is carried out in accordance with the order of the Minister of Education and Science of the RK of 28 September 2010 No.468 "On the approval of the rules for preschool, primary, basic secondary and general secondary education for foreigners and stateless persons permanently residing in the Republic of Kazakhstan".

In 2012 this order was amended. Thus, the children of foreigners and stateless persons permanently residing in the Republic of Kazakhstan as well as children of persons temporarily residing in the Republic of Kazakhstan (refugees, asylum-seekers, consular officials, employees of diplomatic institutions, migrants working in the Republic of Kazakhstan according to the migration legislation) shall be admitted to educational institutions and enjoy the same rights as the citizens of Kazakhstan (order of the Minister of Education and Science of the RK of 28 August 2012 No.398).

Efforts to protect the constitutional rights to education and meet the educational needs of children who are not citizens of the Republic of Kazakhstan are under permanent control of MOES and CHR and will be continued.

The national legislation establishes restrictions with respect of child labour and provides for criminal and administrative liability for the involvement of children in the worst forms of child labour.

The Law "On the rights of the child in the Republic of Kazakhstan" prohibits to accept or engage a child to perform any work that may be dangerous for his (her) health or may become an obstacle in his (her) education or may cause damage to his (her) health and physical, mental, spiritual, moral and social development (paragraph 4 Article 16 of the Law).

The Labour Code of the RK contains a number of provisions aimed at the protection of labour of minors; this primarily concerns special chapter 16 on the specificities of labour regulation for employees under the age of eighteen.

In Accordance with the Law of the RK "On the introduction of changes and additions to some legislative acts on private entrepreneurship", the approaches to the state oversight of the compliance with the national legislation in the corresponding areas of activity were to be changed effective 2010.

In particular, the inspecting authorities are permitted to conduct scheduled inspections of private entrepreneurship entities only in accordance with the system of risk evaluation and approved check lists. When conducting such inspections, state labour inspectors shall pay special attention to instances of unlawful exploitation of child labour on the part of employers.

Unscheduled inspections at private entrepreneurship entities on compliance with the labour legislation shall be conducted on the basis of complaints received from individuals and legal entities.

The National Coordination Board on Combating the Worst Forms of Child Labour operating under the Ministry of Health and Social Development of the RK systematically discusses the use of public awareness campaigns on the application of labour legislation with respect to minors, explanation of problems related to child labour.

On top of that, on 27 June 2014 the Law "On the introduction of changes and additions to some legislative acts of the Republic of Kazakhstan on the work of professional unions and regulation of labour relations" was adopted. Amendments with regards to the procedure of inspections at enterprises in accordance with the ratified ILO Conventions No. 81 "Concerning Labour Inspection in Industry and Commerce" and No.129 "Concerning Labour Inspection in Agriculture" were introduced to the Labour Code and the Law "On state control and oversight in the Republic Kazakhstan".

The adopted amendments are aimed to improve state labour inspectors' performance in regard to taking measures to prevent and eliminate employees' labour rights violations, which includes the prevention of the worst forms of child labour.

For the purpose of protecting the rights of minors, the new Criminal Code of the RK stipulates more severe penalties for the crimes against children.

For example, the fine for the employer's violation of the labour legislation with respect to engaging minors in works where employment of persons under 18 is prohibited was considerably increased up to 200,000 monthly calculation indices (Article 153).

The Code of Administrative Offences provides for liability for employers hiring minors without concluding an employment contract (Article 86).

For purposes of identifying instances of child labour exploitation, education departments in all the regions jointly with representatives of internal affairs and health authorities, state labour inspectorate, NGOs, youth and children's organisations and parents' community conduct raids on a regular basis.

Contributing to a considerable headway in the work toward the elimination of the worst forms of child labour was the exclusion of tobacco from the list of agricultural crops cultivated with the use of child labour. This is a result of the Government's efforts toward the improvement of the legal framework for covering children with general education and the contribution of state programmes for the elimination of child labour.

State labour inspectors regularly monitor compliance with the labour legislation, including the regulations concerning exploitation of child labour.
For the purpose of identifying children's rights violations, prevention of child neglect and homelessness and child labour exploitation, the "Children in the Night City" raids are conducted nationwide on a quarterly basis.

Raids involve the checking of the most common places for minors engaged in vagrancy and begging, as well as computer game clubs, for any teenagers after 11:00 pm. In addition, entertainment and recreational establishments are inspected for the use of child labour by adult persons.

Typical participants of raids are representatives of education, internal affairs and health authorities, public associations, youth and children's organisations and the parent community.

Over 33 thousand facilities were inspected in 2015 (dachas and dacha farms) -2,413, household farms -2,692, dysfunctional families -10,023, basements of houses -5,724, railway and bus stations -1,586, entertainment establishments -4,512, computer (game) clubs -2,619, markets -3,469, service stations and car washes -2,092), where 4,827 minors were found (from dysfunctional families -2,119, from functional families -2,708). Raids helped identify 138 instances of child labour exploitation.

In order to draw public attention to the problem of child labour exploitation, the 10th nationwide awareness campaign "12 Days of Combating Child Labour Exploitation" (NAC) was conducted from 1 to 12 June 2015 as part of the "Kazakhstan Balalary — Nurly Zholmen" national campaign.

The purpose of NAC is to raise awareness on the part of the general populace — adults and children alike — of the problem of the worst forms of child labour, its scope and characteristics, consequences for children and the society, as well as regarding the basics of international and national legislation in this field.

7. Concerning the access of migrant workers and their children to health protection and competent medical assistance

The legislation of the Republic of Kazakhstan in the field of healthcare is based on the Constitution of the Republic of Kazakhstan and consists of the Code of the Republic of Kazakhstan "On public health and the healthcare system" (the Code) of 18 September 2009 and other regulatory legal acts of the Republic of Kazakhstan.

According to paragraph 5 Article 88 of the Code, foreign nationals and stateless persons staying in the Republic of Kazakhstan shall have the right to the guaranteed scope of free medical assistance for acute diseases posing a threat for other people, in accordance with the list prepared the Government of the Republic of Kazakhstan, unless otherwise envisaged by international treaties ratified by the Republic of Kazakhstan.

Pursuant to Article 12 of the Law of the Republic of Kazakhstan "On migration", the corresponding orders of the Minister of Health were approved:

1. "On the approval of the list of diseases that preclude entry of foreigners and stateless persons to the Republic of Kazakhstan" No. 664 of 30 September

2011 (registered in the Register of State Registration of Regulatory Legal Acts under No.7274);

2. "On the approval of the rules for the provision of medical care to immigrants" No.665 dated 30 September 2011 (registered in the Register of State Registration of Regulatory Legal Acts under No.7292).

Moreover, Kazakhstan has signed the Treaty on the Mutual Recognition of Health Assessments Reports of Migrant Workers in Member States of the Eurasian Economic Community, approved by the Resolution of the Government of the Republic of Kazakhstan from 26 January 2013 No. 39 (between the Republic of Kazakhstan, the Republic of Belarus, the Kyrgyz Republic, the Republic of Tajikistan, the Russian Federation) that governs how these countries determine health institutions (organisations) authorised to issue medical assessment reports on the health status of a migrant worker, and to submit the corresponding information to competent authorities of the member states in order to create a single list of such institutions.

In accordance with the Law of the Republic of Kazakhstan of 14 October 2014 "On the ratification of the agreement on the Eurasian Economic Union" the Protocol on the Provision of Medical Care to the Workers of the Member States and Members of Their Families was developed to regulate the provision of medical care to the workers of the member states and members of their families.

According to the above Protocol, the country of employment shall ensure provision of medical care to workers of the member states and members of their families in the manner and under conditions established by the legislation of the employment country and international treaties.

The member states shall provide workers of the member states and members of their families with the right to free first-response medical aid (emergency or immediate medical care) within their territories in the same manner and under the same conditions as the citizens of the country of employment. First-response medial aid (emergency or immediate medical care) shall be provided to the workers of the member states and members of their families regardless of whether or not they have medical insurance.

Moreover, emergency and immediate medical care is provided free of charge to the citizens of the member states of the Commonwealth of Independent States in accordance with the Treaty on the Provision of Medical Care to Citizens of the Member States of the Commonwealth of Independent States ratified by the Republic of Kazakhstan on 27 March 1997.

Pursuant to this agreement, emergency and immediate medical care in cases of sudden acute conditions and diseases threatening the patient's life or the health of other people, accidents, poisonings, injuries, childbirth and emergency conditions during pregnancy shall be provided to the citizens without obstruction, free of charge and to the full extent in the country of temporary stay, by preventive and medical care institutions regardless of their form of incorporation, departmental subordination and form of ownership. As soon as the threat to the patient's life and the health of other people is eliminated and transportation of the patient is possible, further medical care is provided on a paid basis.

Furthermore, under the GVFMC (Guaranteed Volume of Free Medical Care), free medical care is provided to foreign citizens in the event of acute diseases that may pose a threat to other people, in accordance with the list of conditions approved by the order of the Minister of Health and Social Development of the Republic of Kazakhstan of 1 April 2015 No.194 "On the approval of the list of acute conditions posing a threat to the general public that are grounds for the provision of guaranteed volume of medical care to foreign nationals and stateless persons staying in the Republic of Kazakhstan".

In all the other events, medical care is provided to foreign citizens on a paid basis under the voluntary health insurance or at the expense of the recipient.

Access to health services

As shown by the analysis conducted by the IOM Mission in Kazakhstan, migrant workers generally had the right to seek medical care, but this was impeded by their unregistered status and the cost of such services. Migrant workers and victims of human trafficking usually relied on self-treatment using medication they would buy from the countries of origin or, as in the case of victims of human trafficking, medication given to them by the security staff of construction companies. Victims of human trafficking were set free to return home if they had diseases or injuries resulting in the loss of working capacity. Access to medical treatment was limited both for migrant workers and victims of human trafficking. This prompted a proposal to expand health services for all migrants, including unregistered workers.

Migrant workers and victims of human trafficking described their living conditions as cramped, cold and damp, with limited access to running water and electricity. Victims of human trafficking reported that they were being observed while they were sleeping; some of them had extremely limited access to basic personal hygiene. Both groups for the most part lived at construction sites where they worked, although migrant workers had an opportunity to live elsewhere. The living conditions of victims of human trafficking and migrant workers contributed to the spread of tuberculosis (TB); migrant workers' limited awareness of its symptoms could cause its spread among other migrants. Improvement of migrants' knowledge of tuberculosis and its impact on health, as well as access to medical treatment, may contribute to thwarting the spread of TB, which includes countering the development of drug-resistant strains. The Government could consider introducing mobile diagnostic and treatment clinics, especially at the height of migration season, locating them along the frequently used migration routes and in places of destination.

8. Concerning migrant workers' access to qualified legal assistance, including free legal assistance

In Kazakhstan the right to free legal assistance is guaranteed by paragraph 3, Article 13 of the Constitution of the RK that states: "Everyone shall have the right to qualified legal assistance. In cases stipulated by law, legal assistance shall be provided free of charge."

The right to qualified legal assistance, in turn, serves to guarantee such fundamentals of a democratic society as personal liberty, right of access to justice, presumption of innocence, respect of the person's honour and dignity and many others.

Experience shows that the choice of an efficient strategy to reform the institution of qualified legal assistance requires the interest and ownership from all the parties involved — lawyers and civil society — and the political will of the state. Well-being and security of every person ultimately depend on how efficiently and reasonably provision of such assistance is arranged.

Everyone has the right to qualified legal representation in court. The term "everyone" also includes those who does not have the means to pay for the lawyer's services. International standards grant such people the right to a lawyer appointed by the state, whose services are paid by the state. This right has evolved over the decades: it was not clearly articulated in the Universal Declaration of Human Rights. However, the right to free legal assistance arises out of Article 11 of this Declaration stating that "everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence". Moreover, Article 2 of the Declaration prohibits discrimination and establishes that "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction[...] such as [...]property[...]".

The right to legal assistance was most fully and precisely worded in the International Covenant on Civil and Political Rights ratified by the Republic of Kazakhstan on 21 November 2005. Article 14.3.(d) of the Covenant specifies that everyone shall have the right to defence and "[...]be informed of this right and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it". The European Convention on Human Rights in its Article 6.3 (c) also sets forth the right to free legal assistance if a person "has not sufficient means to pay for legal assistance" and "when the interests of justice so require". A more detailed explanation of this right is provided by international control bodies in a number of cases they have deliberated over a long period, including decisions of the UN Human Rights Committee (International Covenant) and rulings of the European Court of Human Rights in Strasbourg (European Convention). Moreover, there is such an important aspect of the right to defence as obligations of the state. One of the remarkable features of this right is that it incorporates not only the creation of conditions for its exercise, but also active dissemination of information on the availability of such a right for everyone.

The European Convention for the Protection of Human Rights and Fundamental Freedoms⁵ stipulates that "everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity" (Article 13), and everyone charged with a criminal offence has the right "to defend himself in person or through legal assistance of his own choosing" (Article 6.3 (c)).

Article 1 of the Convention on International Access to Justice⁶ establishes that "nationals of any Contracting State and persons habitually resident in any Contracting State shall be entitled to legal aid for court proceedings in civil and commercial matters in each Contracting State on the same conditions as if they themselves were nationals of and habitually resident in that State".

The Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Matters⁷ of the CIS Countries provides that "nationals of each Contracting State and the other persons resident in its territory[...] shall enjoy free legal assistance on the same conditions as its own nationals".

Basic Principles on the Role of Lawyers provide that "all persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights and to defend them at all stages of criminal proceedings".

The UN Commission on Human Rights urged all states to guarantee that all persons brought to trial before courts or tribunals under their authority have the right to be tried in their presence, to defend themselves in person or through legal assistance of their own choosing (paragraph 4 of the "Integrity of the Judicial System" Resolution⁸).

Paragraph 2 of the Basic Principles and Guiding Provisions on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law provides that the states should ensure their domestic law is consistent with their international legal obligations by "adopting appropriate and effective legislative and administrative procedures and other appropriate measures that provide fair, effective and prompt access to justice" and by "making available adequate, effective, prompt and appropriate remedies".

Subparagraph (c), paragraph 3, Article 6 of the Convention stipulates that everyone charged with a criminal offence is entitled "if he has not sufficient means to pay for legal assistance, to be given it for free when the interests of justice so require".

Paragraph 3 of the Basic Principles of the Role of Lawyers obliges the governments to "ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organisation and

⁵ Adopted on 4 November 1950 (as amended on 21 September 1970, 20 December 1971. 1 January 1990, 6 November 1990).

⁶ Adopted on 25 October 1980.

⁷Signed on 7 October 2002. //Bulletin of International Treaties. 1995. No.2.

⁸ Adopted by the Commission on Human Rights at the 58th session in April 2002.

provision of services, facilities and other resources". Paragraph 6 of the same Principles reads: "Any such persons (detained, suspected, accused or defendant) who do not have a lawyer shall, in all cases in which the interests of justice so require, be entitled to have a lawyer of experience and competence commensurate with the nature of the offence assigned to them in order to provide effective legal assistance, without payment by them if they lack sufficient means to pay for such services".

Subparagraph (b), paragraph 3, Article 7 of the Convention of the Commonwealth of Independent States on Human Rights and Fundamental Freedoms (Minsk, 26 May 1995)⁹ establishes that everyone charged with a criminal offence shall have the right "to defend himself in person or through legal assistance of his own choosing or to have legal assistance assigned to him whenever the interests of justice so require, as well as to be provided with legal assistance free of charge in cases specified in national legislation".

According to paragraph 93 of the Standard Minimum Rules for the Treatment of Prisoners¹⁰, "for the purposes of his defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, and to receive visits from his legal adviser with a view to his defence".

According to principles 17 and 18 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, a detained or imprisoned person shall be entitled not only to communicate and consult with his legal counsel, but also, if a detained person does not have a legal counsel of his own choice, he shall be entitled to have a legal counsel assigned to him by a judicial or other authority in all cases where the interests of justice so require and without payment by him if he does not have sufficient means to pay.

According to Resolution (78) 8 CMCE On Legal Aid and Advice of 2 March 1978, the provision of legal aid should no longer be regarded as a charity to indigent persons but as an obligation of the community as a whole, and facilitating the availability of legal advice as a supplement to legal aid for persons in an economically weak position is of equal importance in the elimination of obstacles to access to justice (Preamble). It is specified that "no one should be prevented by economic obstacles from pursuing or defending his right before any court determining civil, commercial, administrative, social or fiscal matters. To this end, all persons should have a right to necessary legal aid in court proceedings." (paragraph 1).

Paragraph 5.17 of the Document of Copenhagen Meeting of the Conference on the Human Dimension of 1990¹¹ establishes that "any person prosecuted will have the right to defend himself in person or through prompt legal assistance of his own choosing or, if he does not have sufficient means to pay for legal assistance, to be given it for free when the interests of justice so require". The Document of the

⁹ Information Bulletin of the Council of the Heads of States and Council of the Heads of Governments of the CIS, 1995. No. 2.

¹⁰Adopted by the First United Nations Congress on the Prevention of Crime and the Treatments of Offenders at Geneva in 1955 and approved by the Economic and Social Council by its Resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

¹¹ Signed on 29 June 1990

Moscow Meeting of the Conference on the Human Dimension of 1991¹² obliges the states to ensure that "anyone charged with a criminal offence will have the right to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it for free when the interests of justice so require".

Therefore, it is established by the above international acts that free legal assistance is provided in cases when 1) the interests of justice so require; 2) a person in need of such service does not have sufficient means to pay for legal assistance.

At the same time, if follows from the above documents that, while establishing the right to subsidized legal assistance, most of the international acts do not explicitly refer to the access to free legal assistance in non-criminal cases. However, international documents clearly establish the obligation of a state to ensure access to justice through the provision of subsidised assistance to vulnerable groups (minors, refugees, stateless persons etc.), as well as to persons who suffered from a certain type of offences (cruel, inhuman or degrading treatment or punishment, torture etc.).

With respect to other vulnerable groups, the states are obliged to provide effective protection and remedies against racial discrimination (Article 6 of the Convention on the Elimination of All Forms of Racial Discrimination¹³), access for the victims of torture to the compensation procedure (Article 14 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹⁴); provision to refugees and stateless persons of the same conditions for access to justice as the nationals of the country including access to legal assistance (Article 16 of the Convention Relating to the Status of Refugees¹⁵ and Article 16 of the Convention Relating to the Status Persons).

For example, Article 16 of the Convention Relating to the Status of Refugees and Article 16 of the Convention Relating to the Status of Stateless Persons provide that refugees and stateless persons should "enjoy the same treatment as a national in matters pertaining to access to the courts, including legal assistance and exemption from cautio judicatum solvi".

Some international authorities and organisations, on the basis of the above international acts and own practice, have developed specific standards relating to the provision of subsidised legal assistance, as well as measures that could be taken by the states to ensure the right to legal assistance. A number of the UN documents deal with the aforementioned matters (e.g. Basic Principles on the Role of Lawyers¹⁶, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment¹⁷; Principles for the Protection of Persons with Mental

¹² Approved by the UN General Assembly Resolution 2106 (XX) of 21 December 1965

¹³ Approved by the UN General Assembly Resolution 2106 (XX) of 21 December 1965

¹⁴ Approved by the UN General Assembly Resolution 43/173 of 9 December 1988

¹⁵ Adopted on 28 July 1951 by the Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly Resolution 429 (V) of 14 December 1950.

¹⁶Adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, 27 August — 7 September 1990

¹⁷Approved by the UN General Assembly Resolution 43/173 of 9 December 1988

Illness and for the Improvement of Mental Health Care¹⁸; UN Rules for the Protection of Juveniles Deprived of Their Liberty¹⁹; United Nations Standard Minimum Rules for the Administration of Juvenile Justice²⁰ etc.).

For example, Resolution (78) 8 On Legal Aid and Advice establishes that "no one should be prevented by economic obstacles from pursuing or defending his right before any court determining civil, commercial, administrative, social or fiscal matters. To this end, all persons should have a right to necessary legal aid in court proceedings".

Recommendation No. R (93) 1 On Effective Access to the Law and to Justice for the Very Poor provides for the facilitation of effective access to the courts for the very poor, particularly by "[...]extending legal aid or any other form of assistance to all judicial instances (civil, criminal, commercial, administrative, social, etc.) and to all proceedings, contentious or non-contentious, irrespective of the capacity in which the persons concerned act".

A number of documents establish that if a detained, accused or imprisoned person does not have legal assistance of his own choosing, he has the right to legal assistance appointed by the judge or judicial authorities, if the interests of justice so require. If a person is not able to pay for legal assistance, he should be given it for free.

Considerable attention to the provision of subsidized legal assistance is paid by the Council of Europe that developed a number of standards, recommendations, resolutions and directives on the matters relating to legal assistance including subsidized assistance (e.g. The Charter of Fundamental Rights of the European Union²¹, Resolution (78) 8 On Legal Aid and Advice²²; Resolution (76) 5 On Legal Aid in Civil, Commercial and Administrative Matters²³, Recommendation No. R (93) 1 On Effective Access to the Law and to Justice for the Very Poor²⁴, Recommendation No. R 2000(21) On the Freedom of Exercise of the Profession of Lawyer²⁵; Directive 2003/8/EU to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes²⁶ etc.).

Many ECHR resolutions refer not only to the standards of legal assistance provision but also to the basic principles for the provision of such assistance at the expense of the state (e.g. concerning the scope of application of the right to free legal assistance, application of the financial criterion; application of the interests of justice criterion; concerning free legal assistance in civil matters; concerning the right to effective remedies and compensation etc.).

¹⁸Approved by the UN General Assembly Resolution 46/119 of 17 December 1991

¹⁹Approved by the UN General Assembly Resolution 45/113 of 14 December 1990

²⁰Approved by the UN General Assembly Resolution 40/33 of 10 December 1985

²¹ Adopted on 7 October 2000.

²² Adopted by the Committee of Ministers on 2 March 1978 at the meeting of Ministers' Deputies.

²³ Adopted by the Committee of Ministers on 18 February 1976 at the 254th meeting of Ministers' Deputies.

²⁴ Adopted by the Committee of Ministers on 8 January 1993 at the 484th meeting of Ministers' Deputies..

²⁵ Adopted by the Committee of Ministers on 25 October 2000 at the 727th meeting of Ministers' Deputies..

²⁶ Adopted by the Committee of Ministers on 27 January 2003

Therefore, a feature common to all the specified international acts is the fact that they include provisions guaranteeing, firstly, the right to access to qualified legal assistance and, secondly, the right to subsidised legal assistance for certain categories of persons (1) and in cases when the interests of justice so require (2).

The first of the above guarantees provides for:

• equal access to legal assistance to exclude inequality and discrimination in accessing qualified lawyer's advice, including subsidised legal assistance;

• the right to fair and effective consideration of applications for legal assistance including subsidised legal assistance;

• the right to legal assistance not only in criminal but also in civil and administrative matters;

• the right to choose a legal counsel (except for the limitation of this right with regard to subsidised legal assistance).

The second class of guarantees of the right to subsidised legal assistance provides:

• the right to subsidised legal assistance not only for the persons charged with a criminal offence and affected by the crimes, in case they do not have means to pay for legal assistance, but also for the persons from socially vulnerable groups as well as for specified categories of persons;

• information on the right to legal assistance;

• financial, organisational and resource support of the subsidised legal assistance programmes;

• its quality and efficiency.

Considering that financial, organisational and resource support of subsidised legal assistance programmes is the most important of the guarantees, provision of such assistance implies the following.

The state should not only guarantee qualified legal assistance, but also create conditions to make it efficient. For example, paragraph 2 of the Basic Principles on the Role of Lawyers establishes: "Governments shall ensure that efficient procedures and responsive mechanisms for effective and equal access to lawyers are provided for all persons within their territory and subject to their jurisdiction".

In many documents, the states are recommended to arrange legal assistance programmes that would guarantee opportunity for a person to choose a lawyer. Thus, Recommendation No. R (93) 1 On Effective Access to the Law and to Justice for the Very Poor instructs: "Facilitate effective access to the courts for the very poor, especially by [...] recognising the right to be assisted by an appropriate counsel, as far as possible of one's choice". At the same time, the right of free choice of a counsel may be limited where subsidised legal assistance is provided. For example, referring a number of times to this factor in its decisions, ECHR noted that "...the right to be defended by counsel of "his own choosing" cannot be considered to be absolute. It is necessarily subject to certain limitations where free legal aid is concerned. When appointing defence counsel, the national courts must certainly have regard to the defendant's wishes. However, they can override those wishes where there are relevant and sufficient grounds for holding that this is necessary in the interests of justice".

At the same time, international documents establish the conditions for the provision of subsidised legal assistance — the requirements of the interests of justice and financial standing of a person who is not able to pay for legal assistance by himself. However, the term "interests of justice" is not defined; they also do not contain provisions relating to the determination of the criteria of a persons' financial standing, his inability to pay for legal assistance.

Therefore, international acts establish the following principles of the provision of qualified legal assistance, including subsidised assistance:

• equal access to legal assistance;

• the right of a person to be informed of the opportunity to receive qualified legal assistance including subsidized legal assistance;

• the right to choose a lawyer and the limitation of such a right with regard to subsidized legal assistance;

• the right to an appointed defence counsel (is a person does not have a counsel of his own choice) in any case where the interests of justice so require;

• the right to free legal assistance by an appointed defence counsel where there is lack of means to pay for his assistance;

• groups of persons entitled to subsidised legal assistance;

• subsidised legal assistance quality requirements;

• establishment of a procedure for accessing subsidised legal assistance;

• obligation of the state to organise a subsidised legal assistance system, ensure its sufficient funding and provide other resources;

• obligation of an appointed counsel to have necessary qualification, competence and experience;

• obligation of lawyers' associations to facilitate public awareness programmes on the rights of citizens and participate in the provision of subsidized legal assistance;

• quality assurance of the provided legal assistance and some other principles.

It should be noted that international documents provide for the receipt of such assistance not only by suspects, accused, defendants and convicts, but also by other categories of persons: those affected by a crime committed against them; low-income persons; persons from certain social groups — elderly, disabled, refugees, internally displaced, stateless persons, persons treated at psychiatric and psychoneurological medical and social institutions or rehabilitation centres, foreigners, and some other categories.

It is also important to note that the improvement of a legal assistance provision system should, first and foremost, be undertaken with a view to bring it into compliance with international standards established in this sphere. Paragraph 3, Article 4 of the Constitution of the RK reads: "International treaties ratified by the Republic shall prevail over its laws and be directly implemented, except in cases where the application of an international treaty requires the promulgation of a law". In accordance with this provision paragraph 1, Article 20 of the Law of the RK "On International Treaties of the Republic of Kazakhstan" establishes that "Each current international treaty of the Republic of Kazakhstan shall be subject to compulsory and faithful performance by the Republic of Kazakhstan". Therefore, the above provisions oblige Kazakhstan to observe the universally recognised principles and norms of international law and integrate them into the national legislation, likewise the international acts relating to the right to qualified legal assistance, including its provision on a free-of-charge basis.

Legislation of Kazakhstan envisages the provision of assistance free of charge in criminal and administrative proceedings where the lawyer acts as a defence counsel appointed by the authorities performing criminal proceedings. In this case, the lawyer's remuneration is covered by the state budget at rates approved by the Government of the Republic of Kazakhstan. Provision of free legal assistance is also envisaged in civil proceedings, but only for certain categories of low-income citizens and in a very limited range of matters. This category does not include migrant workers. And, as shown in practice, no one but NGOs provides free assistance to migrant workers. At the same time, provision of legal assistance is not regulated for matters not relating to court proceedings, and neither is the provision of legal information and legal advice.

In this regard, there is a need for consolidation and systematic development of the principles and foundations of free legal assistance provision, which, in turn, requires reforms of the existing legal assistance provision and remuneration system: creation of legal, resource and organisational mechanisms for the realisation of the constitutional right of the poor and other disadvantaged persons to free legal assistance, that should be enshrined in the Concept for the Guaranteed Subsidized Legal Assistance.

At the same time, it is necessary that the state itself organise the system of legal assistance provision; in other words, international authorities empower the state to define the structure and procedure for the provision of assistance. In this regard, it is most critical to ensure that the system could guarantee the right to free legal assistance. The UN Basic Principles on the Role of Lawyers adopted by the Eighth Congress on the Prevention of Crime and the Treatment of Offenders in September 1990 establish that "Governments shall ensure the provision of sufficient funding and other resources for legal services to the poor and, as necessary, to other disadvantaged persons. Professional associations of lawyers shall cooperate in the organisation and provision of services, facilities and other resources".

In choosing the system of legal assistance provision, the states should apply an international law doctrine known as the margin of appreciation that would enable them to independently choose which state-budget-funded system of qualified legal assistance provision will be implemented.

However, the current statutory regulations of the RK stipulating provision of free legal assistance are not perfect and do not guarantee its provision to persons who require it, but cannot pay for the lawyer' service due to the lack of means. According to the current legislation, free legal assistance can be provided in the following cases.

Article 71 of the Criminal Procedure Code of the Republic of Kazakhstan sets out the mandatory participation of a defence counsel where it is requested by the suspect, accused or defendant. However, criminal procedure legislation does not explicitly require investigation and court bodies to inform an individual that became involved in criminal proceedings regarding their right to use a lawyer whose services are paid for by the state.

Paragraph 4 Article 12 of the Constitution stipulates that foreign nationals and stateless persons in the Republic of Kazakhstan shall enjoy the rights and freedoms and bear the obligations established for the citizens of the Republic, unless otherwise provided for by the Constitution, the laws and the international treaties.

At the same time, the Constitution of the RK allows the person and the citizen to protect their rights and freedoms with all means not violating the law (paragraph 1, Article 13). This constitutional provision gives the person and the citizen free choice of legitimate means to protect their rights, freedoms and interests.

Paragraph 3, Article 13 of the Constitution of the RK also specifies that everyone shall have the right to qualified legal assistance. In cases specified by law, legal assistance shall be provided free of charge." According to sub-paragraph 1 of paragraph 1 of Article 4 of the Law of the Republic of Kazakhstan "On migration", one of the main principles the state policy in the area of population migration consists in recognising and guaranteeing the rights and freedoms of migrants in accordance with the Constitution of the Republic of Kazakhstan, laws and international treaties.

As envisaged by Article 18 of the Law of the RK "On the legal status of foreign nationals", foreigners in the Republic of Kazakhstan have the right to appeal to the courts and other state bodies to protect their property and personal non-property rights. Foreign nationals exercise procedural rights in court on equal footing with citizens of the Republic of Kazakhstan, unless otherwise provided by international treaties ratified by the Republic of Kazakhstan. A similar provision is established in sub-paragraph 1), paragraph 1, Article 5 of the Law of the RK "On migration". According to this provision, immigrants in the Republic of Kazakhstan are entitled to exercise the rights and freedoms afforded to the citizens of the Republic of Kazakhstan unless otherwise envisaged by the Constitution of the Republic of Kazakhstan, laws and international treaties, to appeal to courts and other state bodies to protect their property and personal non-property rights. The right of everyone to qualified legal assistance in civil or criminal proceedings is envisaged by Article 18 of the Civil Procedure Code and Article 28 of the Criminal Procedure Code. These procedural rules are based on the Constitution of the RK and closely related to such constitutional principle as equality of everyone before the law and court affirmed by paragraph 1, Article 14 of the Constitution of the RK. In accordance with paragraph 1, Article 1 of the Law "On the practice of law", legal representation in the Republic of Kazakhstan is aimed to facilitate the implementation of the right of a person to judicial protection of his rights, freedoms and qualified legal assistance guaranteed by the state and established by the Constitution of the RK. According to paragraph 3 of the above Article of the Law, legal representation is qualified legal assistance provided by lawyers on a professional basis in the manner established by this Law for the purpose of protecting and facilitating the exercise of the rights, freedoms and legitimate

interests of individuals as well as the rights and legitimate interests of legal entities.

At present the right to legal advice at the expense of the budget is guaranteed in cases specified by law. Unfortunately, this right is not always enforced for the migrant workers and victims of human trafficking. An investigator is rarely interested in the involvement of a qualified counsel at the very early stage of the investigation. In civil and administrative matters, people can obtain free legal assistance of limited scope, as well as paid assistance. In the civil legislation, grounds for the appointment of a counsel by the state are established very vaguely.

Article 413 of the Civil Procedure Code of the RK establishes that foreign nationals shall exercise procedural rights and perform procedural obligations equally with the citizens and organisations of the Republic of Kazakhstan. Article 114 of the CPC RK and Article 6 of the Law of the RK "On the practice of law" determine where citizens are eligible for free legal assistance. In this regard, in order to avoid ambiguous interpretation of the provisions of the CPC RK, the Law "On the practice of law" and the Law "On the legal status of foreign nationals" in the law enforcement practice with respect to cases where free legal assistance is provided, we deem it necessary to consider linking the above provisions together.

In practice, this causes certain problems with the quality, timeliness and accessibility of legal assistance. Unfortunately, migrant workers cannot always be sure that their rights and interests will be represented by a lawyer even in situations where they consider it necessary.

It should be noted that, when discussing the problem of the judicial system inefficiency, the mass media and the public blame it on corruption, insufficient funding of courts, shortcomings in the legislation, among other reasons. Yet, they forget that one of the aspects of this problem is that not all of the citizens and not under all circumstances have actual opportunity to protect their rights in court or take legal action. Retired persons do not often win lawsuits on housing disputes and lawsuits on incorrect calculation of retirement benefits. After all, these are the most difficult categories of cases that require assistance of a qualified lawyer both before filing a claim and during the judicial proceedings. Yet, such lawyers are simply out of reach for most population, including migrant workers and victims of human trafficking, and the system of provision of free legal assistance in civil proceedings, as envisaged by paragraph 3, Article 13 of the Constitution of the RK, is formally absent: there exists the legislation and institutions aimed to ensure the right of people to qualified legal assistance, but there is no implementation mechanism.

In order to implement the constitutional provision, a separate law "On the provision of free qualified legal assistance" needs to be adopted to include specific provisions for the allocation of budget funds to lawyers for these purposes, since at the moment the legal assistance, even already rendered, is often not paid for in time due to flaws in the legislation.

It is necessary to focus on the provision of free qualified legal assistance to the poor and, above all else, in rural areas. In this regard, it is advisable to support the idea of establishing Legal Advice Centres (LACs) in oblasts and the cities of Astana and Almaty; this will not require the adoption of a special law as it could be implemented by a resolution of the Government of the RK. Resolving this issue is within the authority of the Committee for the Registration Service and Provision of Legal Assistance to the Population under the Ministry of Justice of the RK, since, according to the Regulation, it has been assigned implementation and supervisory functions in the filed of organising legal assistance and the provision of legal services to the population. Therefore, the Regulation could also specify that the main function of the Centre lies in engaging lawyers employed by legal advice offices of a district (oblast) to provide qualified legal assistance to the population, especially to the poor; the Regulation could also provide that the state, following the conclusion of a competitive bidding process, allocates funds for free legal assistance to legal advice offices that shall report on the utilisation of said funds.

Moreover, based on the experience of Lithuania in the provision of free legal assistance to the poor, we recommend the Government of the Republic of Kazakhstan to establish special units for the provision of free legal assistance within the departments of justice of oblasts and the cities of Astana and Almaty, that will commission lawyers to provide free legal assistance to disadvantaged groups of population. The mechanisms of budget financing of free qualified legal assistance, and the procedure for the provision of free legal assistance to disadvantaged groups of population and control over provided assistance should be established in the Law "On the provision of free qualified legal assistance".

9. Concerning migrant workers' access to justice

The Constitution of the Republic of Kazakhstan guarantees everyone, including migrant workers and victims of human trafficking, judicial protection of their rights and freedoms (paragraph 2, Article 12).

In accordance with paragraph 4 article 12 of the Constitution stipulates that foreign nationals and stateless persons in the Republic of Kazakhstan shall enjoy the rights and freedoms and bear the obligations established for the citizens of the Republic, unless otherwise provided for by the Constitution, the laws and the international treaties.

As envisaged by Article 18 of the Law of the RK "On the legal status of foreign nationals", foreigners in the Republic of Kazakhstan have the right to appeal to the courts and other state bodies to protect their property and personal non-property rights. Foreign nationals use procedural rights in court on equal footing with citizens of the Republic of Kazakhstan, unless otherwise provided by international treaties ratified by the Republic of Kazakhstan.

A similar provision is established in sub-paragraph 1), paragraph 1, Article 5 of the Law of the RK "On migration".

As is evident from the analysis conducted by the Secretariat of the Commission on Human Rights under the President of the Republic of Kazakhstan, migrant workers' access to justice is guaranteed by the Constitution of the RK, the Civil Procedure, Criminal Procedure codes and the Code of Administrative Offences of the RK, in compliance with the provisions of the International Covenant on Civil and Political Rights.

In the event of a violation of their civil and labour rights, migrant workers, regardless of status, shall be entitled to appeal to the court to protect their rights and freedoms.

Since migrant workers are mainly classified as socially protected groups of the population, when claiming for the reinstatement at work or for the recovery of wages, or claiming pecuniary or non-pecuniary damages, migrant workers shall be fully exempted from paying the state duty.

Migrant workers' claims for reinstatement at work or for recovery of wages and damages shall be considered by the courts in the manner prescribed by the Civil procedure Code of the Republic of Kazakhstan.

It should be noted that the Commission on Human Rights under the President of the RK has no statistical data on the prosecution of violations of the foreign workers' rights, including exploitation of migrant workers.

In 2015 the Single Case Category Classifier integrated into "Torelik" information and analytical system made it possible to aggregate judicial practice in the processing of illegal migration arrangement cases and cases related to intentional illegal crossing of the State Border of the Republic of Kazakhstan and to the non-fulfilment of a deportation ruling. Analysis of the examined cases shows that, in general, courts adequately apply the provisions of substantive and procedural law in administration of justice in this category of criminal cases.

In order to identify issues, in the first half of 2016 the Supreme Court of the RK aggregated the judicial practice of processing administrative cases of the above category.

The aggregation results showed that justice on the cases of administrative offences undermining the established order of the state border regime and the procedure of foreigners' stay in the Republic of Kazakhstan was administered in accordance with the current legislative provisions.

It is common knowledge that migrant workers often become victims of human trafficking.

Under the current legislation of the Republic of Kazakhstan, victims of human trafficking are granted all the corresponding rights, including the right to participate in pre-trial and court proceedings, to file claims and appeal procedural decisions on the case.

In the judicial practice on the cases of human trafficking, questioning of victims and witnesses in court presented certain difficulties, as many of them are foreign nationals who would depart prior to court proceedings. This also refers to juvenile victims, whose repeated questioning results in a psychological trauma.

Obviously, one of the main sources of evidence in the investigation of crimes related to human trafficking is questioning of victims and witnesses.

In this regard, it would be appropriate to introduce into the criminal proceedings such procedural action as deposition of victim and witness testimony by the investigating judge at the pre-trial stage of criminal proceedings.

Deposition consists in victim and witness testimony obtained by the investigating judge at the pre-trial stage that can be further used during the court proceedings in cases where attendance of a witness is impossible.

In Accordance with paragraph 3, Article 217 of the Criminal Procedure Code of the RK, the investigating judge shall interrogate the above persons in the presence of the prosecutor, the suspect and his defence lawyer and other participants to the proceedings, if necessary. In cases where the presence of the suspect threatens the safety of the victim or the witness, the legislation provides for this procedural action to be carried out in absence of the suspect, who is not summoned for interrogation. The criminal procedure law provides for a number of options for interrogation of such a person while maintaining confidentiality.

To ensure the safety of the participants of the court proceedings during depositions in the manner prescribed by Article 219 of the Criminal Procedure Code of the RK, the investigating judge shall be entitled to question a witness without disclosing the identity of the protected person by using an alias as per Article 98 of the Criminal Procedure Code, as well as in such a manner that prevents other participants from identifying the person by voice or appearance, or prevents other hearing participants from visually observing the person, which includes the use of video communication, the use of technical means in a remote questioning, as per Article 213 of the Criminal Procedure Code.

In order to facilitate access to all types of cases, the judicial system widely employs innovative information technology.

The new automated system "Torelik" has been in use at the Supreme Court of the RK since 2015: the system consolidates all the internal information processes of the courts in the country. "Torelik" integrates the electronic archive of judicial documents, the internal portal, the call-centre, internet resources of the courts, various modules, such as "E-Personnel", "List of case hearings", "Bank of judicial acts" and a number of other mechanisms that offer a wide variety of new free services to the population.

Courts and other actors participating in the law enforcement activities are also informed about the developing judicial practice using the publication of court rulings in the Case Handbook.

With the advent of the Single Cases Category Classifier, over 900 aggregations of criminal, civil and administrative cases were made. They are posted in "Torelik" system on "Taldau" forum and made available to all judges. In addition, prospects of granting enforcement authorities access to these systems are currently being discussed.

One of the components of the information and analytical system is the Judicial Office, designed for the wide range of users participating in court proceedings. It is a one-stop shop for accessing online-services of judicial bodies, that has made it possible to convert 80% of all the court proceedings documents into electronic form without hardcopy confirmation.

Filing lawsuits, applications, claims, petitions and other documents; notification of the participants of the proceedings; judicial sanctioning; remote

study of evidence; parties' examination of materials in the proceedings; court reporting, issuance of court rulings and writs of execution is already being done electronically.

Court rooms are equipped with audio and video recording systems that ensure impartiality of court proceedings and decisions made by the court.

Instant phone text notifications were introduced, which made the notification of parties 100 times cheaper. Considerable savings of budget funds were also made possible by the "hybrid email" created as a joint effort of the Supreme Court of the RK and KazPost.

Integration of courts with the Traffic Police, the Ministry of Finance, Ministry of Justice and the General Prosecutor's Office is currently underway.

When processing various categories of cases, national courts follow not only the legal provisions of the national legislation, but also refer to the regulations of international conventions ratified by Kazakhstan, utilising them in practice, if authorised to do so.

In particular, these considerations are reflected in court rulings on arrests, in court rulings on cases of human trafficking, trafficking in minors, torture as well as a number of other categories of cases.

At the same time, since separate record keeping for certain categories of cases, such as cases related to migrants or trafficking in persons, is not implemented by the official body on legal statistics, specific data on such cases are not available. However, when dealing with certain categories of cases and materials within the scope of international treaties, courts nationwide routinely take the latter into account in decision-making.

In view of the foregoing, we recommend local courts to expand the application of the ratified international treaties and refer to them in rulings, take measures for strict compliance with the requirements of law concerning legal evaluation of acts of guilty parties and the imposition of a proportionate punishment, strengthen preventive work responding to violations committed by competent authorities by means of issuing special rulings.

Moreover, judicial authorities dealing with civil, administrative and criminal cases involving migrant workers with limited or no command of the Kazakh or Russian languages are recommended to increase involvement of professional interpreters with the knowledge of the Uzbek, Tajik, Kyrgyz and Turkish languages. Participation of professional interpreters in court sessions will allow realisation of migrant workers' right to use the language they fluently speak as well as to fair court proceedings.

10. Concerning migrant workers' compensation of harm

The Criminal Procedure Code of the Republic of Kazakhstan establishes the right for the victims to use the services of professional defence counsels as well as to have legal representatives. They are entitled to guaranteed free legal assistance in accordance with the procedure established by the Law of the RK "On legal assistance guaranteed by the state" (as amended as of 16 November 2015). However, the Criminal Procedure Code of the RK does not envisage mandatory provision of appointed defence counsels to the victim, though according to Article 67 of the Criminal Procedure Code the suspected, accused, defendant, convicted and the witness entitled to defence are granted such a right.

One of the essential issues arising from cases related to trafficking in persons is the necessity to provide the victims with legal advice regarding compensation for the inflicted harm.

Pursuant to Article 71 of the Criminal Procedure Code, the victim is entitled to a compensation for pecuniary and non-pecuniary damages through the filing of a civil claim to be considered in criminal proceedings. The law provides the victim with the right to file a claim from pre-trial proceedings and up until the completion of court investigation. In this event, the plaintiff shall be exempted from the state duty payment. In the event of the victim's death, their interests can be represented by close relatives or by the spouse.

In accordance with paragraph 7 Article 71 of the Criminal Procedure Code, the victim (and in case of their death — their successor) has the right to receive state monetary compensation for pecuniary damage caused by a particularly grave crime, if the person convicted for such a crime is not in possession of property of sufficient value for the compensation of the inflicted damage. The victim in the above cases is entitled to full compensation if damages do not exceed 150 monthly calculation indices. Lawmakers emphasise specifically the compensation of property damage and only for categories of cases considered particularly grave.

In this regard, taking into account the experience of other countries, Kazakhstan was considering the possibility of compensating damages caused as a result of an offence, the necessity to establish special public funds to be used, under specified conditions, for compensating victims for any property damage caused by a crime. Victims of human trafficking, in the matters related to compensation for the damage caused by a crime, are not considered a separate category: this right belongs to all the victims of crimes.

For purposes of the implementation of the recommendation of the Commission on Human Rights under the President of the RK and paragraph 17 of the Single State Action Plan of Transitioning to a New Model of Criminal Law and Criminal Procedure, updated administrative offence legislation and the system of corrections (in criminal justice) adopted by the Order of the President of the RK effect 9 April 2014 No. 278, the Ministry of Finance of the RK jointly with the General Prosecutor's Office of the RK has developed drafts of the Law of the RK "On the Victim Compensation Fund" and the corresponding draft law.

The Draft Law "On the Victim Compensation Fund" establishes 3 categories of victims entitled to compensation.

The 1st category includes 3 groups of persons: 1) juvenile victims of sexual violence; 2) victims of human trafficking; and 3) victims of torture.

The 2nd category includes persons whose health was seriously damaged or HIV/AIDS infected persons.

The 3rd category — victim's successors in the event of the victim's death

caused by a criminal offence.

Amount of compensation depends on the category:

The 1st category (juvenile victims of sexual violence, victims of human trafficking and torture) — 30 MCIs — approximately 63,630 KZT;

The 2nd category (persons whose health was seriously damaged or HIV/AIDS infected persons) — 40 MCIs — approx. 84,840 KZT;

The 3rd category (victim's successors in the event of the victim's death caused by a criminal offence) — 50 MCIs — approx. 106,050 KZT.

Foreign nationals and stateless persons are entitled to compensation unless otherwise stipulated by the laws of the RK and international treaties.

The Draft Law establishes the following procedure for the payment of compensation.

First. The person in charge of the pre-trial investigation explains the victim their right to compensation and delivers a decision (ruling):

on recognising the person as the victim;

on awarding a compensation, specifying the amount of compensation in MCIs.

In order to obtain the compensation, the victim lodges the corresponding application with a law enforcement authority. The application is submitted by the victim themselves or, if the victim is a minor, by their legal representatives. The deadline for filing the application is 3 years from the recognition as the victim.

Second.Territorial law enforcement authorities forward decisions on compensation to the central authority (*at the Ministry of Internal Affairs*). The central law enforcement authority (MIA) creates a Register of Compensation Recipients (the form of the Register and the procedure for its keeping shall be developed by the Ministry of Finance) and by the 15th day of the month following the recognition of the person as a victim, submits it to the Ministry of Finance.

The Register of Compensation Recipients is maintained by the law enforcement authorities in a centralised manner, with a breakdown by territorial branches. The Register is also used by the central law enforcement authority for the purpose of monitoring and keeping records of payment recipients, as well as for keeping records of recourse claims against convicted persons.

Third. The Ministry of Finance prepares payment documents and makes the payments no later than within 10 calendar days following the submission of the Register of Compensation Recipients.

Compensation is paid through direct transfer of money from the Fund to the recipient's bank account.

On 4 April 2015 the draft Laws "On the Victim Compensation Fund" and "On changes and additions to some legislative acts of the Republic of Kazakhstan concerning the operation of the Victims Compensation Fund" were submitted by the Government of the Republic of Kazakhstan to the Mazhilis of the Parliament of the Republic of Kazakhstan for consideration.

Judicial practice has demonstrated that as far as crimes relating to

trafficking in persons are concerned, the victims mainly file civil claims for nonpecuniary damages. This is due to peculiarities of this type of cases, where the victims are not always able to provide evidence of material damage sustained.

Civil claims of victims for pecuniary damages are upheld by courts. Courts correctly identify violation of personal non-property rights and benefits, victims' moral or physical sufferings that they sustained as a result of the committed crime.

On 27 November 2015, the Supreme Court adopted Regulatory Resolution No.7 "On judiciary application of the moral harm compensation legislation".

11. Concerning migrant workers' access to information

Pursuant to clause 1 of article 30 of the Law of the RK "On regulatory legal acts", all laws and international treaties that the Republic of Kazakhstan is a party to shall be published. Official publication of regulatory legal acts concerning rights, liberties and duties of citizens shall be a mandatory prerequisite of their performance.

In the area of legal education of migrant workers, which includes the provision of any necessary information regarding international pacts and conventions ratified by the Republic of Kazakhstan, access to information plays a crucial role.

Pursuant to paragraph 3 of article 18 of the Constitution of the Republic of Kazakhstan, state bodies, non-governmental organisations, officials and mass media outlets are obliged to grant each citizen the opportunity to familiarise themselves with documents, decisions and information sources concerning their rights and interests.

Paragraph 2 of article 20 of the Constitution of the Republic of Kazakhstan guarantees every individual the right to freely receive and disseminate information using any means not prohibited by the law. List of information constituting state secrets of the Republic of Kazakhstan shall be defined by the law. Human and citizen rights and freedoms may be limited only by virtue of laws and only to the extent necessary for the protection of the constitutional system, protection of public order, human rights and freedoms, health and morals of the population (paragraph 1 of article 39 of the Constitution of the RK).

Citizen rights to receive and disseminate information are implemented and enforced in pursuance of the Laws of the RK "On access to information", "On national security of the Republic of Kazakhstan", "On state secrets", "On electronic document flow and electronic digital signature", "On informatisation" (IT penetration), "On technical regulation", "On mass media outlets", "On communication", and others.

Analysis of the aforementioned regulatory legal acts shows that the access to information resources is exercised freely on the grounds of the equality of rights enjoyed by natural and legal persons, with the exception of information resources access to which is limited by the legislation of the Republic of Kazakhstan.

The Criminal Code (art. 414), the Criminal Proceedings Code (art. 135, 473) and the Penal Code (art. 104) of the RK contain provisions enabling prosecution of violations of the right to information.

Furthermore, the procedure of receipt, registration and record keeping of inquiries from natural and legal persons is established under the Law of the Republic of Kazakhstan from 12 January 2007 "On the procedure of deliberation of inquiries from natural and legal persons".

For prosecutor's offices and internal affairs authorities the following orders are in effect: Order No. 225 of 10 April 2012 "On the approval of the Guidelines on the deliberation of inquiries from natural and legal persons, the reception of citizens at internal affairs authorities of the Republic of Kazakhstan"; Order No. 89 of 19 September 2014 "On the approval of the Rules for the receipt and registration of criminal offence reports, as well as the keeping of the Single Registry of Pre-Trial Investigations"; and Order No. 147 of 18 December 2015 "On the approval of the Rules of registration of inquiries from natural and legal persons".

The cited list of regulatory legal acts and guidelines makes it possible to effectuate full control and record-keeping of appeals/inquiries, as well as to ensure their timely consideration.

The Law of the Republic of Kazakhstan "On access to information" of 16 November 2015 (effective 1 January 2017) clearly stipulates the rights and duties of information users and creators, referring to which users can lodge a request for information, appeal against illegal restriction of the right to access to information, or against actions (or inactions) of officials, seek compensation — under the procedure established by the law — for pecuniary and non-pecuniary damages sustained as a result of a violation of their right to access to information, and so forth, whereas owners are obliged to ensure access to information, provide accurate and complete information, ensure the observance of deadlines established in the legislation, and so forth.

Pursuant to Article 8 of the Law, information owners are:

1) bodies and institutions pertaining to the legislative, executive and judiciary state powers, local governance and self-governance;

2) state institutions that are not state bodies;

3) quasi-public sector entities;

4) legal entities (persons) receiving budgetary funds — in reference to information pertaining to the use of funds provided out of the national budget;

5) legal persons that are dominant or monopolistic entities of the market — in reference to information pertaining to prices of goods (works, services) that they produce (sell);

6) legal persons — in reference to any information that they might possess in regards to the environment, emergencies, natural and man-made disasters, their forecasting and projections, fire safety conditions, sanitary and epidemiological and radiation situation, food safety and other factors that could adversely impact the health and well-being of citizens, communities and industrial facilities. If requested, any information can be provided, with the exception of information designated as classified (restricted access).

A violation of the legislation of the Republic of Kazakhstan on access to information constitutes a prosecutable offence.

It is worth noting that the current legislation of the Republic of Kazakhstan does not contain specific regulations with respect to legal education of specifically migrant workers and victims of human trafficking. They are expected to seek the associated services as everyone else. At the same time, awareness-raising activities are not limited to the publication of regulatory documents of the state in press. An especially effective means of combating human trafficking consists in legal education of the general population, especially the most vulnerable groups.

States can employ various methods in order to ensure the inclusion of the human trafficking issues as a topic of academic research, as well as to utilise the education system to inform students of this phenomenon. For instance, according to the Brussels Declaration on Preventing and Combating Trafficking in Human Beings (20 September 2002), "closer links should be established with educators and Ministries of Education with a view to elaborating and including relevant and realistic teaching modules in school and college curricula and to informing pupils and students of human rights and gender issues. These modules should be specifically linked to teaching young people about the modi operandi and dangers presented by trafficking crime, the opportunities for legal migration and foreign employment and of the grave risks involved in irregular migration."

Lack of legal literacy of human trafficking victims is a massive problem both for the country of origin and the country of destination, and results in the growth of unregulated migration and employment, which, in turn, leads to exploitation and violation of migrant rights.

A survey conducted by the "Sana-Sezim" NGO in the Southern region of Kazakhstan in 2013 demonstrated that over 60% of respondents among migrant workers are not familiar with the laws of the Republic of Kazakhstan that govern their employment in the country of stay, while 22% of respondents were unable to answer. Only 15% of respondents indicated that they are familiar with the Kazakhstani legislation governing employment and labour of foreign nationals, but were unable to recall the names of the laws in question.

A survey conducted by Medialife NGF among migrants in Karaganda Oblast in 2016 revealed that the majority of respondents were not aware of their right to access to information and had not attempted to request information at state institutions. Furthermore, 80% were not able to list the rights that they possess and were unable to complete the phrase "the right to access to information is...". An important indicator is the fact that 85% believe that they are, nevertheless, entitled to request information from state bodies; however, most respondents do not know which information is open to public. Respondents' wishes and suggestions regarding their desire to know more about their rights — specifically about the right to access to information — yet again stresses the importance of a continued discussion of this topic with migrant workers and efforts to improve their legal literacy, which will contribute to effective realisation of the right to access to information.

These results are a testament to the necessity of legal education of the community, which includes migrant workers, as well as the creation of accessible resource centres for legal information. Digital library of the Commission on Human Rights under the President of the RK, located on the website of the National Academic Library of the Republic of Kazakhstan (http://hrc.nabrk.kz), can become one of such accessible information resource centres for human rights, that would not only conduct permanent awareness raising campaigns at education and healthcare institution, but also through mass media, under social public procurement, drawing funding from the Republican and local budgets.

Among effective mechanisms of awareness raising and legal assistance one should note the activities of the Legal Information Service, whose staff offer free qualified legal assistance in form of consultation via telephone to denizens of oblast and rayon centres, rural territories and the cities of Astana and Almaty.

Another effective awareness-raising instrument is the website of the Ministry of Justice of the RK (*www.adilet.gov.kz*).

Resolution of the Government of the Republic of Kazakhstan of 30 December 2011 No. 1679 "On amendments and additions to the Resolution of the Government of the Republic of Kazakhstan of 8 February 2011 No. 95 "On the 2011–2015 Strategic Plan of the Ministry of Justice of the Republic of Kazakhstan" an Objective 1.1.3 "Ensuring common free-of-charge access to a systematised and comprehensive database of regulatory legal acts" was added.

The following was specified as the output of this objective: "100-percent public availability of the RLA database by means of internet access".

For purposes of achieving this objective, the Ministry of Justice of the RK created an legal information system "Adilet" (Adilet LIS). Adilet LIS provides around-the-clock free online access to a complete and comprehensive database of regulatory legal acts of the Republic of Kazakhstan on the website at http://adilet.zan.kz, as well as in the Unified Telecommunications Network of State Bodies of the Republic of Kazakhstan (UTN SB) and agency-level networks of state bodies not synchronised with the UTN SB or the internet (an image of the system is provided to be installed and configured by a state body lodging the request).

Adilet LIS is being continuously updated with newly enacted regulatory legal acts of the Republic of Kazakhstan and is maintained accordingly. The information base is updated every workday.

In 2014 the site was updated with 18,865 RLAs, of which 9,571 were in Russian, 9,170 — in Kazakh and 124 — in English.

In 2015 the site was updated with 24,427 RLAs, of which 12,447 were in Russian, 11,966 — in Kazakh and 14 — in English.

In 2016 (from 1 January through 17 May) the site was updated with 11,342 RLAs, of which 5,680 were in Russian, 5,592 — in Kazakh and 70 — in English.

Also Adilet LIS contains international human rights obligations of Kazakhstan in the "UN Documents" section: 78 documents in Kazakh, 96 documents in Russian and 83 documents in English.

Currently Adilet LIS is one of the most in-demand systems in the Republic of Kazakhstan.

The Commission on Human Rights under the President of the RK wishes to extend their gratitude to "Medialife" NGF (Karaganda), non-government institution "Almaty Law Corporation" (Almaty), "Sana-Sezim" NGO (Shymkent) for their contribution to the legal education of migrant workers, as well as for informing them of the rights to access to information.

It can be concluded that migrant workers' access to information is enshrined in the current legislation of the Republic of Kazakhstan.

Recommendations of Chapters 1, 2 and 3 of the Analytical Report

1. For purposes of enhancing international mechanisms of migrant worker right protection, we recommend the Government and the Parliament of the Republic of Kazakhstan to consider ratifying the following ILO Conventions:

Convention No. 97 "Concerning Migration for Employment" from 1949;

Convention No. 143 "Concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers", 1975

2. We recommend that consideration be given to the possibility of ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

3. We recommend accelerating the ratification of the Agreement on the Procedure of Investigating Industrial Accidents Involving Citizens of a Member State of the Eurasian Economic Community in Worker Capacity in Another Member State of the Eurasian Economic Community;

4. Address the matter of the signing of agreements concerning transborder control, prevention and treatment of tuberculosis between the Eurasian Economic Union and Central Asian nations.

5. Take measures to accelerate the adoption of the Customs Code of the Eurasian Economic Union states.

6. Continue efforts on the conclusion and subsequent ratification of readmission agreements with post-Soviet states and foreign nations.

In the area of external labour migration:

7. In order to ensure a successful reform toward the employment of qualified foreign workforce and the simplification of the procedure for obtaining work permits, we recommend the competent authorities of the RK to thoroughly analyse the corresponding international experience, invite the best foreign specialists and experts to Kazakhstan for the practical utilisation of said experience.

8. Introduce the corresponding changes and additions into some legislative acts of the Republic of Kazakhstan concerning labour migration.

9. Improve the country's attractiveness for foreign specialists by means of enhancing the procedure of employment/labour permit issuance.

10. Consider legislative regulation of a separate category of migrant workers — *highly qualified foreign specialists*.

11. Simplify the procedure of reciprocal recognition of qualification and accreditations of specialists.

12. Create a migration infrastructure by means of providing accommodations for migrants (dormitories, temporary housing, mobile builders' camps), employing migrants (migration marketplaces, private employment agencies, staff leasing).

13. Ensure that the foreign workforce employment quota is adjusted to reflect any changes in the labour market demand; ensure maximum simplification of the procedure for obtaining work permits for migrant workers.

14. Consider enabling legal entities to apply for work permits (patent) for foreign nationals to be engaged in seasonal labour, to be issued by the offices of the migration police of the Departments of Internal Affairs of the cities of Astana, Almaty and oblasts, for purposes of ensuring timely control of their stay.

15. In order for migrant workers to be promptly notified of the rules of entry and stay in Kazakhstan, as well as regarding the active migration legislation of the Republic of Kazakhstan, we recommend installing the corresponding information boards at checkpoints.

In the area of ethnic migration:

16. In order to improve the situation surrounding the integration of oralmans into the Kazakhstani society, we recommend increasing the number of, and maintain operation of the centres of integration for oralmans — both state-run and private — for instance, in form of private institutions, foundations and other non-commercial organisations. Conduct regular monitoring and performance evaluations of these centres to ensure adequate level of services.

17. Consider introducing changes to article 16-1 of the Law of the RK "On citizenship" (terms of conferment of citizenship of the Republic of Kazakhstan under simplified (registration) procedure) in regards to the change of the word "oralmans" into "ethnic Kazakhs". This measure will allow a returnee to obtain citizenship of the Republic of Kazakhstan under a simplified procedure, without being assigned the "oralman" status.

18. Differentiate benefit amounts by oralmans' region of settling (in priority regions: North Kazakhstan, Pavlodar, Kostanay, East Kazakhstan, Akmola and Karaganda Oblasts the amount of payable benefits is increased 1.5–2-fold).

19. Simplify the procedure of recognition of a foreign diploma (nostrification) for purposes of employment of oralmans using an occupation acquired in the country of origin.

In the area of internal migration:

19. Create economic conditions (ensuring proportional development of labour and housing markets) conducive for enhancing territorial mobility of workforce, especially in Kazakhstan's northern and eastern regions where negative migrative balance is projected.

20. Create socio-economic, organisational conditions, which include the provision of the necessary information support, that would encourage internal

migrants to move from southern regions into the northern ones, as well as contribute to their sustainable social integration in the community of destination.

21. Ensure effective state and public control of the migration process, observance of migrant rights, monitoring of the fulfilment of duties both on the part of migrants and the state.

22. With a view to ensure observance of internal migrants' rights to freedom of movement and freedom of residence in the Republic of Kazakhstan, as guaranteed by the Constitution of the Republic of Kazakhstan and the International Covenant on Civil and Political Rights, we recommend removing from the Code of Administrative Offences of the RK the regulation that prescribes imposition of a fine where a migrant fails to obtain temporary registration at the place of residence or place of stay.

Recommendations concerning the protection of labour, social, economic, civil and cultural rights of migrant workers

23. On the legislative level we recommend that qualified migrant workers be granted the right and the opportunity to be employed in the Republic of Kazakhstan on equal terms with the citizens thereof, thereby guaranteeing migrant workers' rights to access to the labour market of Kazakhstan.

24. We recommend the Ministry of Healthcare and Social Development of the RK, the General Prosecutor's Office of the RK to strengthen the control and oversight of employers' observance of labour rights of migrant workers, primarily with respect to the compulsory conclusion of labour (employment) contracts, ensuring that the contents of said contracts conform with the provisions of the Labour Code of the Republic of Kazakhstan, ensuring the observance of standard working hours, breaks and days off, timeliness of salary payments.

25. Taking into account the pervasive nature of the revealed violations of the occupational safety and health legislation as far as migrant workers' labour is concerned, we recommend state labour inspectors and national prosecutor's office bodies to strengthen the control over the observance of the occupational safety and health regulations by employers in general, and construction contractors in particular.

26. State labour inspectors, jointly with local executive bodies, should conduct awareness-raising campaigns among migrant workers in order to inform them of the laws on labour, social protection and employment.

27. In order to improve legal literacy of migrant workers, we recommend the Ministry of Healthcare and Social Development of the RK and its regional branches, jointly with specialised NGOs, labour unions as well as labour relations experts to conduct educational seminars for migrant workers on a regular basis.

28. We deem it necessary to raise awareness on the part of the general populace — adults and children alike — of the problem of the worst forms of child labour, its scope and characteristics, consequences for children and the society, as well as regarding the basics of international and national legislation in this field.

29. Develop a multisectoral protection and response strategy for the healthcare system that would provide concrete measures toward reducing health

risks and providing services that meet the demands of migrant workers, especially those in higher-risk groups.

30. Ensure adherence to articles 12 and 35 of the Law of the RK "On migration" which give foreign workers the right to medical insurance.

31. We recommend the Ministry of Healthcare and Social Development of the RK, jointly with NGOs and insurance companies, to disseminate information regarding voluntary medical insurance for migrant workers, which includes any clarifications on voluntary insurance, as well as employer-funded insurance.

32. Provide information and training for medical professionals regarding occupational health risks incurred by migrant workers engaged in the construction sector (for instance, dust and airway diseases), as well as general health issues relevant to migrant workers, such as tuberculosis.

33. Under supervision of medical professionals, conduct events for migrant workers for purposes of informing them about symptoms and treatment, as well as regarding common health issues associated with the construction sector, as well as information on where to seek help.

34. Provide medical care for migrant workers in accordance with their rights and the national legislation. Maintain human right advocacy to ensure continued access to medical services, including insurance coverage and available services for non-residents of Kazakhstan.

35. Arrange on-site medical examinations to determine common diseases and injuries during intensive seasonal migration at common places of work and residence of migrant workers.

36. Look into providing free-of-charge examination to foreign nationals where tuberculosis is suspected, as part of guaranteed volume of medical care at healthcare institutions.

37. Develop contingency support and compensation procedures for employers to resort to whenever migrant workers in their employ fall ill or get injured.

38. As part of medical education institutions' curricula, introduce training courses on occupational health and safety in especially hazardous sectors such as construction, as well as training on approaches to addressing the issue of excessive exploitation, which includes identification, safe treatment and specialised care provision.

39. Develop and enact a separate Law of the RK "On the provision of free qualified legal assistance".

40. For purposes of guaranteed observance of the right of migrant workers and human trafficking victims to receive free legal assistance for civil proceedings, we recommend to expand paragraph 1 of article 112 of the Civil Procedure Code of the RK with the following sub-paragraph 5) as follows: "5) migrant workers and victims of trafficking in persons on seeking damages for health harm sustained in line of work or as a result of a criminal offence".

41. Article 3 of the Law of the RK "On state-guaranteed legal assistance" should be amended to read as follows:

"Article 3. This Law shall not apply to citizens of the Republic of Kazakhstan or permanently residing in the Republic of Kazakhstan foreign nationals and persons without citizenship, migrant workers, victims of trafficking in persons, as well as legal entities in need of state-guaranteed legal assistance.

42. Sub-paragraph 3) of article 6 of the Law of the RK "On state-guaranteed legal assistance" should be amended to read as follows:

"3) protection and representation of interests of citizens of the Republic of Kazakhstan, foreign nationals, persons without citizenship, migrant workers, victims of trafficking in persons in courts, criminal justice institutions, other state bodies and non-governmental organisations, in the events and under the procedure established in this Law or other legislative acts".

43. In order to ensure effective provision of free legal assistance to migrant workers and other vulnerable groups, we recommend developing and implementing a mechanism of quality control of the free legal services provided.

44. Take any necessary effective measures toward ensuring transparency of all open court proceedings that involve migrant workers, as well as the activities of judicial bodies.

45. Ensure transparency of information concerning the turnover and progress of cases involving migrant workers, guarantee availability of court rulings to all parties to the proceedings.

46. For purposes of protecting the right of migrant workers with limited or no Kazakh or Russian language proficiency to use a language they are fluent in, we recommend judicial institutions to more extensively employ professional interpreters of Uzbek, Tajik, Kyrgyz, Turkish and other languages in legal proceedings.

47. We recommend all judicial bodies to extensively utilise provisions of ratified international human rights conventions in the administration of justice in criminal, civil, administrative and juvenile cases.

48. We recommend the Committee for Legal Statistics and Special Accounts of the State Office of Public Prosecutor of the RK to regularly collect data related to court rulings concerning redresses on violated rights of foreign workers, including in cases of exploitation of migrant workers.

49. We recommend the Supreme Court of the RK to consider aggregating civil, administrative and criminal cases related to the redress of violated rights of migrant workers.

50. Accelerate the enactment of the Law of the RK "On the Victim Compensation Fund".

51. We recommend the "Atameken" National Chamber of Entrepreneurs of the Republic of Kazakhstan to create a separate dedicated fund for rendering aid to migrant workers in a difficult life situation as a result of a violation of their labour rights by employers.

52. We recommend labour union organisations, specialised NGOs and mediators to render any necessary legal assistance to migrant workers to facilitate resolution of conflicts with employers and to collect damages from offenders including disreputable employers.

53. Arrange educational programmes in schools, colleges (vocational schools), higher education institutions, as well as for the general public, regarding the migrant worker rights. We recommend that a short overview of the active migration and labour legislation of the Republic of Kazakhstan and the rights of migrant workers be disseminated and posted in bus terminals that many migrants use for departing or arriving, as well as on markets, in mosques, temples and other community centres.

54. Competent state authorities and NGOs should mount a nationwide awareness raising campaign among migrant workers regarding the provisions of the Law of the RK "On access to information".

55. We deem it necessary to raise awareness on the part of the general populace — adults and children alike — of the problem of the worst forms of child labour, its scope and characteristics, consequences for children and the society, as well as regarding the basics of international and national legislation in this field.

56. In order to provide migrant workers with access to information, we recommend that at all departments of the migration police and competent state authorities be taken all the necessary to provide information boards in visitor-accessible places.

57. For purposes of improving the migration legislation we recommend the following:

in recognition of the humanisation principles, we recommend excluding arrest from the corresponding sanction of the Code of Administrative Offences article that provides sanctions for violating the migration legislation; also, in order to save on the established procedures, assign the deliberation of such cases to the mandate of subordinate internal affairs bodies;

introduce to CoAO a separate article on the termination of proceedings due to insignificance of an offence, where a decision on said proceedings can be made not only by the court, but also by the corresponding official.

Organisational and managerial recommendations

58. In view of the annual growth of migration to Astana, as well as the upcoming EXPO-2017 international exposition, we recommend providing a dedicated building for the Office of the Migration Police of the DIA of the city of Astana for purposes of more efficient community and migrant efforts.

59. Taking into account high rates of migration processes, we recommend that in the city of Astana a Centre of Temporary Detention of Foreign Nationals (hereinafter — the Centre) be established for migrants that violate the legislation of the RK and are subject to deportation. The Centre will enable to streamline the procedure for administrative material review at judicial bodies, effectively execute court rulings and deport violators.

Currently the process of deportation of foreign nationals is significantly hampered by the fact that offenders do not make court appearances, which forces authorities to spend considerable time and budgetary resources to search for said offenders.

Furthermore, the Centre will enable to resolve the issue of detention of persons subject to readmission (deported from another country), enhance

preventive efforts against beggary by foreign nationals, as well as to uncover illegal migration channels.

Besides offenders, the Centre will also be used for temporary detention of foreign nationals and stateless persons that have lost their documents.

Chapter IV. Legislative Regulation of Combating Trafficking in Persons in the Republic of Kazakhstan

1. National Legislative Framework and Law Enforcement Practice in the Area of Labour Migration Regulation in the Republic of Kazakhstan

One of the key elements in successful prevention of trafficking in persons is effective legislation. In recent years Kazakhstan has taken a number of measures in this area.

International documents on trafficking in persons, through enshrining of fundamental principles and notions, as well as general measures, call for the expansion of international cooperation for information, experience and knowledge exchange in the fields of legislation, prosecution and social assistance. The success of this endeavour will primarily hinge upon the degree of each country's involvement and the proportionality of national measures to the nature of a threat.

Trafficking in persons as a social phenomenon is deeply rooted in history.

Originated during the times of slave states, trafficking in persons has persisted to this day. Trafficking in persons was first legally classified as an antisocial phenomenon in the Final Act of the Congress of Vienna in 1815, supplemented by the Annex on the prohibition of international trafficking in persons.

A range of factors can serve as causes of this phenomenon. These are economy globalisation and increase in labour mobility (migration), unemployment rate, demand for cheap labour force, growth of the Internet, etc. As a general rule, such crimes are hidden or latent by nature, and their detection requires a comprehensive approach from public authorities and non-governmental organisations.

Kazakhstan is a country of origin, transit and destination of victims of human trafficking, with such contributing factors as open borders with the CIS countries, intensification of migration flows both between the states and within the Republic, growing economy and political stability.

Inter-agency Commission on Combating Smuggling and Trafficking in Persons under the Government of the RK has been active since 2003. The Decree of the Government of the Republic of Kazakhstan dated 28 January 2015 No. 23 approved the Action Plan of the Government of the Republic of Kazakhstan for 2015-2017 on Combating and Preventing Offences Related to Trafficking in Persons (the Plan).

The Plan is based on the Programme of the CIS Member States on Cooperation against Human Trafficking for 2014–2018 (approved by the CIS Council of Heads of States on 25 October 2013) and recommendations of the UN Special Rapporteur on Contemporary Forms of Slavery, Ms Gulnara Shahinian, following her visits to Kazakhstan in 2012 and 2014.

The Plan is carried out in the following areas:

development of international cooperation in combating human trafficking; improvement of the legislation;

establishment of specialised units within law-enforcement authorities;

awareness raising efforts, cooperation with non-governmental organisations, development of social service institutions to assist victims.

Trafficking in Persons

In accordance with the Law "On changes and additions to some Laws of the Republic of Kazakhstan on combating trafficking in persons" of 2 March 2006, changes and additions were introduced to all the articles that prescribe sentencing for crimes relating to trafficking in persons; specifically, a new version of Article 128 of the CC RK "Trafficking in Persons" was introduced.

The adopted Law significantly increases the number of aggravating factors of crimes in this category, and prescribes more severe punishment for their commission.

In the introduction of this norm to the Criminal Code of the Republic of Kazakhstan, provisions of the international acts were taken into account, first among which being the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children adopted by the UN General Assembly in November 2000 as a supplement to the UN Convention against Transnational Organized Crime.

The Criminal Code of the Republic of Kazakhstan cites "trafficking in persons" in Article 128 of the CC RK. The offence consists in trafficking or making other deals targeting the person, as well as their exploitation or recruiting, transportation, handover, harbouring, receipt and other actions for the purpose of exploitation.

It should be noted that the provisions of the UN Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the UN Convention against Transnational Organised Crime have been integrated into the new Criminal Code of the RK.

Punishment Under Criminal Law

Punitive measures for trafficking in persons, luring a minor into prostitution, trafficking in minors, luring into prostitution, organisation or maintenance of brothels and procuring have been made more severe.

These provisions remain, but with some changes made in the new version of the Criminal Code of the RK, effective 1 January 2015.

As a result of these changes, Article 132-1 (Article 134 of the CC effective 3 July 2014) "Luring a minor into prostitution" introduces more severe liability for

offences committed by a criminal group or by a parent, educational professional or any other person responsible by law for the care of the minor, the term of punishment in the form of imprisonment increased from ten to twelve years, Article 134 of the new CC provides for an obligatory additional punishment in the form of life-long deprivation of the right to occupy specified positions or to engage in a specified activity. Article 135 of the CC (Article 133 in the old version of the CC) "Trafficking in minors" now includes aggravating factors: "against a minor who, to the prior knowledge of the offender, has a mental condition or is in a helpless state" and "related to the removal, concealment or destruction of identity documents of the victim". In the old version of part 1 of Article 271 of the CC "Organisation and maintenance of brothels and procuring", the imprisonment sanction provided for a fine or imprisonment for up to three years, and the punishment under the new version of Article 309 of the CC provides only for imprisonment for up to five years with forfeiture of property. The classification of this crime was also supplemented by the part 2 that specifies aggravating factors related to commitment of the act in collusion by a group of people, repeatedly and with a conscious involvement of a minor in prostitution. These criminal acts are classified as grave crimes warranting punishment in the form of imprisonment for five to seven years and forfeiture of property. Commission of this crime by a criminal group is punishable by imprisonment for five to ten years, whereas previously the sentence was up to five years.

As part of preventive measures against human trafficking offences, other legislations have been amended, since we need to take into account not only the human trafficking-related criminal acts themselves, but also other offences that serve as a natural precondition for committing these crimes.

It should be noted, however, that the new Code does not retain certain provisions from the previous version that adhere to the norms of the international legislation ratified by Kazakhstan. The new version of Article 128 excludes notes that prescribe in the course of investigation not to take into account the victim's consent to planned exploitation where any means of influence, specified in the second part of this Article, were used. This provision was drafted in pursuance of the UN Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the UN Convention against Transnational Organized Crime.

It should be noted that the Law of the RK "On changes and additions to some legislative acts of the Republic of Kazakhstan on combating trafficking in persons", adopted on 4 July 2013, prescribes administrative prosecution of employers for violations of the labour legislation with respect to minors; healthcare institutions for violating the obligation to inform internal affairs authorities about persons who used the services of hospitals over recent traumas, injuries, and criminal abortions; individuals and legal entities providing facilities for prostitution or procuring. Restrictions were introduced with regard to the conclusion of labour agreements with people previously convicted for human trafficking-related crimes against minors. Article 449 "Harassment in public places" was introduced to the

CAO. The Criminal Code of the RK classifies trafficking in persons as trespasses to persons and specifies a list of methods of human trafficking, namely: trading, other deals, exploitation, recruitment, transportation, transfer, harbouring, receipt and other actions for the purpose of exploitation.

In 2015 internal affairs bodies initiated 345 criminal cases related to trafficking in persons:

under Article 116 of the CC ("Coercing to extract or unlawful extraction of a person's organs and tissues") -1;

under Paragraph 2, p. 3, Article 125 of the CC ("Abduction of a person for the purpose of exploitation") -2;

under Paragraph 2, p. 2, Article 126 of the CC ("Unlawful deprivation of liberty for the purpose of exploitation") -2;

under Article 128 VK ("Trafficking in persons") — 41;

under Article 134 of the CC ("Luring of a minor into prostitution") — 18;

under Article 135 of the CC ("Trafficking in minors") — 46;

under Article 308 of the CC ("Luring into prostitution") — 36;

under Article 309 of the CC ("Organisation or maintenance of brothels and procuring") — 199.

Also, 4 criminal cases were initiated on counts of establishing and managing an organised group to commit one or several crimes related to trafficking in persons.

In 2015 internal affairs authorities (excluding Article 309 of the CC) investigated 153 criminal cases, of which by the end of the year the court processed 12 cases, as a result of which 17 people were convicted (imprisoned for 1 to 7 years).

The rest of the cases are under investigation.

Over the 1 quarter of 2016, 164 criminal cases were initiated nationwide, of which:

abduction of a person for the purpose of exploitation -3;

illegal deprivation of liberty for the purpose of exploitation — 5;

trafficking in persons — 21;

luring of a minor into prostitution — 7;

trafficking in minors — 7;

luring into prostitution — 22;

organisation or maintenance of brothels and procuring — 99.

Also, there were 3 cases of the establishment and management of an organised group, a criminal organisation, and participation in one (Article 262 of the CC).

According to the 1-M report "On criminal offences":

Under Article 128 of the CC of the RK ("Trafficking in persons") in 2015 17 people were prosecuted, in Q1 of 2016 - 6.

Under Article 135 of the CC of the RK ("Trafficking in minors") in 2015 9 people were prosecuted, over Q1 of 2016 - 32.

High latency crimes

On the basis of cases taken to courts in the Republic of Kazakhstan, one can conclude that the main forms of trafficking in persons are trafficking for purposes of sexual or labour exploitation and — to a smaller degree — trafficking in children for adoption. Cases on trafficking in human organs were not taken to court. With the advent of biotechnical revolution and new discoveries in medicine and new horizons in transplantology, there is a growing demand for donor organs, and this offence requires special consideration.

Trafficking in persons is classified as a high latency crime. The main problem in detecting this type of the crime is identification of victims of human trafficking.

As such, it is difficult to detect trafficking in persons at the stage of recruitment and transportation of victims. Criminal intents of a human trafficker become obvious only during actual exploitation, at which point victims are no longer able to independently report to law enforcement bodies or take measures to counteract the exploitation attempt.

Liability for trafficking in minors is singled out as a separate norm, stipulated by Article 135 of the CC, which is classified as a violation against the family and minors. The Law specifies 13 aggravating factors of trafficking in minors. The offence is classified as a grave crime, while the same act committed with aggravating factors is classified as a very severe (very grave) offence.

The new Criminal Code of the RK — effective 1 January 2015 — prescribes more severe liability for violations against minors.

Such human trafficking categories as luring into prostitution and organisation and maintenance of brothels and procuring are classified as offences against the health and morality of the people. Both trafficking in persons and luring into prostitution consist in exploitation of another human being. As far as luring into prostitution is concerned (Article 308 of the CC of the RK), the Criminal Code specifies methods of committing this crime, such as deception, violence, threat of violence, blackmail, damage or destruction of property, which are exhaustive. Trafficking in persons by means of recruiting for the purpose of exploitation also contains inducement of an individual to consent to a property deal through promises, persuasion, blackmail, and threats. As such, the old version of the CC attributed luring into prostitution to one of the form of trafficking in persons.

Deposition of testimonies of participants to a criminal process

Taking into account the importance and relevance of the problem, the Supreme Court of the Republic of Kazakhstan systematically analyses and aggregates the cases considered. On 29 December 2012, for purposes of correct and uniform application of the laws of the RK and international treaties ratified by Kazakhstan, the Regulatory Resolution of the Supreme Court of the RK No. 7 "On application of legislation establishing liability for trafficking in persons" was adopted, as an acknowledgement of various issues of the practice of law.

One of the main sources of evidence in the investigation of crimes related to human trafficking is questioning of victims and witnesses. In this regard, introduction in the new Code of Criminal Procedure of such process as deposition of testimonies of victims and witnesses by the investigating judge at the pre-trial stage of the criminal procedure is timely indeed. Deposition procedure can apply to witnesses or foreign victims of human trafficking, which in and of itself meets the provisions of the UN Convention requiring states to ensure effective protection against possible retaliation or intimidation of witnesses participating in the criminal proceedings.

Deposition consists in victim and witness testimony obtained by the investigating judge at the pre-trial stage that can be further used during the court proceedings in cases where attendance of a witness is impossible. In the judicial practice on the cases of human trafficking, questioning of victims and witnesses in court presented significant challenges, as many of them are foreign nationals who would depart prior to court proceedings. This also refers to juvenile victims, whose repeated questioning results in a psychological trauma. In accordance with part 3, Article 217 of the Criminal Procedure Code of the RK, the investigating judge shall interrogate the above persons in the presence of the prosecutor, the suspect and his defence lawyer and other participants to the proceedings, if necessary. In cases where the presence of the suspect threatens the safety of the victim or the witness, the legislation provides for this procedural action to be carried out in absence of the suspect, who is not summoned for interrogation. The criminal procedure law provides for a number of options for interrogation of such a person while maintaining confidentiality.

To ensure the safety of the participants of the court proceedings during depositions in the manner prescribed by Article 219 of the Criminal Procedure Code of the RK, the investigating judge shall be entitled to question a witness without disclosing the identity of the protected person by using an alias, as per Article 98 of the Criminal Procedure Code, as well as in such a manner that prevents other participants from identifying the person by voice or appearance, or prevents other hearing participants from visually observing the person, which includes the use of video communication, the use of technical means in a remote questioning, as per Article 213 of the Criminal Procedure Code.

Exploitation of victims of human trafficking

As judicial practice shows, trafficking in persons in Kazakhstan is mainly perpetrated for labour and sexual exploitation. Victims of sexual exploitation are mainly young women, victims of labour exploitation — men. Victims are often people of underpaid or socially unattractive occupations, undereducated people, and typically unaware of their rights.

A distinctive feature of violations related to trafficking in persons is their organised nature.

Criminal cases brought before the court in Kazakhstan show that crimes related to trafficking in persons are typically committed by organised criminal groups that run brothel operations. As a general rule, perpetrators use persuasion, deception, threats or violence to lure victims into prostitution, create a network of brothels, assign roles to the members of their organised group: dispatchers receiving calls, drivers, security guards and people responsible for advertising their services.

Trafficking in persons is integrated with other kinds of offences. In particular, analysis of cases brought before the court in the Republic of Kazakhstan indicates that these crimes can be divided into those that involve smuggling of people abroad and those that do not. Trafficking in persons should be distinguished from smuggling of migrants (Article 394 of the CC Organisation of illegal migration). When differentiating the aggravating factors of mentioned acts, courts go by the mental (subjective) aspect of the crime. The purpose of smuggling of migrants consists in illegal relocation of people or an individual for a pecuniary reward, and the purpose of human trafficking is exploitation of human beings.

Compensation of harm for victims of human trafficking

One of the essential issues arising from cases related to trafficking in persons is the necessity to provide the victims with legal advice regarding compensation for the inflicted damage. Pursuant to Article 71 of the Criminal Procedure Code, the victim is entitled to compensation for pecuniary and non-pecuniary damages through the filing of a civil claim to be considered in criminal proceedings. The law grants the victim the right to file a claim from pre-trial proceedings and up until the completion of court investigation. In this event, the plaintiff shall be exempted from the state duty payment. In the event of the victim's death, their interests can be represented by close relatives or by the spouse.

However not all victims can successfully claim pecuniary and non-pecuniary damages, as the accused might not have enough funds for such payments.

In accordance to part 7 Article 71 of the Criminal Procedure Code, the victim (and in case of their death — their successor) has the right to receive state monetary compensation for pecuniary damages resulting from a grave crime, if the person convicted for such a crime is not in possession of property of sufficient value for the compensation of the inflicted damage. The victim in the above cases is entitled to full compensation if damages do not exceed 150 monthly calculation indices.

In Kazakhstan this has prompted discussions of the possibility of compensating damage suffered as a result of a crime taking into account other countries' experience; consideration was also given to the necessity of special state-run funds that would be used, under specified conditions, to compensate for damage suffered as a result of crimes.

In 1983 the Council of Europe adopted the European Convention on the Compensation of Victims of Violent Crimes, effective 1 February 1988. European countries' practice of compensation victims from a special crime victim compensation fund that accumulates its money not at the expense of taxpayers, but
using moneys of crime, fines and property seized from criminals, is geared toward the protection of victims' interests.

Taking this into account, the new Code of Criminal Procedure also stipulates establishment of the Victim Compensation Fund in the RK.

Victims have the right to immediately receive, in full or in part, state monetary compensation from this Fund. Amounts paid to the victim from the Compensation Fund per the corresponding ruling of the court will be reimbursed by the guilty party, and if said guilty party is a minor, then by his/her legal representative or a legal entity that by law bears liability for damages caused by a criminal act of an individual.

Broadening of cooperation within inter-governmental integration institution contributes to improved collaboration in combating organised crime with the aim of preventing trafficking in persons, functioning of coordination and collaboration mechanisms at the international level on legal assistance and information and experience sharing.

2. International mechanisms of combating trafficking in persons

In accordance with Paragraph 1 of Article 4 of the Constitution of the RK, the established law of the Republic of Kazakhstan comprises the provisions of the Constitution, corresponding laws, other regulatory and legal acts, international treaties and other commitments of the Republic of Kazakhstan, as well as regulatory resolutions of the Constitutional Council and Supreme Court of the RK.

For the purposes of strengthening and invigorating the efforts to combat trafficking in persons and effective protection of the rights of victims of trafficking, the Republic of Kazakhstan has ratified a number of primary international legal acts (see Annexes to this Analytical Report).

It should be noted that prior to the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the UN Convention against Transnational Organized Crime (also known as the Palermo Protocol), the issue of trafficking in persons was brought up in various documents, including the 1926 Slavery Convention, the 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery and the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others. The provisions on combating trafficking in persons are also contained in other international legal documents, such as the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights, the 1979 Convention on the Elimination of All Forms of Discrimination against Women, the 1989 Convention on the rights of the Child and the 2000 Optional Protocol to this Convention on the Sale of Children, Child Prostitution and Child Pornography.

For example, Article 4 of the Universal Declaration of Human Rights reads: "No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms". Article 8 of the International Covenant on Civil and Political Rights establishes that no one shall be held in servitude (Paragraph 2) and required to perform forced or compulsory labour (Paragraph 3 (a)). As for the International Covenant on Economic, Social and Cultural Rights, here the prohibition of slavery and servitude is indirectly established by Paragraph 1 of Article 6, recognising the right of everyone to the opportunity to gain his living by work "which he freely chooses or accepts".

The Palermo Protocol came into force on December 2003 and as of 27 January 2015 it was ratified by 117 nations of the world. The objectives of this Protocol are to prevent and combat trafficking in persons, paying particular attention to women and children; to protect and assist the victims of such trafficking, with full respect for their human rights; and to promote cooperation among State Parties in order to meet those objectives. The UNODC provides practical assistance to the states in implementing the Protocol, offering recommendations on preparation of the laws and development of comprehensive national strategies to combat trafficking in persons and contributing resources to implement them.

Moreover, the fight against trafficking in persons is covered in a number of ILO documents, including the ILO Convention No. 29 (1930) concerning Forced or Compulsory Labour; No. 100 (1951) concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; No. 105 (1957) concerning the Abolition of Forced Labour; No. 111 (1958) concerning Discrimination in Respect of Employment and Occupation; No. 138 (1973) concerning Minimum Age for Admission to Employment; and No. 182 (1999) concerning the Prohibition Immediate Action for the Elimination of the Worst Forms of Child Labour. The Protocol of 2014 to the Forced Labour Convention No. 29 and reinforces current international law. This Protocol introduces new obligations to suppress forced labour, to provide victims with the protection and access to remedies, such as compensation of property and bodily harm. It is complemented by the recommendations offering technical guidelines on its implementation.

The ILO Convention No. 189 (2011) concerning Decent Work for Domestic Workers, which became effective in 2013, and Recommendation No. 201 to this Convention extend the application of the fundamental labour rights on domestic workers, including those who work in households, do not have clear terms of employment, and are not registered and excluded from the scope of the labour legislation. It stresses the obligation of the states to take reasonable steps to effectively abolish child labour, and it sets the minimum age for domestic workers.

On 30 July 2010, The UN General Assembly adopted the United Nations Global Plan of Action to Combat Trafficking in Persons, which includes four aspects:

1. Prevention of Trafficking in Persons (by eliminating economic, political, cultural factors of inequality; researching into the problem; expanding awareness-raising campaigns; encouraging cooperation among the Member States, etc.);

2. Protection of and assistance to victims of trafficking in persons (liability

of offenders; the algorithm of assistance to the victims of trafficking in persons; establishment of the United Nations Voluntary Trust Fund for Victims of Trafficking in Persons, etc.);

3. Prosecution of crimes of trafficking in persons (enhancing efforts to investigate alleged instances of trafficking; encouraging law enforcement, immigration, border patrol or other relevant authorities of concerned States to cooperate with one another by sharing information, etc.);

4. Strengthening the partnership against trafficking in persons (encouraging cooperation at the international, regional and subregional levels for combat trafficking in persons; strengthening the Inter-Agency Coordination Group against Trafficking in Persons).

3. Regional human rights mechanisms (Europe and CIS)

The Council of Europe Convention on Action against Trafficking in Human Beings, effective February 2008, applies to all forms of trafficking, be it national or transnational, and all categories of victims and exploitation. The Convention is open for ratification by non-members of the Council of Europe. Situation in states that are party to the Convention is observed by the Group of Experts on Action against Trafficking in Human Beings. The Council of Europe also provides governments with assistance in implementing the Convention and recommendations made during the observation.

The issue of trafficking in persons raises serious concerns all over the world, including the countries of the European Union. To identify, protect and assist victims and prosecute human traffickers, in 2012 the European Commission adopted the European Union Strategy towards the Eradication of Trafficking in Human Beings 2012–2016. In accordance with the legislation of the European Union, trafficking in human beings includes not only crimes of sexual or labour exploitation of a person, but also violations of his/her fundamental rights. The approach of the European Union is based on three principles: prevention of trafficking in human beings, protection of victims of criminals, prosecuting human traffickers on criminal charges.

The Organisation for Security and Co-operation in Europe pays particular attention to the problem of trafficking in human beings since 2000, when the Ministerial Council adopted the first Decision on Enhancing the OSCE Efforts to Combat Trafficking in human beings. OSCE Action Plan to Combat Trafficking in Human Beings was approved in 2003, and the Special Representative and Coordinator for Combating Trafficking in Human Beings was appointed in 2006. The Platform for Action against Human Trafficking was adopted in 2007, the Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later was approved in 2013.

In 2005, members of the Commonwealth of Independent States adopted the Agreement on the Cooperation of the CIS Member States in Combating Trafficking in Persons, Human Organs and Tissues, and afterwards, in 2006, Decision on the Programme of the CIS Member States on Co-operation against Human Trafficking for 2007–2010 was issued. The Treaty on the Cooperation of the General Prosecutor Offices of the Member States of the Commonwealth of Independent States Against Trafficking in Persons, Human Organs and Tissues was signed on 3 December 2009. In 2010 the same Treaty was signed by the Ministries of Internal Affairs (police) of the Member States of the Commonwealth of Independent States.

Finally, in 2013 the Programme of Actions of the CIS Countries for 2014-2018 was adopted in order to contribute to the implementation of the 2005 Agreement and facilitate effective cooperation at the regional level to prevent and suppress trafficking in persons and rehabilitation of victims.

It should be particularly noted that the International Organisation for Migration also provides support to the governments of the countries around the world in combating trafficking in persons through the implementation of various programmes aimed at prevention of trafficking in persons, protection and assistance to the victims of human trafficking and prosecution of human traffickers.

Chapter V. Analysis of the Implementation of the Recommendations of the Special Report of the Commission on Human Rights under the President of the RK "Current Issues Affecting Human Rights Protection in the Area of Combating Trafficking in Persons in the Republic of Kazakhstan"

For purposes of combating trafficking in persons in the Republic of Kazakhstan, and in order to implement the order of the President of the Republic of Kazakhstan concerning the improvement of the legislation with respect to the toughening of punitive measures for offences against women and children, including trafficking in persons, the Commission on Human Rights under the President of the RK, assisted by the International Organisation for Migration (IOM) Mission in the RK, in the fourth quarter of 2014 prepared a special report entitled "Current Issues Affecting Human Rights Protection in the Area of Combating Trafficking in Human Beings in the Republic of Kazakhstan" (hereinafter — Special Report).

The Commission's Special Report was approved by the Resolution of the President of the Republic of Kazakhstan from 29 December 2014 No. 32-47.327 and is issued to the Government and other state authorities of the RK to implement his recommendation.

The Special Report is based on the results of human rights activities of the Commission on Human Rights itself, as well as its special investigations conducted over the course of 2000–2012. It draws heavily on the data of state authorities and non-government human rights organisations of the Republic of Kazakhstan, International Organisation for Migration Mission in Kazakhstan, other international organisations, as well as the results of sociological surveys entitled "Human Rights in Kazakhstan: Public Opinion" that had been conducted by the

independent Kazakhstan Sociologist Association — a permanent member of the International Sociologist Association (ISA).

The Report also utilises information received by the members and experts of the Commission on Human Rights as they visited healthcare institutions, social protection institutions, education and culture institutions, construction projects and trading venues and other organisations; materials of international conferences, round tables, seminars and trainings held by the Commission on Human Rights jointly with state authorities and NGOs of the RK and international human rights organisations in the 2000–2012 period; results of aggregation and analysis of appeals and inquiries submitted by natural and legal persons to the Commission on Human Rights.

In the interests of convenience, the results of the implementation of the recommendations of the Special Report of the Commission (as at 1 October 2016) are presented below in form of a table.

Analysis of the Implementation of the Recommendations of the Special Report "Current Issues Affecting Human Rights Protection in the Area of Combating Trafficking in Human Beings in the Republic of Kazakhstan"

Recommendation	Implemented	Implementati	Not	Rationale by CHR under President of RK
		on in progress	implemented	
	Recom	mendations of Ch	apters 1 and 2 o	of the Special Report
1. To bring the national legislation of the				Development of a standalone Draft Law "On combating trafficking in
RK in compliance with international				persons" is being considered and deliberated by the relevant state
commitments of the RK with respect to				authorities with the participation of the Commission on Human Rights
combating trafficking in human beings, it				representatives.
is recommended to develop and enact a				Enactment of a standalone law would contribute to clear delineation
standalone Law "On combating				of authorities of state actors in the joint activities aimed to combat
trafficking in persons" which needs to				trafficking in human beings.
specify the authorities of each state body				
in the areas of preventing trafficking in				
human beings, providing protection and				
aid to victims of trafficking in human				
beings, and prosecuting traffickers of				
human beings.				
2. We recommend the General				Ministry of Justice of the RK, in cooperation with the General
Prosecutor's Office, jointly with NGOs				Prosecutor's Office of the RK, MIA of the RK, NGOs and UNDP, on a
and international organisations, to				regular basis conducts monitoring of progress on the international
ensure regular monitoring of progress on				commitments in the area of human rights and combating trafficking in
Kazakhstan's international commitments				human beings. The Commission on Human Rights also monitors
in the area of human rights and				progress on the international commitments in the area of human
combating trafficking in human beings.				rights.
3. Consider the prospect of Kazakhstan's				For purposes of the implementation of the Action Plan of the
ratification of the Council of Europe				Government of the Republic of Kazakhstan on Combating and
Convention on Action Against Trafficking				Preventing Crimes Related to Trafficking in Human Beings for 2015-
in Human Beings (16 May 2005) and the				2017, Ministry of Internal Affairs of the RK informed the Government
Council of Europe Convention on the				of the prospect of Kazakhstan's ratification of the Council of Europe
Protection of Children Against Sexual				Convention on Action Against Trafficking in Human Beings (16 May
Exploitation and Sexual Abuse (25				2005) and the Council of Europe Convention on the Protection of
October 2007).				Children Against Sexual Exploitation and Sexual Abuse (25 October
				2007), as the criminal legislation of the Republic of Kazakhstan

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	stipulates criminal prosecution of the aforementioned offences. Corresponding regulatory legal acts on the ratification of the aforementioned Conventions shall be subject to mandatory legal review at the Ministry of Justice of the RK, should said international agreements be included in the current and prospective plans of international agreement signing by the Republic of Kazakhstan, and following finalisation and coordination with the relevant central state authorities, in accordance with articles 2-1 and 3 of the Law "On international agreements of the Republic of Kazakhstan". Ratification of the aforementioned conventions of the Council of Europe on the part of the Republic of Kazakhstan will contribute to the assurance of basic human rights of victims of trafficking in human beings, the reinforcement of the actions against all forms of sexual exploitation and sexual abuse toward children, as well as the creation of a special monitoring and control mechanism.
4. For purposes of effective protection of constitutional rights and freedoms of a person and a citizen, we recommend that articles 128 and 135 of the new Criminal Code of the RK be moved from chapters 1 and 2 to chapter 3 of the CC that contains the main criminal offences violating constitutional and other rights and freedoms of the person and the citizen.	Regarding the recommendation to move articles 128 and 135 of the new Criminal Code of the RK from chapters 1 (Criminal offences against the person) and 2 (Criminal offences against the family and minors) into chapter 3 (Criminal offences against the constitutional and other rights and freedoms of the person and the citizen) of the Criminal Code of the RK. The crime specified in article 128 of the CC (Trafficking in human beings) encroaches primarily on the personal freedom of citizens and on the freedom of occupation guaranteed by the Constitution of the Republic of Kazakhstan. Object of this crime is the citizens' personal freedom and freedom of occupation. The objective element of this crime manifests in trafficking or making other deals targeting the person, as well as their exploitation or recruiting, transportation, handover, harbouring, receipt and other actions aimed at exploitation, which constitutes a breach of constitutional rights to integrity of the person. As such, these elements of the crime are correctly classified under chapter 1 — criminal offences against the person. Personal freedom of a minor is also a direct object of the crime, as

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	specified in article 135 of the CC (Trafficking in minors). An optional
	object can consist in the life and health of a minor, interests of the
	parents and close relatives with respect to the upbringing of said minor.
	The Commission on Human Rights supports the aforementioned substantiated rationale presented by the General Prosecutor's Office of the RK.
5. For purposes of reinforcing criminal	Pursuant to part 6 of article 71 of the CC RK, limitation periods are not
prosecution we recommend that the	applicable to persons committing crimes against peace and security of
legislation provide no statute of	mankind, corruption offences, terrorism offences, extremism
limitations toward persons committing	offences, torture, offences against sexual inviolability of minors as
crimes associated with trafficking in	well as extremely severe offences against the person, the foundations
human beings, and minors in particular.	of the constitutional order and national security, against public safety
	and order, and those pertaining to economic activities.
	This provision indicates that limitation periods are not applicable in
	the event of the commission of the offence specified in part 4 of article 128 of CC RK.
	Meanwhile, meetings of an inter-agency working group (IAWG) on the
	monitoring and consolidation of the practice of application of the
	Criminal and Criminal Procedure Codes of the RK (Order of the GPO
	RK No. 1r/22 of 8 January 2015) entailed the consideration of the
	recommendations from the Commission on Human Rights under the
	President of the RK with respect to prospective introduction of
	changes to part 6 of article 71 of the CC in reference to abolishing the
	statute of limitation for prosecuting persons committing crimes
	associated with trafficking in human beings, as well as the expansion
	of article 7 of Criminal Procedure Code of the RK with the definition of
	"offences related to trafficking in human beings".
	After deliberating the issue at the meeting of the IAWG under
	chairmanship of the First Deputy of the General Prosecutor of the RK
	Merkel I. D. of 7 December 2015, it was decided to postpone the issue
	for further development in due consideration of subsequent
	established legal practice.
6. It is recommended to establish in	The matter of establishing in legislation a rehabilitation and reflection
legislation a "period for rehabilitation	period of no less than 30 days so as to give human trafficking victims

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and reflection" lasting no less than 30	an opportunity to make an informed and substantiated decision
days, so as to give human trafficking	regarding cooperation with law enforcement agencies is being
victims an opportunity to make an	deliberated by competent state authorities, jointly with the
informed and substantiated decision	specialised NGOs and crisis centres.
regarding their cooperation with law	It should be noted that the Commission on Human Rights deems such
enforcement agencies.	discussion insufficient and recognises a pressing need to take
	legislative measures to provide for the "period for rehabilitation and
	reflection" for victims of trafficking in human beings, during which
	they would be immune to any deportation measures. During this
	period, a person whose victim status is reasonably substantiated gets
	an opportunity to receive rehabilitation aid, avoiding any contacts with human traffickers, and to make a well-substantiated decision on
	whether or not to cooperate with law enforcement agencies.
7. Develop and adopt the Action Plan of	whether of not to cooperate with law emotcement agencies.
the Government of the RK on Combating	
and Preventing Offences Related to	
Trafficking in Human Beings for 2015–	
2017.	
8. Conduct regular monitoring of the	Regular monitoring of the authorised competent authorities' progress
authorised competent authorities'	in the implementation of the Action Plan of the Government of the RK
progress in the implementation of the	on Combating and Preventing Offences Related to Trafficking in
Action Plan of the Government of the RK	Human Beings for 2015–2017 is being conducted. For instance, the
on Combating and Preventing Offences	corresponding information on the results of the Plan implementation
Related to Trafficking in Human Beings	for the year 2015 was submitted by the MIA RK to the Government of
for 2015–2017.	the RK (No. 1-3-7-59/258//23 of 5 February 2016).
	For purposes of ensuring transparency and reinforcing cooperation
	between state institutions and civil society, it is recommended to provide to all stakeholders access to information on the results of
	annual implementation of the Action Plan of the Government of the
	RK on Combating and Preventing Offences Related to Trafficking in
	Human Beings for 2015–2017 and subsequent Plans.
9. It is recommended to sign and ratify a	Furthermore, to settle the process of return/readmission and
readmission agreement between two CIS	admission of migrants staying illegally in the territory of the parties,
member states; reinforce cooperation	efforts are being made to conclude readmission agreements.
between Central Asian countries,	To date, the Republic of Kazakhstan has signed and ratified 12

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European Union, other developed nations; develop the cooperation of member states in the area of preventing illegal migration, including human trafficking.	readmission agreements (Switzerland, Uzbekistan, Belarus, Hungary, Lithuania, Russia, Latvia, Moldova, Czech Republic, Germany, Norway and the Benelux). Another 13 readmission agreements signed with neighbouring and other foreign nations: Afghanistan, Bulgaria, Greece, Iran, Iraq, Canada, Cyprus, South Korea, Kyrgyzstan, Pakistan, Poland, Tajikistan, Ukraine — in development and at various stages of intra-
10. Improve interaction between expert communities, civil society institutions and state authorities of the RK in the field of migration relations with counterparts from CIS and EAEU member states.	governmental finalisation and coordination. Using the existing contractual and legislative framework, close cooperation was successfully established between law enforcement agencies of CIS member states, as well as with member states of SCO, EAEU, CICMA, CSTO, both on bilateral and multilateral basis. The General Prosecutor's Office of the RK continues efforts toward entering into more agreements with foreign states in the area of combating crime. On top of the neighbours, priority is given to nations with which Kazakhstan has close trade and economic ties, as well as nations that possess considerable tourism potential, subsidised taxation for businesses and favourable investment climate. Experts at civil society organisations and state bodies of the RK interact with the counterpart organisations of CIS and EAEU member states, actively participate in round tables, seminars and conferences on the protection of the rights of human trafficking victims, as well as in the introduction of international standards into the national legislation. It is noteworthy that the implementation of the recommendation 10 of Chapters 1 and 2 of the Special Report shall be continued by the competent state authorities and civil society institutions of the Republic of Kazakhstan.
11. We recommend competent state authorities to study international best practices in combating trafficking in human beings (for instance, those of the US and other developed nations) and utilise it in practice to combat trafficking	In order to engage in experience exchange, Internal Affairs personnel attend events both in Kazakhstan and abroad. Competent authorities' efforts to study international best practices in combating trafficking in human beings are continued.

in human beings in the RK.			117
12. We recommend that police, prosecutor's office and judiciary personnel undergo systematic training on the issues of preventing trafficking in human beings and prosecuting human traffickers, especially in regard to familiarisation with modern investigative methodologies and techniques (for instance, evidence gathering).			Internal affairs personnel systematically participate in training and refresher training at specialised ministerial educational institution of the Ministry of Internal Affairs of the RK — Almaty, Karaganda and Kostanay Academies and the Aktobe Law Academy.
 13. Initiate joint training of law enforcement officers of the RK and law enforcement officers of main countries of origin of victims of trafficking in human beings — for instance, Central Asian nations — in order to foster cooperation in investigations into trafficking in human beings. 			Joint training of law enforcement officers of CIS and EAEU nations on the issues of investigating crimes associated with trafficking in human beings is held at the facilities of the Academy of the Ministry of Internal Affairs of the Republic of Belarus, pursuant to the decision of the CIS Heads of State of 23 May 2008. In accordance with this decision, the Academy of the Ministry of Internal Affairs of the Republic of Belarus is assigned the status of the primary organisation for training, professional development and refresher training of the personnel employed in the field of migration control and prevention of trafficking in human beings for the CIS member states. The MIA RK initiative toward joint training of law enforcement personnel of Central Asian states on investigating crimes related to trafficking in human beings using the existing educational institutions of the MIA RK is currently being considered at the corresponding ministries of internal affairs of Central Asian states.
14. Continue efforts toward further improvement of the national legislation of the RK to reflect international commitments of the Republic of Kazakhstan and the international best practices in combating trafficking in human beings.			CHR and competent state authorities of the RK, in cooperation with NGOs, continue efforts toward further improvement of the national legislation of the RK to reflect international commitments of the Republic of Kazakhstan and the international best practices in combating trafficking in human beings.
	Reco	ommendations of Chapter 3 of	the Special Report
1. Competent state authorities should			In 2017 it is planned to introduce the Standard for the Provision of

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receive funding and regularly conduct —		Special Social Services to Victims of Trafficking in Human Beings in all
jointly with NGOs — the following		regions of Kazakhstan. Under the mandate to monitor the provision of
educational and awareness-raising		special social services, and following the results of the
campaigns, with media coverage:		implementation of pilot projects, Ministry of Health and Social
awareness raising on the risks of		Development of the RK will analyse the implementation of the
trafficking in human beings; awareness		Standard and, if necessary, introduce corresponding changes and
raising among general populace and risk		additions into the Standard.
groups on the existing services provided		In adherence to the recommendation of the Special Report of the
to victims of human trafficking;		Commission on Human Rights, regional local executive bodies began
awareness raising on the reduction of		allocating funds from the budget to support the activities of crisis
demand for cheap workforce,		centres and non-governmental organisations engaged in protecting
commercial sex services and other forms		the rights of victims of human trafficking under social public
of exploitation.		procurement.
		' It should be noted that local executive bodies, under social public
		procurement, allocate budget funds for the prevention of human
		trafficking.
2. Provide state funding to the 11616		
crisis hotline. We recommend exploring		
with "Kazakhtelecom" NC JSC the		
possibility of providing telephone		
services for said hotline free of charge.		
3. Initiate the creation of a single crisis		
hotline related to combating trafficking		
in human beings in Central Asia (single		
telephone number) in light of the fact		
that in the RK victims of human		
trafficking were found both among		
citizens of the nation and migrant		
workers from Central Asian states. A		
single hotline will enable to inform		
potential victims of human trafficking of		
the existence of the crisis hotline in the		
RK as a country of origin.		The implementation of nonzerophy 1, 2, 5, 6, 7, 0, and 0, of the
4. In order to bolster efforts toward the		The implementation of paragraphs 1, 3, 5, 6, 7, 8 and 9 of the
prevention of offences related to		recommendation 4 of Chapter 3 of the Special Report of the

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trafficking in human beings, law	Commission is currently in progress. For instance, law enforcement
enforcement agencies are recommended	agencies (state prosecutor's office and MIA) regularly monitor
to take the following measures: 1) on a	materials in mass media and telecommunication networks containing
regular basis monitor mass media and	offers of goods and services associated with human trafficking, or
telecommunication network chatter for	fostering demand for such services.
any offers of goods and services	As a result of the enactment of a new Law of the RK "On combating
associated with human trafficking or for	corruption", counter-measures have been strengthened at law
any indications that demand is created	enforcement agencies; also, steps have been taken to improve the
for these services; 3) toughen efforts to	image of the police by means of conducting various social and
combat corruption within the ranks of	awareness-raising campaigns.
law enforcement agencies, and take	Prosecutor's oversight of the enforcement of laws on the protection
steps to improve the image of the police	of the minor rights has been strengthened, specifically with respect to
by means of mounting various social and	employment, occupational safety, life and health of children, adoption
information campaigns toward the	of children.
improvement of police image and the	Prosecution authorities regularly review the legality of the activities of
quality of police work; 5) strengthen	tourism companies, as well as organisations and natural persons
public prosecutor's oversight of the	providing consultation and other services to foreign nationals and
enforcement of laws on the protection of	citizens of the RK.
the minor rights, including: on	Prosecutor's oversight of the legality of the activities of legal entities
employment, occupational safety, life	and sole proprietors providing employment and training services to
and health of children, on adoption and	citizens of the Republic of Kazakhstan abroad, as well as dating and
guardianship, which includes	modelling agencies has been implemented on a permanent basis.
international adoption of children; 6)	Prosecution authorities mount effective and timely response to any
ensure regular review of the legality of	violations of the employment and social protection legislation, taking
the activities of tourism companies, as	due account of the legality of the activities of employment agencies
well as organisations and natural persons	with respect to providing employment facilitation services services
providing consultation and other services	and protection from unemployment.
to Kazakhstan nationals and foreign	Should evidence of significant violations emerge, prosecutor review
nationals; 7) arrange for public	findings are expeditiously submitted to investigative authorities for
prosecutor's oversight of the legality of	criminal prosecution.
the activities of legal entities and sole	
proprietors providing employment and	
training services to citizens of the	
Republic of Kazakhstan abroad, as well as	
dating and modelling agencies;	

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8) ensure timely and effective response to any violations of the employment and social protection legislation, taking due account of the legality of the activities of employment agencies with respect to providing employment facilitation services services and protection from unemployment; 9) should evidence emerge, prosecutor review findings should be expeditiously submitted to investigative authorities for criminal prosecution.		
 4-1. In order to bolster efforts toward the prevention of offences related to trafficking in human beings, law enforcement agencies are recommended to take the following measures: 2) reinforce special operations personnel of MIA RK and its regional offices for combating human trafficking with highly qualified specialists, providing additional staffing positions; 4) increase the severity of the criminal liability of public officials of the RK found guilty of crimes associated with trafficking in human beings and introduce the corresponding additions to the Criminal Code of the RK. 		Paragraph 2) of Recommendation 4 of Chapter 3 of the Special Report of the Commission on the reinforcement of special operations personnel of MIA RK and its regional offices for combating human trafficking with highly qualified specialists, providing additional staffing positions has not been implemented. Another item that has not been implemented is Paragraph 4) of Recommendation 4 of Chapter 3 of the Special Report prescribing the enhancement of the severity of the criminal liability of public officials of the RK found guilty of crimes associated with trafficking in human beings and the introduction of the corresponding additions to the Criminal Code of the RK.
5. We recommend competent state authorities to develop and implement programmes toward providing timely social aid to children who face a challenging situation, migrant workers arriving to the RK and other vulnerable groups so as to protect them from		The part of the recommendations that concerns the implementation of preventive programmes aimed at rendering timely social aid to children facing a challenging life situation has been implemented by competent state authorities (Committee for the Protection of Children Rights under MES RK, Children's Rights Ombudsman of the RK, MHSD RK, MIA RK) jointly with NGOs, necessary measures are taken to protect their rights. Corresponding efforts in this area will be

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human trafficking.	continued by competent state authorities and NGOs. Migrant workers arriving to the RK and becoming victims of human trafficking — thereby finding themselves facing a challenging life situation in the RK — are not covered by state aid programmes.
6. We recommend competent state authorities to foster close cooperation with local and foreign NGOs, international organisations, diplomatic missions and consulates of foreign nations in the area of combating trafficking in human beings.	Competent state authorities operate in close cooperation with local and foreign NGOs, universal (UN, UNDP, UNICEF, IOM) and regional (OSCE, EU, OIC, SCO, CIS, EAEU) international organisations, diplomatic missions and consulates of foreign nations in the area of combating trafficking in human beings.
7. We recommend involving NGOs for conducting regular training of law enforcement personnel — police inspectors, juvenile police inspectors — so as to eliminate any prejudice toward victims of human trafficking, ensure observance of human rights and the prioritised interests of victims in the course of identifying and investigating corresponding crimes, to foster tolerance, compassion, empathy toward human trafficking victims.	As part of the preliminary work on the implementation of the Standard of MHSD in 2015, jointly with IOM, OSCE and CHR, one-day training seminars were held in 4 pilot regions of the country, intended for social protection professionals, on the issues of identification and provision of special social services to victims of human trafficking. Over 100 social protection professionals and NGOs participated in these seminars. NGO directors and experts regularly take part in training law enforcement personnel on the issues of combating human trafficking and protecting the rights of trafficking victims. On 16–17 June 2016, two-day training seminars were held in Almaty by MHSD RK jointly with IOM for the specialists of Employment Coordination and Social Programme Offices of all regions and NGOs on the issues of protecting rights and providing aid to victims of human trafficking, participated also by national and international experts. Furthermore, 23 September 2016, in the city of Almaty, IOM and CHR jointly with MHSD RK and NGOs held a national dialogue on the issues of counteracting trafficking in human beings and identification of victims of human trafficking, with the participation of national and international experts. Educational programmes for law enforcement personnel need to be continued and reinforced with regard to fostering tolerance toward

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	victims of human trafficking.	
8. Conduct comprehensive research into the area of human trafficking, with the participation of independent experts and civil society.	IOM, OSCE Programme Office in Ast Justice under the Supreme Court Academy of MIA RK, NGOs ("Almaty Crisis Centres" in Kazakhstan, "San comprehensive scientific research in in human beings, with the participa civil society representatives.	of the RK, Beysenov Karaganda Law Corporation" NGI, "Union of a-Sezin" NGO, "ASRIV") conduct to the area combating trafficking
9. Regularly monitor performance of competent state authorities in the area of preventing human trafficking.	Secretariat of the Commission on Hu of the RK regularly monitors the activ authorities in preventing human traf Monitoring results are presented in t Monitoring will be continued by the Office of the RK.	vities of competent state ficking incidence. his Analytical Report.
	commendations of Chapters 4 and 5 of the Special Report	
1. We recommend law enforcement and other competent state authorities, as well as NGOs, to reinforce efforts toward the identification of victims of human trafficking, especially among foreign migrant workers, as well as women and children.	In 2014 the Ministry of Internal A Ministry of Healthcare and Social De and Science of the RK, with the developed and adopted the Criter Treatment Leading to Social Disad (hereinafter — Identification Criteria September 2014 No. 630, MHSD RK of MES RK of 26 September 2014 No. 39 In 2016, Ministry of Healthcare and coordination with the Ministry of In Ministry of Education and Science of Providing Special Services to Victim MHSD RK of 24 February 2016, No. 1. Pursuant to the corresponding reg paragraph 2 of article 6 of the Law "On special social services", a pe	velopment, Ministry of Education participation of CHR and NGOs, ria for Identification of Abusive laptation and Social Deprivation I) (Joint Order of the MIA RK of 22 of 19 November 2014 No. 240 and 99, attached hereto). Social Development of the RK, in internal Affairs of the RK and the the RK, adopted the Standard for s of Human Trafficking (Order of 38). ulatory legal acts, as well as to of the RK of 29 December 2008

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	services shall be recognised as a victim of trafficking in human beings regardless of whether or not the acts have been criminally prosecuted. Evaluation criteria shall determine the procedure for identification of the victim, while the Standard shall stipulate their referral, admission and rehabilitation at special social service provider organisations. On the part of the Commission on Human Rights under the President of the RK, Recommendation 1 of Chapters 4 and 5 of the Special Report has been implemented partially. CHR recommends competent state authorities of the RK, jointly with NGOs, to engage in the refinement of the mechanism for identifying human trafficking victims in observance with international standards.
2. Develop and introduce guidelines for preliminary (primary) identification of human trafficking victims intended for the personnel of law enforcement agencies, including migration police, administrative police, criminal police, as well as the staff of reception centres (for persons without identification documents) and the staff of other agencies (state labour inspectorate, healthcare bodies, social services, custody and guardianship authorities, centres for adaptation of minors, and others)	In 2014 the Ministry of Internal Affairs of the RK jointly with the Ministry of Healthcare and Social Development, Ministry of Education and Science of the RK, with the participation of CHR and NGOs, developed and adopted the Criteria for Identification of Abusive Treatment Leading to Social Disadaptation and Social Deprivation (hereinafter — Identification Criteria) (<i>Joint Order of the MIA RK of 22 September 2014 No. 630, MHSD RK of 19 November 2014 No. 240 and MES RK of 26 September 2014 No. 399</i>). On the part of the Commission on Human Rights under the President of the RK, Recommendation 2 of Chapters 4 and 5 of the Special Report has been implemented partially. CHR recommends competent state authorities of the RK, jointly with NGOs, to engage in the refinement of the mechanism for identifying human trafficking victims in observance with international standards.
3. Conduct regular training of the personnel of law enforcement and other competent authorities with respect to the identification of human trafficking victims, with the participation of NGOs.	As part of the preliminary work on the implementation of the Standard of MHSD in 2015, jointly with IOM, OSCE and CHR, one-day training seminars were held in 4 pilot regions of the country, intended for social protection professionals, on the issues of identification and provision of special social services to victims of human trafficking. Over 100 social protection professionals and NGOs participated in these seminars. NGO directors and experts regularly take part in training law

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4. Enshrine in the legislation the definition of the legal status of human trafficking victims outside of the criminal process and ensure the provision of state protection and assistance to human trafficking victims regardless of whether or not the act of human trafficking has been criminally prosecuted. Also prescribe by law the provision of temporary residence permit (stay permit) for foreign nationals becoming victims of human trafficking in the Republic of Kazakhstan, whether or not the victim has decided to cooperate with law enforcement agencies.	 enforcement personnel on the issues of combating human trafficking and protecting the rights of trafficking victims. On 16–17 June 2016, a two-day training seminar was held in Almaty by MHSD RK jointly with IOM for the specialists of Employment Coordination and Social Programme Offices of all regions and NGOs on the issues of protecting rights and providing aid to victims of human trafficking, participated also by national and international experts. Furthermore, 23 September 2016, in the city of Almaty, IOM and CHR jointly with MHSD RK and NGOs held a national dialogue on the issues of counteracting trafficking in human beings and identification of victims of human trafficking, with the participation of national and international experts. Educational programmes for NGO representatives, public officials and the personnel of law enforcement agencies will be continued by competent state authorities, with the participation of the IOM Mission in Kazakhstan and specialised NGOs. The standard establishes the legal status of human trafficking victims (sub-paragraph 1) of paragraph 3 of the Standard). Furthermore, human trafficking victims can receive help regardless of whether or not they have decided to cooperate with law enforcement authorities. From the standpoint of CHR, the Standard does not define the legal status of, for example, foreign victims of human trafficking, and secondly, it does not provide for a temporary residence permit or stay permit for foreign nationals.
5. Create and implement an effective mechanism of redress for victims of	For purposes of the implementation of the recommendation of the Commission on Human Rights under the President of the RK and

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crimes, which includes victims of human		paragraph 17 of the Single State Action Plan of Transitioning to a New
trafficking, in pursuance of the		Model of Criminal Law and Criminal Procedure adopted by the Order
recommendations of this Special Report		of the President of the RK effect 9 April 2014 No. 278, the Ministry of
of the Commission.		Finance of the RK jointly with the General Prosecutor's Office of the
		RK has developed drafts of the Law of the RK "On the Victim
		Compensation Fund" and the corresponding draft law.
		Draft Law of the RK "On the Victim Compensation Fund" and the
		corresponding draft law were submitted for consideration and
		deliberation to the Majilis of the Parliament of the RK in early 2016.
6. Develop and launch a national		The Standard for provision of special social services to human
mechanism for identification and referral		trafficking victims defines the mechanism for the identification and
of human trafficking victims between law		referral of human trafficking victims between law enforcement
enforcement agencies, NGOs, healthcare		agencies, NGOs, healthcare institutions, education institutions, social
institutions, education institutions, social		services, as well as the provision of assistance, and shall be observed
services and other competent state		by all actors engaged in the provision of special social services to
authorities, which would prescribe clear		victims of human trafficking, regardless of the form of ownership.
duties and functions of every agency and		It should be noted that the Standard stipulates the amount and the
organisation engaged in human		mechanisms of the assistance provided, yet it does not cover the
trafficking victims' identification, their		identification of human trafficking victims, and does not cover all
referral to other actors for protection		actors that could be engaged in the identification of human trafficking
and assistance, as well as rendering of		victims — such as MIA RK and Kazakhstan's foreign missions in the
direct assistance to human trafficking		event of their identification abroad. In general, it is important to note
victims, along with the procedure of		that the mechanism for the identification and referral effectively has a
interaction between organisations and		larger scope than that prescribed by the active Standard, and can not
agencies involved.		be limited by it.
7. As part of the implementation of the		
Law of the RK "On special social		
services", it is advisable to assign a state		
authority that would be responsible for		
the development, implementation and		
monitoring of standards governing the		
provision of social services to persons		
facing a challenging life situation as a		
result of abuse (that can manifest in acts		
associated with domestic violence,		

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trafficking in human beings (including	
minors), other types of their exploitation, as well as kidnappings).	
8. Amend sub-paragraph 8) of paragraph 1 of Article 6 of the Law of the Republic of Kazakhstan of 29 December 2008 "On special social services" to read as follows: "8) abuse resulting in real harm to the person's health, survivability, development and dignity".	MHSD RK deems it inadvisable to introduce the proposed changes and additions to paragraph 1 of Article 6 of the Law. This is because the notions of "social disadaptation" (disrupted relations between a person and the social environment) and "social deprivation" (limitation and (or) loss of the person or family's ability to satisfy basic needs on their own) constitute evidence of harm to the health, survivability, development or dignity of a person. At the same time, the Criteria for Identification of Abusive Treatment Leading to Social Disadaptation and Social Deprivation reflect a list of criteria of defining physical (harm to the health, survivability, development or dignity of the person), psychological (harm to the health, survivability, development or dignity of the person), economic and sexual violence (harm to the health, survivability, development or dignity of the person). Commission on Human Rights concurs with MHSD RK on this matter.
9. We recommend that the list of	Part of the recommendations regarding the inclusion of persons
recipients of special social services under	without citizenship facing a challenging life situation in the RK into the
the implementation of the Law of the RK	list of special social service recipients under the implementation of
"On special social services" be amended to include foreigners, especially migrant	the Law of the RK "On special social services" (art 3 of the Law) has been implemented.
workers, as well as persons without	Part of the recommendations regarding the inclusion of migrant
citizenship, facing a challenging life	workers facing a challenging life situation in the RK into the list of
situation in the Republic of Kazakhstan.	special social service recipients under the implementation of the Law of the RK "On special social services" (art 3 of the Law) has not been implemented. It is noteworthy that in practice, local executive bodies require that the services be rendered only to the citizens of the RK.
10. We recommend the Government of the RK to develop and adopt the	
Standard for Delivering Special Social	
Services for Victims of Abuse, Domestic Violence and Trafficking in Human Beings.	

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11. We recommend that competent state	In accordance with the Standard, identification of human trafficking
authorities develop and adopt a	victims shall be performed in pursuance of the Criteria for
procedure for defining evaluation criteria	Identification of Abusive Treatment Leading to Social Disadaptation
for determining abuse resulting in social	and Social Deprivation (approved by the joint order of the Minister of
disadaptation and social deprivation.	Internal Affairs of the RK of 22 September 2014 No. 630, the Minister
	of Education and Science of the RK of 26 September 2014 No. 399 and
	the Minister of Healthcare and Social Development of the RK of 19
	November 2014, No. 240).
12. Establish an expert council composed	Under the Standard, human trafficking victims are to be provided with
of representatives of state authorities,	a set of special social services (accommodation and subsistence,
NGOs and international organisations for	healthcare, psychological assistance, pedagogic assistance,
purposes of calculating preliminary costs	employment, recreation and culture, economic conditions, legal
of special social services for persons	matters), which includes legal assistance.
facing a challenging life situation as a	To implement the Standard in the year 2016, 43.5 million KZT was
result of abuse, in order to ensure quality	drawn from the republican budget for 4 pilot regions of the Republic,
of services delivered and reflect the	under the social public procurement: Kostanay and South Kazakhstan
international best practices and	Oblasts, cities of Astana and Almaty.
standards.	
13. Determine and create a registry of	Regarding the issue of creating a registry of service providers, it
public and private providers (entities	should be noted that the Law of the RK "On social public
delivering services for persons facing a	procurement, grants and incentive payments for non-governmental
challenging life situation as a result of	organisations in the Republic of Kazakhstan" stipulates the keeping of
abuse) for purposes of service quality	a NGO database in order to ensure transparency of NGO activities and
assurance, monitoring of the quality of	raising public awareness of said NGOs, as well as for its utilisation as
services delivered, efforts to increase	part of state social commissioning, provision of grants and incentive
public awareness of services for persons	payments. The registry of providers under social public procurement
finding themselves in a difficult life	is kept by the competent authorities in the area of social public
situation as a result of abuse.	procurement (Ministry of Culture and Sports, Ministry for Religious
14 Dravida aublia funding on the	and Civil Society Affairs of the RK).
14. Provide public funding on the national and local levels to support the	To implement the Standard in the year 2016, 43.5 million KZT was drawn from the republican budget for 4 pilot regions of the Republic,
activities of organisations delivering aid	under the social public procurement: Kostanay and South Kazakhstan
to persons finding themselves in a	Oblasts, cities of Astana and Almaty.
difficult situation as a result of abuse.	Oblasts, titles of Astalia and Annaty.
	In 2017 it is planned to introduce the Standard for the Provision of
15. Provide support to the existing crisis	In 2017 it is planned to introduce the Standard for the Provision of

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and rehabilitation centres and create new ones in the cities of Astana and Almaty and all oblasts of the RK to help and protect victims of human trafficking, including the provision of safe housing services, medical and psychological aid,	Special Social Services to Victims of Trafficking in Human Beings in all regions of Kazakhstan. Under the mandate to monitor the provision of special social services, and following the results of the implementation of pilot projects, Ministry of Health and Social Development of the RK will analyse the implementation of the Standard and, if necessary, introduce corresponding changes and
occupational training, legal consultations and other kinds of help.	additions into the Standard. In adherence to the recommendation of the Special Report of the Commission on Human Rights, regional local executive bodies began allocating funds from the budget to support the activities of crisis centres and non-governmental organisations engaged in protecting the rights of victims of human trafficking under social public procurement.
16. We recommend akimats of the cities of Astana and Almaty and oblasts of the RK to include in their local budgets allocations to support crisis and rehabilitation centres to help and protect victims of human trafficking, including the provision of safe housing services, medical and psychological aid, occupational training, legal consultations and other kinds of help.	In 2017 it is planned to introduce the Standard for the Provision of Special Social Services to Victims of Trafficking in Human Beings in all regions of Kazakhstan. Under the mandate to monitor the provision of special social services, and following the results of the implementation of pilot projects, the Ministry of Health and Social Development of the RK will analyse the implementation of the Standard and, if necessary, introduce corresponding changes and additions into the Standard. In adherence to the recommendation of the Special Report of the Commission on Human Rights, regional local executive bodies began allocating funds from the budget to support the activities of crisis centres and non-governmental organisations engaged in protecting the rights of victims of human trafficking under social public procurement.
17. In order to provide state support and budget funding of the activities of crisis centres and shelters that help human trafficking and abuse victims, we recommend introducing the corresponding changes and additions to Articles 26–34, 53–55 of the Budgetary Code of the RK.	Similarly, Recommendation 17 of Chapters 4 and 5 of the Special Report of the Commission advising the introduction of changes and additions to Articles 26–34, 53–55 of the Budgetary Code of the RK has not been implemented. It should be noted, however, that the budget programme 028 makes it possible to provide services to at-risk persons facing a challenging life situation as a result of violence or threat of violence (Administrators of budget programmes 256, 355, 395).

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18. Reinforce efforts toward the				As part of the preliminary work on the implementation of the
improvement of the social worker				Standard of MHSD in 2015, jointly with IOM, OSCE and CHR, one-day
institution and enhance the capacity of				training seminars were held in 4 pilot regions of the country, intended
NGOs in the area of rendering services to				for social protection professionals, on the issues of identification and
persons facing a challenging life situation				provision of special social services to victims of human trafficking.
as a result of abuse, including human				Over 100 social protection professionals and NGOs participated in
trafficking. Develop educational				these seminars.
programmes for NGOs and public				NGO directors and experts regularly take part in training law
officials and experts in abuse.				enforcement personnel on the issues of combating human trafficking
				and protecting the rights of trafficking victims.
				On 16–17 June 2016, two-day training seminars were held in Almaty
				by MHSD RK jointly with IOM for the specialists of Employment
				Coordination and Social Programme Offices of all regions and NGOs
				on the issues of protecting rights and providing aid to victims of
				human trafficking, participated also by national and international
				experts.
				Furthermore, 23 September 2016, in the city of Almaty, IOM and CHR
				jointly with MHSD RK and NGOs held a national dialogue on the issues
				of counteracting trafficking in human beings and identification of
				victims of human trafficking, with the participation of national and
				international experts.
				Educational programmes for NGO representatives, public officials and
				the personnel of law enforcement agencies will be continued by
				competent state authorities, with the participation of the IOM
				Mission in Kazakhstan and specialised NGOs.
Total	Recommend	Recommendat	Recommend	
	ations	ions being	ations	
	implemente	implemented	not	
	d — 13	— 21 (50%)	implemented	
	(31%)		— 8 (19%)	

Findings of the analysis of the Implementation of the Special Report's Recommendations

Comparative analysis performed by the Secretariat of the Commission on Human Rights under the President of the RK demonstrates that as of 1 October 2016 the implementation progress for the recommendations of the Special Report of the Commission for the Protection of Migrant Worker Rights was at **31% on average, meaning that out of 42 recommendations of the Commission, 13 recommendations were fully implemented.**

Twenty one recommendations were at the time in the process of development and implementation, amounting to 50% of all the recommendations of the Commission.

Eight recommendations weren't implemented at all, which amounted to 19% of all the recommendations of the Commission.

At present, the Government, the competent authorities of the RK and specialised NGOs continue their efforts focused on the practical implementation of partially implemented and unimplemented recommendations of the Special Report of the Commission.

Recommendations of Chapter 5 of the Analytical Report

We recommend the Government, competent authorities and NGOs of the Republic of Kazakhstan to continue working on the implementation of the remaining unimplemented recommendations of the Special Report of the Commission "Current Issues Affecting Human Rights Protection in the Area of Combating Trafficking in Human Beings in the Republic of Kazakhstan" approved by the President of the Republic of Kazakhstan of 29 March 2014, No. 32-47.327.

Chapter VI. Current Issues Affecting Human Rights Protection in the Area of Combating Trafficking in Persons in the Republic of Kazakhstan

1. Protecting the constitutional rights of human trafficking victims

Pursuant to paragraph 1 of Article 1 of the Constitution of the RK, the person, their life, rights and freedoms are considered the highest value. This article is closely related to provisions of paragraph 1 of Article 12 wherein the person is granted the state-guaranteed right to protect their rights and freedoms. State protection of rights and freedoms is defined as the engagement of all branches of power — legislative, executive and judicial — in the effort to protect rights and freedoms. Each branch is expected to strive to create such conditions that would allow a person to exercise their constitutional rights and freedoms unhindered. This is also evidenced by the provisions of paragraph 2 of Article 12 of the Constitution, where the human and citizen rights determine the meaning, content and application of laws, the activities of the legislation and executive powers, local selfgovernance, and shall be ensured by justice. Pursuant to paragraph 2 of Article 11 of the constitution, the state shall ensure the enjoyment of rights and freedoms not only in the RK, but guarantees its citizens the protection and patronage abroad, which is very important when examining the issue of human rights violation involved in trafficking and exploitation of human beings.

Thus, the state constitutionally assumed the obligation to protect, ensure and guarantee the basic human and citizen rights and freedoms both in the RK and abroad. Due to the fact that exploitation and trafficking in human beings entails violations of virtually every essential human right (see Table 1), it stands to reason that the state is responsible for this and must take effective measures to prevent and eliminate this problem.

The state is responsible for protecting rights and freedoms of victims of human trafficking and exploitation not only on the grounds of constitutional regulations, but also international conventions ratified by the Republic of Kazakhstan (see Chapter IV of this Report). Here we define "state's responsibility" as Kazakhstan's commitments to observe and guarantee human rights in pursuance of international and national regulatory legal acts.

All nations that have ratified the human rights convention are responsible for making efforts to prevent, investigate and prosecute any violations of rights enshrined in said acts. A state is also required to create mechanisms for the restoration of denied rights and appropriate redress to remedy any harm suffered as a result of the violation of rights. In other words, a state must take measures to prevent human trafficking and exploitation, effectively conduct crime investigations, ensure appropriate prosecution of human traffickers, and guarantee the payment of compensations to victims.

Human right	Acts resulting in the violation
violated according to	
the Constitution of the RK	

Right to life	1) homicide;
paragraph 1 Article 15	2) forced suicide.
Right to personal freedom	1) kidnapping;
paragraph 1 Article 16	2) transportation;
	3) harbouring;
	4) movement restriction.
Right to the integrity of the	1) threats to the victim, his/her family members and
person	significant others;
paragraph 1 Article 18	2) being coerced to take narcotic and other substances;
	3) being coerced to make an abortion;
	4) prohibition of contraceptive use; control over the
	person's body (women's);
Dight to be protected from	5) being coerced into surrogate motherhood.
Right to be protected from	1) torture;
torture, violence, abusive or	 beatings; use of physical and psychological violence
degrading treatment, Article 17	3) use of physical and psychological violence.
Right to be protected from	1) rape;
physical violence, Article 17	2) all forms of violence;
	3) forced prostitution.
Right to sexual	1) rape;
inviolability	2) forced prostitution and sexual services.
	3) inability to refuse intercourse.
Right to the protection of	1) being coerced to take narcotic and other substances;
mental, physical and sexual	2) food deprivation;
health	3) refusal to provide medical care.
paragraph 1 Article 29	
Freedom of residence and	1) movement/travel restriction or deprivation;
movement	2) seizure of passport and other documents;
paragraph 1 Article 21	3) isolation (prohibition on contacting relatives and
	correspondence)
Right to free choice of	1) being coerced to engage in undesirable work;
employment, paragraph 1	2) forced prostitution and sexual services.
Article 24	
Right to unacceptability of	1) seizure of earnings;
forced labour	2) debt bondage.
paragraph 1 Article 24	
Right to appropriate and	1) overtime work;
favourable working	2) extended workdays;
conditions, paragraphs 2 and 3	3) work without rest.
of Article 24	
Right to safe and non-health-	1) poor working conditions;
threatening working	2) inadequate measures to ensure occupational health and
conditions, paragraph 2 of	safety.
Article 24	Saroty.
Right to appropriate and	1) no labour remuneration;
adequate labour remuneration	 employer's breach of labour contract.
paragraph 2 Article 24	2, employer s steach of moour contract.

Table 1. Constitutional personal rights violated as a result of human trafficking and exploitation

Aforementioned obligations of the state arise out of multiple international conventions and treaties. For example, legal obligations directly specified in international legal acts as commitments of UN member states — among which is the RK — include the obligation to offer victims of human trafficking the possibility of obtaining compensation for harm suffered (paragraph 6 of Article 6 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime).

Many international legal acts offer detailed lists of obligations related to the mandate of state bodies with respect to combating human trafficking, namely:

1) development and adoption of programmes providing for effective cooperation with NGOs and other relevant civil society organisations for purposes of preventing and combating human trafficking, as well as protecting the rights of victims, especially women and children, from revictimisation (p. 1, 2, 3 of Article 9 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime);

2) encouraging of measures to prevent and suppress the slave trade (p. a Article 2 of the UN Slavery Convention), prostitution (Article 16 of the UN Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others), all forms of trafficking in women and exploitation of women (Article 6 of the Convention on the Elimination of All Forms of Discrimination against Women);

3) ensuring adequate supervision of employment agencies in order to prevent persons seeking employment, especially women, from being exposed to the danger of victimisation (Article 20 of the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others);

4) taking the necessary measures to ensure that travel or identity documents issued by it are of such quality that they cannot be easily misused and cannot be readily falsified or unlawfully altered, replicated or issued (Article 12 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime) and others.

However, some of these commitments assumed by Kazakhstan to this day remain unimplemented. Namely:

1) offer victims of human trafficking and exploitation the possibility of obtaining compensation for harm suffered;

2) create a body for the coordination and centralisation of the results of investigations of crimes related to human trafficking and exploitation;

3) offer social aid to migrants against whom human trafficking-related crimes were committed in the country.

It should be noted that in the majority of cases, victims of trafficking in persons are treated by the state more like perpetrators than victims, foregoing due analysis of the reasons why they find themselves in a situation like this. Human rights violations on the part of law enforcement agencies occur often, when human trafficking victims are arrested, detained and deported. The state treats victims as migrants without documents who arrive to the nation and work there illegally. Some victims are detained, arrested and deported if their involvement in sex industry is revealed. They are given no possibility to file a complaint, seek reparation for harm suffered, check if their trip home is safe to make a decision on whether to leave the country of destination (transit) or seek asylum in it. These issues occur due to the absence of international victim protection and assistance conventions and programmes signed by the Republic of Kazakhstan and main countries of destination for trafficking or exploitation of Kazakhstani citizens.

Negligence and corruption of individual law enforcement officers, as well as physicians and medical staff of maternity clinics, constitute a large factor that contributes to the growth in trafficking in human beings, including children, which the state is committed to suppress. Some law enforcement officers believe that women know full-well that they will become subjects of traffic abroad and will turn to prostitution or to offering other sexual services. In their opinion, women acknowledge the fact that whenever recreation companies or employment agencies offer them jobs abroad, it automatically means working in the sex industry. It is for this reason that many petitions filed to internal affairs directorates from relatives of missing persons are not given due consideration by the law enforcement agencies.

It follows that the state is responsible for protecting the rights and freedoms of victims of trafficking in human beings and it must take appropriate constitutional-legal and other measures to prevent instances of human trafficking utilising legislative, executive, judicial and law enforcement agencies.

2. Issues in Protecting the Human Rights of Human Trafficking Victims and Available Solutions

Trafficking in human beings tends to target women and children. In Kazakhstan, this threat is most immediate to the socially marginalised groups: persons below the poverty line that are unable to resolve their financial issues, orphaned children and children without parent supervision, mentally handicapped, at-risk children. Members of these social groups are often not included in the social protection system, which leaves them more exposed. On top of that, at risk of exposure to human trafficking can become migrant workers, homeless and women travelling to other nations for employment or marriage.

How to protect the rights of human trafficking victims?

Former United Nations High Commissioner for Human Rights Navi Pillay used to say that human trafficking victims are often treated as a tool for a criminal investigation, and not as holders of rights, and that we need to focus more on legal protection of human trafficking victims. The UN expert analysed the key components of human trafficking victims' right to effective legal remedies which include restitution, rehabilitation and compensation. Rehabilitation is considered "a key form of legal remedy" and implies provision of medical and psychological aid, as well as legal and social services (5).

Main principle of providing social aid and protection of victims rights are based

on the principles of the Code of Professional Ethics of Social Workers: principle of voluntary involvement (freedom in accepting and rejecting social services), victim right-oriented individual approach, anonymity and confidentiality, tolerance (providing help regardless of ethnicity, religious affiliations, gender, age etc.) (6).

The biggest challenge that the police and social workers face is not even the protection of human trafficking victims rights, but the identification of said victims. Many experts note that often victims do not consider themselves victims — for instance, young people dragged into prostitution as children or teens have adapted to the environment and believe that everything is fine with them, and see no sense in changing anything in their lives. Human trafficking victims do not recognise their slave status and see no other prospects in life, while some may just be frightened by possible repercussions.

It should be noted that in recent years, many countries have been actively deploying help programmes for human trafficking victims, creating crisis centres. Yet, despite this progress, the issues around the protection of victim rights are similar in many countries, and among these issues we have singled out the following ones.

On the part of law enforcement agencies and social services:

difficulties in identifying human trafficking victims (they don't acknowledge their victim status, especially boys and young men);

deficiencies of the legal system (insufficient protection of victims of crimes, slow investigation process).

On the part of human trafficking victims:

no motivation for change (victims' vulnerability as a result of past violence, mental disorders, disability, addictions);

victims' unwillingness to cooperate with investigators (refuse to testify against pimps, prostitution ring leaders, exploiters; difficult interaction between the police and mentally disabled victims).

On the part of the state:

insufficient funding of state institutions, non-governmental organisations and crisis centres to provide social and legal support to victims of human trafficking;

insufficient number of temporary shelters for human trafficking victims, or absence thereof.

Human rights organisations share experience and best practices, yet they experience varying degrees of success in the implementation of these support mechanisms, depending on such factors as state support, financial support from partners, other organisations and the society. In general, they can be broken up into three groups: legal assistance, social aid and educational and preventive efforts.

Legal assistance consists in helping with documents, determining the victim status, providing shelter and protection, helping with the restoration of rights, participation in court proceedings and receiving compensations. Social aid comprises rehabilitation programmes for psychological and social recovery, provision of food and necessities, occupational training and social integration, social and medical help. Depending on financial resources, possibilities vary greatly, and we end up with situations where at some centres victims can stay for as long as 3 months, which allows for adaptation, rehabilitation, employment and housing, whereas other temporary shelters' period of stay is limited at 10 days. Today, reparation and compensation for harm suffered is one of the most common legal remedies, but is not always accessible to victims of human trafficking. Many centres only offer social support to victims, without providing any legal supervision. Aggregated information on the types of mechanisms for the protection of rights of human trafficking victims is presented in Figure 2.

At present, the issue of the protection of the rights of human trafficking victims is becoming all the more pressing, yet attention is mainly given to the social rights of victims, and less so — to legal aspects of their rights. Many social actors provide social, medical and legal services. The most robust development of efforts toward the protection of victim rights is seen in northern European nations and the US that have special social institutions and support centres rendering services to all victims, observing the principles of social work: tolerance, humaneness, voluntary basis, confidentiality.

A gradual solution to the problem of the protection of the rights of human trafficking victims in the RK may consist in the development of civil society and the consolidation of the three sectors — public, commercial and specialised NGOs. A separate category of anti-trafficking and victim assistance mechanisms is the education and preventive efforts: training social workers and law enforcement officers on how to identify victims of human trafficking, communicate with them and help them. Another instrumental aspect is preventive work with at-risk children (orphans, neglected and unsupervised children), with girls and women planning to work abroad or marry a foreigner. Raising public awareness on the issue of modern slavery would help to both prevent many instances of trafficking in persons, and to draw public attention to this issue.

Procedural guarantees of the protection of the rights of victims of crimes related to trafficking in persons

In order to ensure the most comprehensive coverage of legal interests and the observance of the rights of victims of crimes related to trafficking in persons, the current legislation of the RK provides special procedural guarantees for these persons, namely:

tailored approach to their questioning, with due account their mental state, nature and severity of offences committed against them, as well as severity of harm inflicted;

ensuring confidentiality with respect to all information received from victims of crimes related to trafficking in persons;

ensuring closed consideration of materials (information) received from victims of crimes related to trafficking in persons;

application of special procedures to ensure safety of said persons as victims, including measures of personal security and mandatory deliberation and resolution of civil claims filed by victims of trafficking in persons, within the framework of criminal proceedings.

In order to protect the rights and legal interests of victims of offences related to trafficking in persons, who, due to their physical or mental state, or due to being underage, are unable to defend their rights and legal interests on their own, administrative or criminal proceedings shall obligatorily involve their legal representatives or representatives that are afforded the same rights as those afforded to the persons they represent, and in the case of certain categories of children, under the procedure specified in the legislation of the Republic of Kazakhstan, a psychologist or, if necessary, a pedagogue shall also be provided.

Factors conducive to the development of mechanisms of the protection of the rights of victims of trafficking in persons



Legal remedies for the protection of the rights of victims of trafficking in persons

Execution of documents, determination of the victim status

Court proceedings: criminal prosecution of human traffickers and their accomplices Receiving of compensation

Social and psychological mechanisms of the protection of the rights of victims of trafficking in persons



Figure 2. Protection of the rights of human trafficking victims

3. Matters related to providing special social services to victims of trafficking in persons in Kazakhstan

Pursuant to the Law of the Republic of Kazakhstan "On special social services" from 29 December 2008, with all changes and additions as at 1 August 2016 (hereinafter — the Law), trafficking in persons is classified as a form of abuse and constitutes grounds for the provision of special social services.

From the standpoint of the Commission on Human Rights under the President of the RK, the notions of "social disadaptation" (disruption in the interaction between an individual and the social environment) and "social deprivation" (a limitation and/or deprivation of an individual's (family's) ability to satisfy their basic needs on their own) fully reflect the harm to the health, survivability, development or dignity of an individual. At the same time, the Criteria for Identification of Abusive Treatment Leading to Social Disadaptation and Social Deprivation reflect a list of criteria of defining physical (harm to the health, survivability, development or dignity of an individual), psychological (harm to the health, survivability, development or dignity of an individual), economic and sexual violence (harm to the health, survivability, development or dignity of an individual).

This Law applies to citizens of the Republic of Kazakhstan, oralmans, foreign nationals permanently residing in the Republic of Kazakhstan and persons without citizenship.

As part of the efforts to implement the provisions of the Law, the Ministry of Health and Social Development has developed and adopted the Standard for Special Social Services Provision to Victims of Trafficking in Persons (hereinafter — the Standard) (approved by the order of the acting Minister of Healthcare and Social Development of the RK on 24 February 2016, No. 138 "On the approval of the Standard for Special Social Services Provision to Victims of Trafficking in Persons" (as registered in the Registry of State Registration of Regulatory Legal Acts of the Republic of Kazakhstan of 28 March 2016, No. 13543).

The Standard was developed by the members of a working group composed of representatives of the Ministry of Internal Affairs, the Ministry of Education and Science, IOM, OSCE, as well as non-governmental organisations (NGOs) that are directly involved in the service provision to victims of trafficking in persons, taking into account the recommendations of Chapters 5 and 4 of the Special Report of the Commission on Human Rights under the President of the RK "Current Issues Affecting Human Rights Protection in the Area of Combating Trafficking in Persons in the Republic of Kazakhstan" (paragraphs 7 and 10 of the Recommendations).

This Standard specifies the volume and requirements for the terms and the procedure of special social service provision and assistance provision on the part of

organisations engaged in the provision of special social services to victims of trafficking in persons, regardless of the form of ownership (paragraph 6 of the Recommendations).

The standard establishes the legal status of human trafficking victims (subparagraph 1) of paragraph 3 of the Standard). Furthermore, human trafficking victims can receive help regardless of whether or not they have decided to cooperate with law enforcement authorities (paragraph 4 of the Recommendations).

In accordance with the Standard, identification of human trafficking victims shall be performed in pursuance of the Criteria for Identification of Abusive Treatment Leading to Social Disadaptation and Social Deprivation (*approved by the joint order of the Minister of Internal Affairs of the RK of 22 September 2014 No. 630, the Minister of Education and Science of the RK of 26 September 2014 No. 399 and the Minister of Healthcare and Social Development of the RK of 19 November 2014, No. 240)* (paragraphs 2 and 11 of the Recommendations).

Under the Standard, human trafficking victims are entitled to a set of special social services (in the areas of accommodation and subsistence, healthcare, psychological assistance, education and training, employment skills, culture, legal assistance), which includes legal assistance.

To implement the Standard in the year 2016, 43.5 million KZT was drawn from the republican budget for 4 pilot regions of the Republic, under the social public procurement: Kostanay and South Kazakhstan Oblasts, cities of Astana and Almaty (paragraphs 12 and 14 of the Recommendations).

One of the areas of implementation of the social public procurement is providing assistance to an individual (a family) finding themselves in a difficult life situation²⁷. In this regard, provision of special social services to victims of trafficking in persons under social public procurement using the funds allotted from the republican and local budgets is provided for under:

1. Budget Programme Administrator 256 (Office for Coordination of Employment and Social Programmes of an Oblast):

018 Budget Programme — "Social public procurement from non-governmental organisations";

054 Budget Programme "Current targeted transfers to budgets of rayons (cities of oblast significance) for social public procurement from private sector".

2. Budget Programme Administrator 355 (*Office for Employment and Social Programmes of a city of republican significance, capital city*):

019 Budget Programme — "Social public procurement from non-governmental organisations".

3. Budget Programme Administrator 395 (*Office for Employment and Social Programmes of a city of republican significance, capital city*):

019 Budget Programme — "Social public procurement from non-governmental organisations".

²⁷The Law of the Republic of Kazakhstan of 12 April 2005 No. 36 "On social public procurement, grants and incentives for non-governmental organisations in the Republic of Kazakhstan»

4. Budget Programme Administrator 451 (*Office for Employment and Social Programmes of a rayon (city of oblast significance)*):

054 Budget Programme — "Social public procurement from non-governmental organisations".

Furthermore, under the budget programme 28 it is possible to provide services to at-risk persons finding themselves in a difficult life situation as a result of violence or threat of violence (Budget Programme Administrators 256, 355, 395).

In accordance with the Law of the Republic of Kazakhstan from 4 December 2015 "On public procurement", when procuring special social services for victims of human trafficking, public procurement shall be done using the competitive bidding process.

Regarding the issue of creating a registry of service providers, it should be noted that the Law of the RK "On social public procurement, grants and incentive payments for non-governmental organisations in the Republic of Kazakhstan" stipulates the keeping of a NGO database in order to ensure transparency of NGO activities and raising public awareness of said NGOs, as well as for its utilisation as part of state social commissioning, provision of grants and incentive payments. At the same time, the registry of providers under social public procurement is kept by the competent authority in the area of social public procurement²⁸(*Ministry of Culture and Sports of the RK*).

As such, we consider it unlawful to create an NGO registry under the supervision of MHSD RK, since this function is in the mandate of another central state authority (paragraph 13 of the Recommendations).

In 2017 it is planned to introduce the Standard in all regions of the country (paragraphs 15 and 16 of the Recommendations). Under the mandate to monitor the provision of special social services, and following the results of the implementation of pilot projects, the Ministry of Health and Social Development of the RK will analyse the implementation of the Standard and, if necessary, introduce corresponding changes and additions into the Standard.

As part of the preliminary work on the implementation of the Standard of MHSD in 2015, jointly with IOM, OSCE and CHR, one-day training seminars were held in 4 pilot regions of the country, intended for social protection professionals, on the issues of identification and provision of special social services to victims of human trafficking. Over 100 social protection professionals and NGOs participated in these seminars.

Further, on 16–17 June 2016, two-day training seminars were held in Almaty by MHSD RK jointly with IOM for the specialists of Employment Coordination and Social Programme Offices of all regions and NGOs on the issues of protecting rights and providing aid to victims of human trafficking, participated also by national and international experts (paragraphs 3 and 18 of the Recommendations).

²⁸*Resolution of the Government of the Republic of Kazakhstan of 29 February 2012 No. 270 "On the approval of Rules for the Maintenance of the Registry of Providers Under Social Public Procurement"*

It should be stressed that the Republic of Kazakhstan places a heavy emphasis on the issues of observing and enforcing children rights and freedoms. Child victims of human trafficking are afforded rights and freedoms guaranteed by the Constitution of the RK, the UN Convention on the Rights of the Child, other international conventions ratified by the RK, the Law of the RK "On the rights of child", the regulatory other legal acts. The state provides protection and assistance to a child victim of trafficking in persons from the moment said child becomes a victim of a crime related to human trafficking, including following his/her identification as a victim of human trafficking and up until his/her complete social adaptation and social rehabilitation, regardless of his/her desire to cooperate with state authorities with respect to the identification and clearance of the crime committed against him/her.

Following the assignment of the human trafficking victim status to a child, he/she is immediately transferred to authorities and institutions authorised by the law to provide protection and assistance to children harmed by trafficking in persons.

A comparative analysis of the legislation and law enforcement practices in the RK in the area of the provision of special social services to victims of abuse has shown that the active Law of the RK "On special social services" does not fully cover all the categories of human trafficking victims in Kazakhstan with social services.

For instance, this Law does not apply to foreign nationals, migrant workers and refugees *temporarily residing* in the Republic of Kazakhstan.

In view of the foregoing, we recommend the Government and the Parliament of the Republic of Kazakhstan to introduce corresponding changes and additions to the current legislation in order to ensure the observance of the rights of all children whose rights have been denied in the Republic of Kazakhstan.

4. Current issues around the interaction of state and law enforcement agencies with civil society institutions in the area of combating trafficking in persons in Kazakhstan

Combating trafficking in women and children in all of its forms can be effective only if civil society is actively involved.

Non-governmental organisations play the leading role in preventing trafficking in persons. Compared to state authorities, NGOs have a stronger sense of the need to observe human rights, and are faster to respond to any violation of these rights. In today's international documents on the prevention of trafficking in persons, NGOs are emphasised as organisations that protect human rights, provide social, psychological and legal assistance, and actively participate in the development of regulatory legal acts, programmes, concepts, special analytical reports on the issues of combating human trafficking and the protection of victims of human trafficking.

Non-governmental organisations engaged in combating human trafficking have the following main features: 1) observance of the principles of the protection

of human rights; 2) prioritised interests of women and children; 3) independence from state and law-enforcement authorities and other agencies engaged in protecting victims of human trafficking; 4) anonymity and confidentiality when trafficking. working with victims of human In many developed nations, non-governmental organisations operate with the support of national governments and local self-governance bodies. Governments consider non-governmental organisations a power capable of resolving many pressing social issues in a more efficient manner than state authorities. Unfortunately, in the post-soviet bloc, this practice has not completely matured; however, there are positive developments in the interaction between state authorities and non-governmental organisations.

Interaction between non-governmental organisations and state authorities occurs on three levels: *regional, national (governmental) and international*, which enables one to see all the aspects of the human trafficking problem, and, correspondingly, develop adequate action programmes and measures.

The leading role in the international cooperation toward combating trafficking in human beings is given to the special international organisations (UN, IOM, ILO, OSCE, Global Survival Network, Coalition Against Trafficking in Women and others). Non-governmental organisations, simply by the nature of their activities, are characterised by freedom of expression, flexibility and freedom in the choice of areas of activities, which lends itself well to tackling issues that governmental organisations are unable to. To this end, non-governmental organisations utilise existing international documents and mechanisms of their implementation. In keeping with their goals, international organisations perform the following strategic function: they engage entities of various domains — including law enforcement specialists, research and education professionals, representatives of civil associations, commercial organisations, bank structures, mass media and other forces — to create a system of combating human trafficking.

Kazakhstani NGOs actively cooperate with international and other organisations. This cooperation facilitates development of research, joint programmes for prevention of people smuggling; social support and practical aid for victims (provision of shelters, legal assistance, funding to resolve critical issues of victims, medical care, psychological consultation), development of long-term strategies of combating human trafficking. Kazakhstani NGO's partners are UNDP, IOM, ILO, EU, OSCE, UNICEF, USAID, UNODC as well as a number of foreign embassies accredited in Kazakhstan (the US, UK, Netherlands, Canada, Finland, Sweden). Access to international networks allows Kazakhstani NGOs not only render effective assistance to human trafficking victims and their relatives, but also involve state authorities in tackling more complex issues.

Multilateral international cooperation has encouraged Kazakhstani nongovernmental organisations to create national networking associations that work more efficiently in combating trafficking in persons. These network nongovernmental organisations include "Crisis Centre Union" in Kazakhstan, that
comprises specialised NGOs and crisis centres operating in the regions of the Republic of Kazakhstan.

At the national level, network non-governmental organisations have the following aims and objectives: 1) contribute to raising awareness of the Kazakhstani public on the dangers and scope of trafficking in human beings, as well as the need for adequate response to the associated global threats; 2) contribute to the improvement of the national legal framework aimed to enhance the effectiveness of combating human trafficking on the national and regional levels; 3) contribute to the information, research and organisational support of all entities engaged in programmes and projects on combating trafficking in persons; 4) contribute to the global development of the cooperation of all layers of the society in the areas of combating human trafficking and the protection of the rights of human trafficking victims.

Non-governmental organisations also play an important role in lobbying for the institutionalisation of combating trafficking in persons. Owing to their efforts, inter-agency commissions on combating human trafficking have been established in virtually all of the regions of the Republic of Kazakhstan.

Crucial contribution to the development of conceptual approaches to the development of programme documents on combating trafficking in persons is made by *research institutes and analytical centres*. Their research findings concern various aspects of trafficking in persons, and, specifically, socio-economic causes, recruiting methods, flaws of the Kazakhstani criminal and administrative law, to name a few.

Research materials constitute the evidence base that supports NGOs' efforts to prevent human trafficking. Furthermore, the same research projects are also employed by state authorities int he process of drafting new laws that provide reinforced measures to combat human trafficking and strengthened human rights mechanisms, creation of inter-agency commissions on combating trafficking in persons.

Of great importance is the involvement of independent research centres in the development of a strategy for the cooperation between non-governmental organisations and the state. Non-governmental organisations face certain challenges when dealing with law enforcement agencies in the process of organising awareness-raising campaigns and educational campaigns for law enforcement personnel. Conservative rigidity of law enforcement and special agencies, absence of a separate law on combating human trafficking are factors that make it more difficult for the personnel of these agencies to acknowledge the existence of the human trafficking problem. Research centres have at their disposal considerable capacities to organise and hold seminars, training sessions, conferences and other awareness-raising programmes, thanks to the weight of their position in society, professional training, contacts with the heads of national security and administrative agencies. They act as a link between official and unofficial entities, consolidating the interests of civil society and the state.

The past years saw the evolution of the forms and methods of the interaction between non-governmental organisations and state authorities and law enforcement agencies, migration agencies, border service and so forth. These forms of cooperation include joint conferences, seminars, round tables, consultations, publication of guidebooks and newsletters, methodological and research literature, collecting data on companies and dating agencies, companies that arrange employment abroad, cooperation with state authorities to develop a national action programme on combating human trafficking in Kazakhstan, cooperation with embassies in the RK and the Kazakhstani embassies abroad, with governmental and non-governmental organisations in Kazakhstan and abroad in order to prevent human trafficking and help victims, and so forth.

In their operations, non-governmental organisations pin their hopes on future legal experts, students attending universities under the umbrella of MIA and the General Prosecutor's Office of the RK, and the law field in general. By organising seminars with students, organisations are able to get across to the future specialists and share information on the state of the human trafficking problem and its relevance to the nation. These seminars are held by NGOs and IOM for the personnel of the organised crime units of MIA and Departments of Internal Affairs of oblasts, cities of Astana and Almaty, border service members working at checkpoints of the national border of the Republic of Kazakhstan. Especially active in this area are "Crisis Centre Union" in Kazakhstan (city of Almaty), "Sana-Sezim" NGO (city of Shymkent), "Feminist League" NGO (city of Kokshetau), "Rodnik" NGF (Almaty), "Women Support Centre" NGO (Petropavlovsk), "Korghau Astana" Private Fund (Astana), "Meyirim" NGO (Aktau) and other NGOs joining the IOM National Partnership Network to Combat Trafficking in Persons.

For instance, proving to be a rather effective measure in preventing human trafficking are awareness-raising campaigns whose main goal considers in informing citizens — especially at-risk women — as well as the corresponding authorities on the danger of becoming victims of human trafficking, ways and possibilities of fighting this crime. Awareness-raising campaigns incorporate special radio programmes, public service announcements on TV, connecting with mass media, facilitating active social engagement, creation and broadcasting of TV documentaries on the problem of human trafficking. Moreover, this involves volunteers' distributing posters, booklets, brochures with information regarding trafficking in persons. Places of dissemination are the Office of Migration Police and branches of the "Government for the People" system (Public Services Centres) where citizens go to register their residence, receive passports and identification cards. A booklet providing hotline consultation options can prompt a person about to depart abroad to get informed about their rights — for instance, rights pertaining to employment abroad. A leaflet that a person might grab "just in case" will contain general information on various countries and telephone numbers of organisations that can provide assistance in difficult situations, which can prove useful abroad.

All non-governmental organisations involved in the preventive efforts place an emphasis on at-risk groups which include women and girls striving to get employed abroad. NGOs aim to inform departing Kazakhstan citizens on the dangers of such employment. Girls and women seeking employment abroad are recommended to always have their passports and visa on their person, know the exact name and address of their employers, salary, housing conditions, term of the contract, leave copies of the passport and other documents with parents and friends. Prior to departing to another country, NGOs recommend migrants to visit the embassy and receive information on the terms of immigration, migration and labour legislation of the country of destination.

In order to ensure prompt contact with victims of crimes associated with human trafficking, "Crisis Centres Union" Association of Legal Entities in Kazakhstan keep operational the nationwide hotline for preventing human trafficking (No. 11616).

Hotline No. 11616 works around the clock, urgently responds to all calls, provides consultations in Kazakh and Russian. Anonymity and confidentiality of all calls and inquiries are guaranteed.

Monitoring of calls to the 11616 hotline for preventing human trafficking, during the period between 1 July 2015 and 01 May 2016.

Over the reporting period, hotline 11616 received: 2,599 calls:

811 calls regarding citizens' employment abroad — 30% of the total number of calls;

758 calls regarding social issues — 29% of the total number of calls;

529 calls regarding emigration, immigration, acquisition of citizenship — 24% of the total number of calls;

255 calls regarding marriages with foreign nationals — 9% of the total number of calls;

246 calls regarding citizens' education abroad — 8% of the total number of calls.

Owing to outreach events, awareness-raising campaigns, information materials published, the number of calls increased by 2% compared to 2014.

As part of an awareness-raising campaign entitled "Beware of human trafficking!" and an event "People for Sale", with the assistance of the Office of Domestic Policy of the city of Almaty, meetings were held with the youth and general populace to discuss human trafficking risks. The events involved the distribution of handouts containing information on the hotline 11616, and national TV channels showed a video in Kazakh and Russian languages. Advertisements about the hotline were also printed in every weekly issue of a newspaper "Plus". As of August 2012, hotline 11616 consultants started answering calls regarding labour migration.

Gender analysis of calls received.

Human trafficking prevention hotline 11616 received: 1,385 calls from men (52%) and 1,214 calls from women (48%).

Inquiry analysis

16 inquiries were in reference to human trafficking, amounting to 1% of all inquiries. Requests were sent to MIA RK based on these inquiries.

Case 1, 25 May 2015: the 11616 hotline received a call from a man, an Uzbekistan national, who reported that he and 10 more people were being held at a construction site in Atyrau Oblast, village of Ganyushkino, Kurmangazy rayon, Kadyr-Ata street, house No. 70. Their documents were taken away, salaries weren't being paid and they weren't allowed to return home; violence was being used. A criminal prosecution was launched on the grounds of Article 126 of the CC RK "Unlawful detention".

Case 2, 14 June 2015: the 11616 hotline received a call from a man, who reported that his brother, Zhumanazar Ormanov, had come to the RK and found a job in the city of Karaganda, 66 Scherbakov street — he was stripped of his documents and salary, subjected to beatings; he along with 6 other men managed to escape. Currently all 7 of them are in South Kazakhstan Oblast without documents, and they seek help with getting back to their homeland. A criminal prosecution was launched on the grounds of Article 126 of the CC RK "Unlawful detention".

Case 3, 10 July 2015: the 11616 hotline received a call from a man who said that his nephew had been in slavery in Karaganda Oblast, beyond a rayon centre Egindybulak, Terey village-bound, 6 km beyond that was a winter hut where he was being held — he was forced to work without pay.

A criminal prosecution was launched on the grounds of Article 126 of the CC RK "Unlawful detention".

Analysis of inquiries received at the 11616 hotline shows that the majority of callers are 25-30 years of age; employed people are in the majority at 42.2%, while the unemployed are at 39.1%. The fewest calls are received from students and the youth -13.7%.

The 11616 hotline is a shining example of constructive cooperation of NGOs with law enforcement agencies (MIA RK) and an international organisation (IOM).

However, it is not enough to simply inform potential victims about possible crimes. As evidenced by the experience of international and Kazakhstani non-governmental organisations, individuals who were able to escape slavery face serious medical, psychological, legal and other issues. As such, another area of focus for non-governmental organisations is *assistance to victims of trafficking in persons*. Social aid to victims includes any and all efforts aimed at rehabilitation and social reintegration of victims. These include: arranging assistance abroad; help with repatriation to Kazakhstan or the country of origin; provision of medical, psychological, legal aid; provision of occupational training, assistance with employment, and so forth.

NGOs pay particular attention to arranging medical care for female victims of sexual exploitation. It is not only a personal problem, but also a social one that needs to be tackled both by non-governmental organisations, crisis centres and the state.

Equally important is the psychological support to human trafficking victims provided by non-governmental organisations. The way the society regards victims in the first days following their return often determines their future. More often than not, estranged by their families and closed ones, victims are tempted to look for new risky life opportunities, which leads them back into the hands of human traffickers. As such, experienced psychologists attempt to help victims escape the feeling of guilt for what had happened, overcome embarrassment and fear of persecution.

Finally, a special part of NGOs' efforts is centred around *prosecution of traffickers*. This doesn't mean that non-governmental organisations themselves investigate particular cases of human trafficking or collect evidence. This refers, instead, to the *social advocacy*. Real measures in this area are proposed by the Global Alliance Against Traffic in Women (GAATW). In association with an international law expert group, Standards for Humanitarian Aid to Victims of Trafficking have been developed. This document stresses that traffic victims are not criminals. This means that they may not be subject to injunctions or any other forms of persecution on the part of the state and law enforcement authorities. Each government and the public at large need to rally to their defence. Humane treatment of victims of human trafficking needs to be stipulated in the legislation. And governments, in turn, must guarantee their safe repatriation or the right to legal asylum in the country of destination where they were transported to.

Kazakhstani non-governmental sector assumes the role of a liaison between victims and law enforcement agencies whenever a human trafficking victim receiving rehabilitation treatment at an NGO wishes to voluntarily testify against traffickers.

Practice shows that many victims have negative experiences both with the police abroad, and law enforcement agencies in the CIS. Reporting to these agencies poses significant risk to migrants: they may end up being used as witnesses in investigations into organised crime without providing adequate protection or support. Victims rarely agree to this. One of the reasons is fear. Victims would not confess to being intimidated by traffickers, coerced into drug use or subjected to violence. They would prefer deportation or a prison sentence. To them, to testify means, first of all, to make their past public knowledge, and, secondly, to become exposed to retaliations from both their former masters and human traffickers in the country of origin. Victims are often afraid not only for their own life, but for the life of their relatives who might become targets for intimidation and crime.

The court proceedings themselves are a great ordeal for human trafficking victims. Prosecution of criminals does not always include the protection and observance of the rights of victims — most of the time the interests of female victims are secondary to the interests of the investigation. Professional attorneys hired by traffickers and pimps do everything in their power to prove that human trafficking victims acted voluntarily, or that they are morally bankrupt, while focusing the attention on their weak will and spinelessness. This way victims become accessories, even though it is evident that they were subjected to violence by their clients and human traffickers. NGOs serve to provide physical and emotional support to victims during investigation. Law enforcement agencies need to allow NGO psychologists to consult victims during investigation. This will help

victims consciously approach a testimony, credibility of which will depend on the emotional, physical and mental state of victims.

NGO's interactions with law enforcement agencies

Cooperation between NGOs and law enforcement agencies can take the following forms:

1) involvement of NGO staff in investigative procedures. For instance, as experts participating in victim questioning at pre-trial investigation and at a court hearing (Article 80 of CPC RK), as well as in the capacity of victims' representatives in criminal proceedings, in pursuance of Article 76 of CPC RK. In order for an NGO worker who is proficient in a particular field (for instance, psychology, psychiatry, social pedagogy, migration legislation) to be involved in investigative efforts, a victim or their representative need to submit the corresponding application to the investigator or the judge;

2) provision of psychological and other aid to victims, to ensure their effective participation in investigative procedures in the criminal proceedings, which includes attempting to dispel victims' distrust toward the law enforcement;

3) payment for legal services rendered to victims in the criminal proceedings;

4) renting of housing, accommodation of victims at shelters;

5) reporting newly uncovered instances of human trafficking to law enforcement agencies;

6) arranging and holding of training events and seminars aimed at the professional development of law enforcement personnel specialising in investigating human trafficking.

5. Interaction between state authorities and the private sector (business structure) in the area of combating trafficking in persons

Trafficking in persons serves to nourish the global market that requires cheap, non-regulated and exploitable labour, as well as in goods and services that such labour is able to deliver. As for the private sector, the key role that private entities can play in eliminating human trafficking from the value chain is widely recognised.

It is crucial to encourage the private sector to adopt such corporate policy that would aim to eliminate any ties between legal business and human trafficking. Private actors are often not given enough attention in the framework of initiatives for combating human trafficking, as the latter usually only involve governmental, inter-governmental and non-governmental actors that contribute to change.

Pursuant to the provisions of paragraphs 2 and 3 of Article 11 of the Protocol on Trafficking in Persons, member states are obliged to adopt "legislative or other appropriate measures to prevent, to the extent possible, means of transport operated by commercial carriers from being used in the commission of offences" related to human trafficking. Such measures include "the obligation of commercial carriers, including any transportation company or the owner or operator of any means of transport, to ascertain that all passengers are in possession of the travel documents required for entry into the receiving State".

Besides establishing the obligation of legal entities, it is also important to raise their awareness of the problem and encourage to develop ethical policy and codes of conduct that would stipulate zero tolerance toward any forms of trafficking in persons, and trafficking in children in particular.

The role of the private sector is especially crucial when it comes to trafficking in children for sex tourism. In such cases, agencies associated with tourism can benefit from th is practice and even openly facilitate it for profit. Such agencies can include hotels, taxi operators and travel agencies.

Businesses, travel companies, transport companies, employment agencies, dating agencies, foreign adoption agencies, advertisement agencies, massage parlours, night clubs and other organisations must assist law enforcement agencies of the RK in preventing crimes related to trafficking in persons, including trafficking in children.

From the standpoint of the Commission on Human Rights, the legislation on combating trafficking in persons must apply to the activities of travel and transport agencies, employment agencies, dating agencies, foreign adoption agencies, advertisement agencies, massage parlours, night clubs and other entertainment establishments.

In order to enhance the contribution of private actors in the fight against trafficking in persons, we recommend:

in pursuance of the OHCHR Guiding Principles on Business and Human Rights, develop a list of indicators and standards that can be used by companies to evaluate risks of human trafficking and forced labour in their value chains;

encourage the private sector to develop and effectively perform actions toward self-regulation (introduction of codes of conduct and similar mechanisms) in order to increase companies' awareness of the risks associated with human trafficking and incentivise them to take measures toward the elimination of such trafficking from their value chains;

encourage the private sector to develop and adopt codes of ethics when dealing with victims of human trafficking, child sex tourism and all forms of labour exploitation;

create incentives for the private sector to refuse to use exploited labour; for instance, by introducing tax preferences for companies that follow the ethics regulations.

6. Concerning the activities of specialised NGOs and crisis centres of Kazakhstan and their problems

In combating trafficking in persons, civil society is a vital partner in all efforts toward the prevention of offences, protection of victims and criminal prosecution of perpetrators. Civil society organisations of Kazakhstan assist the state in identifying victims of human trafficking and provide direct services, such as legal aid, medical care and psychological support at all stages of the legal proceedings; they can also facilitate the repatriation processes (if a victim wishes to do so) and reintegration or integration into the society if a victim is granted the resident status.

The Palermo Protocol stipulates that member states shall cooperate with NGOs in taking preventive measures to combat human trafficking and measures to provide assistance and protection. Paragraph 3 of Article 9 of the Protocol urges member states to take measures to prevent trafficking in persons, and contains this specific recommendation:

"Policies, programmes and other measures established in accordance with this article shall, as appropriate, include cooperation with non-governmental organisations, other relevant organisations and other elements of civil society".

Similarly, Article 6 of the Palermo Protocol reads:

"Each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, in appropriate cases, in cooperation with non-governmental organisations, other relevant organisations and other elements of civil society".

In the national human rights system in Kazakhstan an important role is given to non-governmental human rights organisations, as well as specialised NGOs engaged in protecting the rights of victims of abuse, which include victims of human trafficking.

Non-governmental organisations are the Commission's strategic partners in the area of human rights protection, which includes the development of special reports and programmes contributing to the improvement of national legislation and law practice in the area of the protection of human rights.

NGOs' value lies in the fact that they work directly with socially vulnerable population. In conducting their rights monitoring and advocating for the observation of human rights at state authorities, NGOs prove to be a valuable source of information regarding instances of human rights violations, they prepare constructive proposals on the improvement of the legislation and law practice, contribute to raising public awareness on human rights and ways of their protection.

As previously noted, an absolutely vital actor in preventing human trafficking is the sector of non-governmental organisations that spearhead practical initiatives that really contribute to the elimination of human trafficking and help those affected by it. Numerous initiatives and events on combating trafficking in persons that have been organised by Kazakhstani NGOs and international organisations since 2000, with the participation of researchers and experts (awareness-raising campaigns, conferences, round tables, seminars, publications, etc.), have had a significant and, perhaps, decisive impact both on catalysing Government's actions in this area, and raising awareness of the problem among the general populace and at-risk groups.

At present, Kazakhstan has 28 active crisis centres, of which 7 have been created as state-run shelters that accept citizens exclusively on the grounds of reports lodged with the police on account of violence.

Five centres have been created as state-run institutions for assisting and supporting various categories of citizens, including homeless people, victims of domestic violence and human trafficking, which clearly constitutes an unprofessional approach and lack of compliance with international standards and operating principles for institutions of this class. Non-governmental crisis centres do not have access to permanent funding, yet, nonetheless, every year they facilitate employment of 150 individuals and render assistance to victims of domestic violence free of charge, respecting their anonymity and confidentiality. For instance, hotlines of these crisis centres in 2015 received more than 9,000 calls, which translated into 7,042 women that later sought the centres' help, of which 592 were provided accommodations at shelters, and 8,449 women received consultations.

It is worth noting that due to a number of institutional limitations, including the "left-over principle" used by central and local executive bodies in funding NGOs engaged in combating trafficking in persons, only a few NGOs are able to maintain real projects on aiding victims of human trafficking, whereas the main donors for the projects aimed to raise awareness on human trafficking are international organisations, namely, the International Organisation on Migration. As such, taking into consideration the provisions of the Protocol on Trafficking in Persons, and following national dialogues held between representatives of the nongovernmental sector and representatives of ministries and agencies of the Republic of Kazakhstan, it was proposed to revise the mechanisms of state funding of specialised NGOs and crisis centres protecting the rights of victims of human trafficking.

The Commission on Human Rights under the President of the RK recommends to provide regular 3-year funding of the activities of crisis centres for female victims of abuse and introduce into Articles 53, 54 and 55 of the Budget Code of the RK the following clause: "Development of the infrastructure for the protection, rehabilitation, reintegration and adaptation of victims of domestic violence and trafficking in persons".

We recommend the Government of the RK and akimats of the cities of Astana, Almaty and oblasts to earmark in their annual budgets sufficient funds under social public procurement to finance the activities of specialised NGOs and crisis centres providing social service packages to victims of trafficking in persons and domestic violence.

The Commission on Human Rights wishes to extend gratitude to "Almaty Law Corporation" (Almaty), "Crisis Centres Union In Kazakhstan (Almaty), "Sana-Sezim" NGO (Shymkent), "Umit" Centre for Women Support (Aktobe), "Feminist Line" NGO (Kokshetau), "Centre for Women Support" (Petropavlovsk), the crisis centre at "Association of Female Small Business Owners" (Kyzylorda), "Korgau-Astana" Private Fund (Astana), "Association of Social Workers and Volunteers" (Almaty), "Rodnik" NGF (Almaty), "Asriv" Association of Legal Entities (Almaty), "Fenix" NGO (Ust-Kamenogorsk), "Regional Women's Support Centre" (Uralsk), "Meyirim" NGO (Aktau), "Bolashak" NGO (Taraz), "Megapolis" NGO (Atyrau), "KMPA" NGO (Kostanay), "Regional Women's Support Centre" NGO (Taldykorgan", "Kaisar" NGF (Temirtau), "Human Rights Charter" NGF (Almaty), "Kazakhstan International Bureau for Human Rights and Lawfulness" (Almaty), "El-Daryn" NGF, "Medialife" NGF (Karaganda), "International Legal Initiative" Almaty) and other NGOs for their contribution to the prevention of trafficking in persons, and the protection of the rights of victims of abuse, including victims of human trafficking.

7. Pressing issues surrounding the provision of free legal assistance to victims of trafficking in persons

The right to legal assistance is enshrined in the Constitution and the Criminal Procedure Code of the RK. Paragraph 3 of Article 13 of the Constitution of the RK reads: "Everyone shall have the right to qualified legal assistance. In cases stipulated by law, legal assistance shall be provided free of charge."

The Concept for the Law Policy for 2010–2020, approved by the Decree of the President of the Republic of Kazakhstan from 24 August 2009, serves as the source and guarantee of access to justice, yet it eliminated non-governmental organisations from the list of defenders.

Regulations on the state's provision of qualified legal assistance are contained in legislative acts, such as the Criminal Procedure Code of the RK (Articles 68, 76 and others), Civil Procedure Code of the RK (Articles 113, 195), Code of Administrative Offences (Articles 749, 750), Law "On the practice of law" (Articles 5, 6 and others), which demonstrates the lack of a single uniform system.

2013 saw the enactment of the Law of the RK "On state-guaranteed legal assistance" that stipulates the general principles, aims, procedure and other mechanisms of regulating social relations in the area of legal assistance. It also expands the scope of free legal assistance to cover socially vulnerable population by means of increasing the number of civil suits covered by it. The Law requires that all state authorities provide free legal assistance to all seekers of such assistance by informing them on legal matters within the scope of competence. Justice institutions constitute a competent authority, a single administrator of all budget programmes for all types of free legal assistance.

Sub-paragraph 8) of paragraph 1 of Article 67 of the Criminal Procedure Code of the RK prescribes mandatory involvement of the victim's legal representative (private prosecutor) or civil plaintiff. The participation of the defender is effective from the moment of participation in proceedings. However, criminal procedure legislation does not explicitly require investigation and court bodies to inform an individual that became involved in criminal proceedings regarding their right to use a lawyer whose services are paid for by the state.

Criminal procedure law is a very specific law field, and the positions of parties to the proceedings are markedly different. One party represents the state, with all its powers and institutions that include investigative branches, prosecutor's office and court. The other party is, more often than not, a vulnerable individual, who is likely unfamiliar with the material and procedural legislation, lacking any legal knowledge or skills. Moreover, the person accused of committing a crime, compared to the victim of said crime, is provided by the state with a much better access to mechanisms of legal representation in the criminal proceedings, including criminal cases related to trafficking in persons.

Almost every nation seeks to improve its free legal assistance system, and yet, despite all these efforts, all such systems draw criticism. Such imperfections are often attributed to the procedure of funding, criteria of selecting recipients of state support, administrative deficiencies.

State-guaranteed legal assistance

In accordance with the Constitution and the laws of the RK, every person involved in civil, administrative or criminal proceedings is entitled to receive qualified legal assistance under the established provisions. On these grounds, citizens of the RK are provided state-guaranteed legal assistance.

State-guaranteed legal assistance is qualified legal assistance provided to natural and legal persons free of charge (at the expense of the state), in form of the provision of legal information, legal consultation as well as public defence and legal representation of the interests of natural persons in courts and criminal prosecution authorities.

Legal assistance is provided by all state authorities within their competence, as well as by lawyers, notaries, private officers (bailiffs) of the court in cases and under the procedure established by the legislation of the RK.

State-guaranteed legal assistance shall be provided in observance of the following principles:

• legality;

• priority of rights, freedoms and legitimate interests of natural and legal persons in need of free state-guaranteed legal assistance;

• equal access and quality of state-guaranteed legal assistance provided;

• confidentiality of the matter with respect to which state-guaranteed legal assistance is provided;

• effective state regulation and control to ensure that persons rendering state-guaranteed legal assistance adhere to the quality standards for state-guaranteed legal assistance.

Who is eligible for state-guaranteed legal assistance?

The right to receive state-guaranteed legal assistance free of charge in form of the provision of legal information is afforded to all natural and legal persons. State-guaranteed legal assistance is provided to persons entitled to receive free state-guaranteed legal assistance, in the cases and under the procedure established in the legislation of the RK, namely:

• plaintiffs during court proceedings on claims for compensation for harm incurred as a result of the death of the breadwinner, injury or any other bodily harm associated with labour;

• plaintiffs and defendants who participated in the Great Patriotic War and equivalent persons, military conscripted personnel, persons with a Class I and II disability, old-age pensioners, if the litigation is not associated with entrepreneurial activities;

• natural persons with claims for the recovery of alimony, admission to pension and benefits, rehabilitation, acquisition of refugee or oralman status; minors without parental care, when necessary, are provided with written legal documents.

Remuneration of state-guaranteed legal assistance delivered by an attorney is covered using funds from the national budget. The aforementioned categories are entitled to state-guaranteed legal assistance in the Republic of Kazakhstan regardless of place of residence or current location.

Any person in need of state-guaranteed legal assistance has the right to:

1. equal access to state-guaranteed legal assistance;

2. receive information on their rights, duties and terms of the provision of state-guaranteed legal assistance;

3. seek free legal assistance from entities involved in the provision of stateguaranteed legal assistance;

4. receive state-guaranteed legal assistance or refuse from receiving it;

5. appeal against action or inaction of entities providing state-guaranteed legal assistance;

6. confidentiality of the matter with respect to which state-guaranteed legal assistance is provided;

Recipients of state-guaranteed legal assistance shall:

1. provide documents that verify their right to state-guaranteed legal assistance;

2. give timely notice of any changes in circumstances that may affect the terms of the provision of state-guaranteed legal assistance;

3. ensure the validity of information that substantiates the need in stateguaranteed legal assistance.

Pursuant to Article 6 of the Law of the RK "On the practice of law", the following persons are eligible for free legal assistance:

plaintiffs during court proceedings on claims for compensation for harm incurred as a result of the death of the breadwinner, injury or any other bodily harm associated with labour;

plaintiffs and defendants who participated in the Great Patriotic War and equivalent persons, military conscripted personnel, persons with a Class I and II disability, old-age pensioners, if the litigation is not associated with entrepreneurial activities;

natural persons with claims for the recovery of alimony, admission to pension and benefits, rehabilitation, acquisition of refugee or oralman status; minors without parental care, when necessary, are provided with written legal documents.

Records of free legal assistance in form of legal consulting provided by a lawyer are kept by the lawyer that provides said assistance, following the procedure established by the Government of the Republic of Kazakhstan.

Remuneration of legal assistance in form of legal consultation provided by a lawyer shall be covered using budget funds, on the grounds of the certificate of

services rendered by the lawyer and the application from the corresponding bar association.

Amount and the procedure of remuneration of legal assistance provided by a lawyer, as well as compensation of costs arising out of defence and legal representation, as well as the procedure of record keeping of legal assistance provided by the lawyer are established by the Government of the Republic of Kazakhstan.

Payment is made in accordance with the adopted Rules for Remuneration of Legal Assistance Provided by a Lawyer and Compensation of Costs of Defence and Legal Representation — Order of the Minister of Justice of the RK of 8 December 2015 No. 617. Registered at the Ministry of Justice of the RK on 21 December 2015 No 12434. In accordance with Article 112 CPC RK of 31 October 2015, paragraph 3 of Article 5 of the Law of the RK of 5 December 1997 "On the practice of law".

In 2010 over 91.5 million KZT was dispensed from the republican budget to remunerate legal assistance provided by lawyers²⁹.

The state allocates massive funds to see that these services are provided. In 2012 the Ministry of Justice of the RK received a transfer to an amount of 881 million 148 thousand tenge from the republican budget for purposes of rendering legal assistance to the public, in form of the provision of legal information and consultation. For 2016 the state planned to allocate over 1 billion and 300 million tenge to fund legal services provision to citizens of Kazakhstan.

In the current state of free legal assistance in Kazakhstan, the criminal and civil proceedings mainly involve lawyers that are members of regional bar associations. Representatives of non-commercial organisations who act as public defenders are excluded from paid legal service packages.

To render free legal assistance to a victim of human trafficking, an NGO representative may submit an application to the investigator in the process of pretrial investigation of a criminal case, or to the judge prior to the trial examination or during the court proceedings.

Experience has shown that legal assistance provided by NGO representatives includes:

legal consultations for victims and their relatives (by telephone, in the office);

defence of the rights of victims of human trafficking at judicial institutions;

legal assistance to families in searches for missing relatives and

children (identified as assumed victims of trafficking in persons);

legal assistance in repatriation of victims of human trafficking;

on the request of victims of human trafficking (or their relatives) — collection and handover of actionable information to law enforcement agencies.

Foreign experience has shown that the problems of lacking quality and timeliness in the provision of free legal assistance can be mitigated by establishing

²⁹ Data of the Committee for the Provision of Legal Assistance and Legal Services to the Public under the Ministry of Justice of the RK

not one, but several entities that could provide free legal assistance. It becomes important to efficiently utilise the resources available. With that in mind, and also considering the large area of the country and limited financial capacities, we recommend to consider granting non-commercial organisations and law clinics of higher education institutions the right to participate in the provision of primary legal assistance to the public in general, and victims of human trafficking in particular. It is worth noting that a considerable portion of primary legal assistance can be rendered by phone (by establishing call centres and toll-free numbers), which becomes ever more relevant in light of limited state budget resources, as well as geographical and infrastructural features of the country.

Recommendations of Chapters 4, 5 and 6

1. We recommend the Government, competent authorities and NGOs of the Republic of Kazakhstan to continue working on the implementation of the remaining unimplemented recommendations of the Commission's Special Report "Current Issues Affecting Human Rights Protection in the Area of Combating Trafficking in Persons in the Republic of Kazakhstan" approved by the President of the Republic of Kazakhstan of 29 March 2014, No. 32-47.327, namely:

• Continue efforts toward further improvement of the national legislation of the RK to reflect international commitments of the Republic of Kazakhstan and the international best practices in combating trafficking in persons;

• Consider the possibility of signing the Council of Europe Convention on Action against Trafficking in Human Beings of 16 May 2005 and the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse of 25 October 2007, which will contribute to the assurance of basic human rights of victims of trafficking in persons, the reinforcement of actions against all forms of sexual exploitation and sexual abuse toward children, as well as the creation of a special monitoring and control mechanism;

• Draft and adopt a separate Law of the Republic of Kazakhstan "On combating trafficking in persons" in order to specify clear competences and powers of stakeholder state authorities for combating trafficking in persons";

• Accelerate the enactment of the Law of the RK "On the Victim Compensation Fund".

• Enshrine in the legislation the definition of the legal status of human trafficking victims outside of the criminal process and ensure the provision of state protection and assistance to human trafficking victims regardless of whether or not the act of human trafficking has been criminally prosecuted. Also prescribe by law the provision of temporary residence permit (stay permit) for foreign nationals becoming victims of human trafficking in the Republic of Kazakhstan, whether or not the victim has decided to cooperate with law enforcement agencies.

• Develop and launch a national mechanism for identification and referral of human trafficking victims between law enforcement agencies, NGOs, healthcare institutions, education institutions, social services and other competent state authorities which would prescribe clear duties and functions of every agency and organisation engaged in human trafficking victims' identification, their referral to other actors for protection and assistance, as well as rendering of direct assistance to human trafficking victims, along with the procedure of interaction between organisations and agencies involved;

• The list of recipients of special social services under the implementation of the Law of the RK "On special social services" should be amended to include foreigners, especially migrant workers, as well as persons without citizenship, facing a challenging life situation in the Republic of Kazakhstan.

• In order to provide state support and budget funding of the activities of crisis centres and shelters that help human trafficking and abuse victims, we recommend introducing the corresponding changes and additions to Articles 26–34, 53–55 of the Budget Code of the RK.

• Abolish the statute of limitations toward persons committing crimes associated with trafficking in human beings, and minors in particular, for purposes of reinforcing criminal prosecution;

• Establish in legislation a "period for rehabilitation and reflection" for victims of trafficking in persons, lasting no less than 30 days, during which they be immune to any deportation measures and have access to rehabilitation services, so as to give human trafficking victims an opportunity to make an informed and substantiated decision regarding their cooperation with law enforcement agencies;

• In light of the enactment of the new Criminal Code, Criminal Procedure Code and Code of Administrative Offences, we recommend the Supreme Court of the Republic of Kazakhstan to develop and adopt a new regulatory resolution "On the application of legislation stipulating liability for trafficking in persons";

• Initiate joint training of law enforcement officers of the RK and law enforcement officers of main countries of origin of victims of trafficking in human beings — for instance, Central Asian nations — in order to foster cooperation in investigations of trafficking in persons;

• Initiate the creation of a single crisis hotline on combating trafficking in persons in Central Asia (single telephone number) in light of the fact that in the RK victims of human trafficking are found both among citizens of the nation and migrant workers from Central Asian states, thereby increasing awareness of potential at-risk victims of human trafficking of the existence of the crisis line in the RK as a country of destination;

• Strengthen the measures aimed at preventing trafficking offences: monitor regularly information in the mass media and telecommunication networks, containing offers of products and services related to trafficking in persons, as well as creating demand for such services; reinforce the personnel of the special anti-trafficking units of the Kazakhstan Ministry of Internal Affairs and its regional divisions with highly-qualified professionals by means of creating additional posts; step up the fight against corruption in law enforcement and adopt measures to improve the perception of the police by means of various social and information campaigns aimed at bolstering the image of the police officer and improving the quality of his or her work; introduce more severe liability for Kazakhstan's public officials found guilty of committing trafficking offences and make relevant

additions to the Criminal Code of Kazakhstan; strengthen the prosecutorial oversight of the observance of laws protecting the rights of minors, including labour, health and safety, child protection, adoption and guardianship (including foreign adoption) legislation; put in place regular checks in relation to the legitimacy of the activities carried out by travel companies, as well as legal persons and individuals providing advice and other services to foreign nationals and nationals of Kazakhstan; introduce prosecutorial oversight in relation to the legitimacy of the activities carried out by legal persons and sole proprietors providing foreign employment and education services to nationals of Kazakhstan, as well as marriage and model agencies; respond in a timely and efficient manner to breaches of the employment and welfare legislation, paying attention to the legitimacy of the activities carried out by employment services in respect of providing assistance to job seekers and protection from unemployment; promptly refer the findings of the prosecutorial checks to investigating authorities to initiate criminal proceedings, where relevant grounds have been found;

• Law enforcement and other competent state authorities, as well as NGOs, should ramp up their efforts toward the identification of victims of human trafficking, especially among foreign migrant workers, as well as women and children;

• Develop and introduce guidelines for preliminary (primary) identification of human trafficking victims intended for the personnel of law enforcement agencies, including migration police, administrative police, criminal police, as well as the staff of reception centres (for persons without identification documents) and the staff of other agencies (state labour inspectorate, healthcare bodies, social services, custody and guardianship authorities, centres for adaptation of minors, and others);

• MIA and the General Prosecutor's Office, jointly with NGOs and international organisations, should ensure regular monitoring of progress on Kazakhstan's international commitments in the area of human rights and combating trafficking in human beings;

• Sign and ratify a readmission agreement between two CIS member states; reinforce cooperation between Central Asian countries, European Union, other developed nations; develop the cooperation of member states in the area of preventing illegal migration, including human trafficking;

• Competent state authorities should analyse international best practices in combating trafficking in human beings (for instance, those of the US and other developed nations) and utilise it in practice to combat trafficking in persons in the RK;

• Competent state authorities should receive funding and regularly conduct — jointly with NGOs — the following educational and awareness-raising campaigns, with media coverage: awareness raising on the risks of trafficking in human beings; awareness raising among general populace and at-risk groups on the existing services provided to victims of human trafficking; awareness raising on the reduction of demand for cheap workforce, commercial sex services and other forms of exploitation;

• Provide state funding to the 11616 crisis hotline. We recommend exploring with "Kazakhtelecom" NC JSC the possibility of providing telephone services for said hotline free of charge;

• Relevant public authorities should develop and implement prevention programmes to provide timely social assistance to children in difficult life situations, migrant workers arriving in Kazakhstan and other persons belonging to vulnerable social groups in order to prevent them from being enslaved;

• Involve NGOs for conducting regular training of law enforcement personnel — police inspectors, juvenile police inspectors — so as to eliminate any prejudice toward victims of human trafficking, ensure observance of human rights and the prioritised interests of victims in the course of identifying and investigating corresponding crimes, to foster tolerance, compassion, empathy toward human trafficking victims;

• Conduct comprehensive research into human trafficking, with the participation of independent experts and civil society;

• Regularly monitor performance of competent state authorities engaged in preventing human trafficking;

• Conduct regular training of the personnel of law enforcement and other competent authorities with respect to the identification of human trafficking victims, with the participation of NGOs;

• Provide support to the existing crisis and rehabilitation centres and create new ones in the cities of Astana and Almaty and all oblasts of the RK to help and protect victims of human trafficking, including the provision of safe housing services, medical and psychological aid, occupational training, legal consultations and other kinds of help;

• We recommend akimats of the cities of Astana and Almaty and oblasts of the RK to include in their local budgets allocations to support crisis and rehabilitation centres to help and protect victims of human trafficking, including the provision of safe housing services, medical and psychological aid, occupational training, legal consultations and other kinds of help;

2. We recommend the Government, competent state authorities and NGOs of the Republic of Kazakhstan to increase their efforts in the following areas:

• We recommend the Government of the RK to reinforce cooperation with Eurasian Economic Union member states by means of concluding bilateral and multilateral agreements on combating trafficking offences that can include money laundering, corruption, smuggling of migrants and all forms of organised crime;

• We recommend to consider the possibility of recognising the competence of the UN Committee on Enforced Disappearances with respect to the receipt and consideration of individual and intergovernmental reports in accordance with Articles 31 and 32 of the International Convention for the Protection of All Persons from Enforced Disappearance;

• In order to continue improving the current legislation on offences related to trafficking in persons, we recommend amending Article 3 of the Criminal Code of the RK (as amended on 3 July 2014) to include a note containing the definitions of sale and other transactions in trafficking in persons, victim's consent for planned exploitation (obtained through such means as deception), list of articles related to trafficking in persons;

• We recommend amending Article 116 of the Criminal Code of the Republic of Kazakhstan (as amended on 3 July 2014) to include an annex on criminal liability for illegal harvesting of not only human tissues but also human cells;

• Improve the legislation of the Republic of Kazakhstan with respect to criminal and administrative prosecution of human traffickers on charges of labour exploitation;

• We recommend law enforcement agencies and state labour inspectorates to effectively investigate all instances of human trafficking and utilisation of child labour, prosecuting and appropriately convicting those responsible;

• We recommend the Agency of the Republic of Kazakhstan for Civil Service Affairs and Anti Corruption to ramp up efforts to identify and clear corruption offences perpetrated by state authority and law enforcement personnel found complicit in human trafficking;

• We recommend law enforcement agencies of the Republic of Kazakhstan to take appropriate measures to ensure the protection of victims of human trafficking and their close relatives, as well as witnesses, at every stage of criminal proceedings;

• To General Prosecutor's Office of the RK we recommend reinforcing oversight of the observance of lawfulness and human rights in the operations of internal affairs agencies investigating criminal cases related with trafficking in persons;

• Ministry of Healthcare and Social Development, jointly with specialised NGOs and crisis centres, should develop state programmes aimed at social reintegration and employment of victims of human trafficking;

• Ministry of Healthcare and Social Development should improve their standards for the provision of special social services to victims of trafficking in persons;

• We recommend the Ministry of Healthcare and Social Development to expand the list of recipients of special social services for human trafficking victims to include foreign nationals temporarily residing in the Republic of Kazakhstan who have been directly harmed by human trafficking in the Republic of Kazakhstan;

• Ministry of Healthcare and Social Development should develop and introduce quality criteria and a mechanism for determining the quality of special social services rendered to victims of trafficking in persons;

• Regularly carry out training of the personnel of stakeholder state authorities, specialised NGOs and crisis centres on the issues of providing special social services to victims of human trafficking;

• Ensure that organisations providing special social services to human trafficking victims have physical infrastructure available to them (explore the possibility of transferring state-owned facilities for fiduciary management);

• In order to ensure timeliness of the provision of free legal assistance to victims of human trafficking, we recommend exploring the possibility of granting non-commercial organisations and law clinics of higher education institutions the right to participate in the provision of primary legal assistance;

• Develop standards for the provision of primary and secondary legal assistance to victims of human trafficking, as well as criteria for selecting organisations eligible to provide free legal assistance to crime victims, including victims of human trafficking;

• We recommend the Government and competent state authorities of the RK to actively involve private businesses in the provision of social services to victims of human trafficking;

• Explore the possibility of providing regular three-year funding for organisations involved in the provision of special social services to victims of human trafficking and introduce into Articles 53, 54 and 55 of the Budget Code of the RK the following clause: "Development of the infrastructure for the protection, rehabilitation, reintegration and adaptation of victims of domestic violence and trafficking in persons";

• We recommend local executive bodies to fund awareness raising campaigns targeting individuals that are at risk of becoming victims of human trafficking, as well as for the general public, by means of effective involvement of mass media, non-governmental organisations, private sector;

• We recommend the Ministry of Information and Communications of the RK to consider the possibility of arranging free TV broadcasts of short public service announcement videos on the issues of protecting children from all forms of violence, including trafficking in persons;

• Local executive bodies should promote the activities of regional interagency commissions for combating trafficking in persons;

• We recommend the "Atameken" National Chamber of Commerce of the Republic of Kazakhstan, in cooperation with NGO, and in pursuance of the UN Guiding Principles on Business and Human Rights, to develop a list of indicators and standards that can be used by companies to evaluate risks of human trafficking and forced labour in their value chains;

• Create incentives for the private sector to refuse to use exploited labour; for instance, by introducing tax preferences for companies that follow the ethics regulations;

• For purposes of ensuring transparency and reinforcing cooperation between state institutions and civil society, it is recommended to provide to all stakeholders access to information on the results of annual implementation of the Action Plan of the Government of the RK on Combating and Preventing Offences Related to Trafficking in Persons for 2015–2017 and subsequent Plans.

Conclusion

Over the past years, the Commission on Human Rights under the President of the RK, in cooperation with the International Organisation for Migration Mission in Kazakhstan, OSCE Programme Office in Astana and civil society has been actively bringing up the issue of protecting the rights of migrant workers and victims of trafficking in persons within the context of the implementation of the government's Comprehensive Plan for the Improvement of the Migration Policy for 2014–2016, as well as the Action Plan for Combating and Preventing Offences Related to Trafficking in Persons for 2015–2017.

The Commission on Human Rights, jointly with the IOM Mission in Kazakhstan, has also assisted in the implementation of the Law of the RK "On special social services" with respect to citizens finding themselves in a difficult life situation as a result of abusive treatment leading to social disadaptation and deprivation.

It is worth noting that over the past few years the Republic of Kazakhstan has made strides in protecting the rights of migrant workers and combating trafficking in persons, which was noted by the IOM Mission in Central Asia and the Office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings.

For instance, the International Organisation for Migration and OSCE have commended Kazakhstan's ratification of the primary international conventions that ensure high standards in combating trafficking in persons and international legal acts on human rights and fundamental freedoms. Also welcome is the amendment of the national legislation to reflect international standards, as well as the readiness of Kazakhstan to sign bilateral cooperation agreements with various nations, which also implies assistance in extraditing parties to human trafficking court cases.

An especially positive impact was made by the introduction of changes and additions to the national legislation on legalisation of migrant workers and combating trafficking in persons, which enabled the authorities to impose stricter liability for offences in these areas and strengthen the preventive impact of the corresponding laws.

Yet, it needs to be said that the current legislation is mainly focused on combating illegal migration and trafficking in persons, and to a lesser degree — on social protection and protection of interests of migrant workers and victims of human trafficking. Often this leads to their repeated victimisation and subsequent social disadaptation and deprivation.

The need for granting all migrant workers and human trafficking victims access to medical care, social, legal and psychological assistance is stressed in this Analytical Report of the Commission.

In his state of the nation address "Kazakhstan-2050 Strategy: New Political Course of the Established State", President Nursultan Nazarbayev defined as one of the priority objectives the new principles of social policy, and instructed to establish minimal social standards and guarantees, which is designed to improve targeting of budgetary funds allotted to social programmes.

Commission on Human Rights under the President of the Republic of Kazakhstan deems it necessary to bring to the forefront the issues of the protection of the rights of migrant workers and victims of human trafficking within the context of the activities of state authorities, better tap the potential of civil society institutions in the protection of their civil, social, labour, economic and cultural rights.

National mechanisms for the protection of the rights of migrant workers and victims of human trafficking and the assurance of their access to special social services are in dire need of adjustment.

The recommendations of the Commission on Human Rights under the President of the RK listed in the corresponding chapters of the Analytical Report are primarily aimed to improve the national legislation and law practice in the protection of the rights of migrant workers and victims of trafficking in persons in pursuance of international standards.

Furthermore, in the process of the revision of regulatory legal acts of the RK, due consideration needs to be given to best practices of other nations in the field of working with migrant workers and victims of human trafficking — for instances, the US, Sweden, Canada, Australia and New Zealand. In accordance with international best practices and the basic principles of human rights protection, migrant workers and victims of human trafficking must be afforded a number of civil, social and labour rights.

It is important to note that implementing the recommendations of the Analytical Report of the Commission can contribute to fostering an advanced human rights culture in the society and adopting effective methods of coordinating cooperation between state authorities, NGOs, expert communities and international organisations in the process of the implementation of said recommendations.

These efforts are especially advisable and valuable in that the Analytical Report of the Commission can become a success factor of any subsequent measures to polish the mechanisms of the observance and protection of rights and freedoms of migrant workers and victims of human trafficking.

In the process of preparing the Analytical Report, experts attempted to fully capture the international experience, and in particular, practices of competent state authorities of the US, Canada, Australia, New Zealand, Sweden, European Union member states in working with migrants and victims of human trafficking.

Implementing the recommendations of the Analytical Report must be geared toward the achievement of the following outcomes:

ensure staged and complete implementation of the recommendations of the preceding Special Reports of the Commission on the issues of the protection of the rights of migrants and combating trafficking in persons in the RK, approved by the President of the Republic of Kazakhstan;

complete Step 56 of the "100 Concrete Steps" Plan of the Nation that specifies the creation of a favourable migration regime conducive to attracting highly qualified professionals to work in Kazakhstan;

improve national mechanisms for the protection of the rights of migrant workers and victims of human trafficking;

prevent instances of illegal migration and trafficking in persons;

introduce international human rights standards into the national legislation and law practice in the area of the protection of the rights of migrant workers and victims of human trafficking;

ensure effective protection of civil, social, labour, economic and cultural rights of migrant workers and victims of human trafficking;

implement the Standard for the Provision of Special Social Services to Victims of Trafficking in Persons in all regions of Kazakhstan, allocating sufficient budgetary funds under the social public procurement;

improve the national mechanism of cross-referral of victims of human trafficking between law enforcement agencies, NGOs, healthcare institutions and social services;

enhance the mechanism for the provision of the package of special social services to victims of human trafficking and migrant workers finding themselves in a difficult life situation;

ensure that victims of human trafficking successfully advance through the stages of re-integration and re-socialisation at corresponding crisis centres and rehabilitation centres;

ensure transparency of the activities of competent state authorities and NGOs engaged in the protection of the rights of migrant workers and victims of human trafficking;

ensure that migrant workers and victims of human trafficking are well aware of the universally recognised human rights standards, of the current legislation of the Republic of Kazakhstan with respect to labour migration and combating trafficking in persons;

enhance legal culture of the personnel of state authorities and law enforcement agencies, NGOs and the general public;

reduce the risks of social tensions and potential social and labour conflicts in the society;

reinforce national security.

Ultimately, the implementation of the recommendations provided in Analytical and Special Reports of the Commission will enable Kazakhstan to reach new heights in the formation of a law-governed state, enhancement of

social mechanisms for the protection of the rights of migrant workers and victims of human trafficking to the level of international standards.

Members of the Commission on Human Rights under the President of the RK would like to extend their deepest appreciation to the International Organisation for Migration Mission in Kazakhstan, IOM Development Fund, Bureau of Population, Refugees and Migration of the US Department of State, the UN Development Programme in Kazakhstan, OSCE Programme Office in Astana, USAID, the General Prosecutor's Office of the RK, the Supreme Court of the RK, the Ministry of Internal Affairs of the RK, the Ministry of Healthcare and Social Development of the RK, the Ministry of National Economy of the RK, the

Ministry of Foreign Affairs of the RK, the Ministry of Justice of the RK, other state authorities and non-governmental human rights organisations of the Republic of Kazakhstan, Legal Council under the Nur Otan Party, "Almaty Law Corporation" NGO, Association of Legal Entities "Crisis Centre Union in Kazakhstan", "Legal Centre for Women's Initiatives "Sana-Sezim" NGO, "Medialife" NGF, "Feminist League" NGF, "Umit" Crisis Centre under the "Women's Support Centre" NGO (city of Aktobe), "Women's Support Centre" NGO (Petropavlovsk), "Zhan" Crisis Centre at "Association of Female Small Business Owners" NGO, Association of Psychologists of Kazakhstan, "Rodnik" NGF, "El-Daryn" NGF, "Kazakhstan International Bureau for Human Rights and Lawfulness" NGO, "Human Rights Charter" NGO, "Children's Fund of Kazakhstan" NGF; international organisations accredited in Kazakhstan (UNESCO Cluster Office in Almaty, UN Children Fund in Kazakhstan, Delegation of the European Commission in the Republic of Kazakhstan, UNHCR Regional Representation in Central Asia, UN OHCHR Central Asian Regional Office, the Republic of Kazakhstan Permanent Mission to the United Nations and other international organisations in Geneva, the United States Embassy in Kazakhstan, Special Representative and Co-ordinator for Combating Trafficking in Human Beings at the OSCE Secretariat for the provided materials used in the preparation of this Analytical Report.

Annexes

List of international human rights conventions and agreements ratified by the Republic of Kazakhstan

The International Covenant on Civil and Political Rights 1966 (Law of the RK effective 2005);

The First Optional Protocol to the International Covenant on Civil and Political Rights, 1996 (Law of the RK effective 2009);

The International Covenant on Economic, Social and Cultural Rights 1966 (Law of the RK effective 2005);

The International Convention on the Elimination of All Forms of Racial Discrimination, 1966 (Law of the RK effective 1998);

The Convention on the Elimination of All Forms of Discrimination against Women, 1979 (Law of the RK effective 1998);

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, 1999 (Law of the RK effective 2001);

The International Convention for the Protection of All Persons from Enforced Disappearance, 2006 (Law of the RK effective 2008);

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984 (Law of the Rk effective 1998);

The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 2002 (Law of the RK effective 2008);

The International Convention for the Suppression of the Circulation of and Traffic in Obscene Publications, concluded in Geneva on 12 September 1923, amended in accordance with the Protocol signed in Lake Success, NY, on 12 November 1947 (Law of the RK effective 2013);

The Convention on the Rights of the Child, 1989 (Law of the RK effective 1994);

The Optional Protocol to the Convention on the Rights of the Child, with respect to trafficking in children, child prostitution and child pornography, 2000 (Law of the RK effective 2001);

The Optional Protocol to the Convention on the Rights of the Child, with respect to the involvement of children in armed conflicts, 2000 (Law of the RK effective 2001);

The Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption, 1993 (Law of the RK effective 2010);

The Convention on the Civil Aspects of International Child Abduction, 1980 (Law of the RK effective 2012);

The Convention Relating to the Status of Refugees, 1951 (Law of the RK effective 1998);

The Optional Protocol to the Convention Relating to the Status of Refugees, 1967 (Law of the RK effective 1998);

The Convention on the Rights of Persons with Disabilities, 2006 (Law of the RK effective 2015);

The Convention against Discrimination in Education, 1960 (Law of the RK effective 2016);

The UN Convention Against Corruption, 2003 (Law of the RK effective 2008);

The UN Convention on Transnational Organised Crime, 2000 (Law of the RK effective 2008);

The Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children to the Convention against Transnational Organised Crime (Law of the RK effective 2008);

The Protocol Against the Smuggling of Migrants by Land, Sea and Air supplementing the Convention against Transnational Organised Crime (Law of the RK effective 2008);

The Protocol against the Illicit Manufacturing of and Trafficking in Firearms, their Parts and Components and Ammunition supplementing the Convention against Transnational Organised Crime (Law of the RK effective 2008);

The 1926 Slavery Convention (Law of the RK effective 2008);

The Protocol Amending the Slavery Convention signed in Geneva on 25 September 1926 (Law of the RK effective 2008);

The Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, 1949 (Law of the RK effective 2005);

The Final Protocol to the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (Law of the RK effective 2005);

The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery effective 1956 (Law of the RK effective 2008).

List of ILO conventions and agreements ratified by the Republic of Kazakhstan:

Labour relations:

1. C029 — Convention concerning Forced or Compulsory Labour, 1930;

2. C105 — Convention concerning the Abolition of Forced Labour, 1957;

3. C138 — Convention concerning Minimum Age for Admission to Employment, 1973;

4. C185 — Convention revising the Seafarers' Identity Documents Convention, 2005 (*responsible authority* — *MTC*);

5. C182 — Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999;

Social partnership:

6. C087 — Convention concerning Freedom of Association and Protection of the Right to Organise, 1948;

7. C144 — Convention concerning Tripartite Consultations to Promote the Implementation of International Labour Standards, 1976;

8. C135 — Workers' Representatives Convention, 1971;

9. C098 — Right to Organise and Collective Bargaining Convention, 1949. *Occupational safety:*

10. C148 — Convention concerning the Protection of Workers against Occupational Hazards in the Working Environment Due to Air Pollution, Noise and Vibration, 1977;

11. C155 — Convention concerning Occupational Safety and Health and the Working Environment, 1981;

12. C081 — Convention concerning Labour Inspection in Industry and Commerce, 1947;

13. C129 — Convention concerning Labour Inspection in Agriculture, 1969

14. C167 — Convention concerning Safety and Health in Construction, 1988;

15. C162 — Convention concerning Safety in the Use of Asbestos, 1986

16. C187 — Convention concerning the promotional framework for occupational safety and health, 2006

Labour remuneration:

17. C100 — Convention concerning equal remuneration for men and women workers for work of equal value, 1951

18. C026 — Convention concerning the Creation of Minimum Wage-Fixing Machinery, 1928

19. C095 — Convention concerning the Protection of Wages, 1949 *Employment:*

20. C111 — Convention concerning Discrimination in Respect of Employment and Occupation, 1958

21. C122 — Convention concerning Employment Policy, 1964

22. C088 — Convention concerning the Organisation of the Employment Service, 1948

Women's rights:

23. C183 — Convention concerning the revision of the Maternity Protection Convention, 1952

24. C156 — Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities, 1981

List of CIS- and EAEU-level conventions and agreements ratified by the Republic of Kazakhstan:

The Convention on Legal Assistance and Legal Relations in Civil, Family and Criminal Proceedings among CIS Member States, effective 2002 (Law of the RK effective 2004);

The Convention on the Legal Status of Migrant Workers and their Family Members of the Commonwealth of Independent States, from 2008 (Law of the RK effective 2009); The Treaty on the Eurasian Economic Union, dated 29 May 2014 (Law of the RK effective 14 October 2014);

CIS Treaty on the Cooperation in Occupational Safety (adopted on 9 December 1994, effective 10 March 1995);

CIS Treaty on the Procedure of Investigation of Industrial Accidents Occurring to Workers Outside of Country of Residence (adopted on 9 December 1994, effective 10 March 1995);

CIS Treaty on the Cooperation in Public Health (adopted on 26 June 1992, effective 26 June 1992);

The Protocol on the Introduction of Changes and Additions into the CIS Treaty on the Cooperation in Public Health of 26 June 1992 (adopted on 18 September 2003, effective 18 September 2003);

The Protocol on the Introduction of Additions into the CIS Treaty on the Cooperation in Public Health of 26 June 1992 (adopted on 25 November 2005, effective 25 November 2005);

CIS Treaty on the Provision of Medical Care to Citizens of the Member States of the Commonwealth of Independent States (adopted on 27 March 1997, effective 27 March 1997);

The Protocol on the Mechanism of Implementation of the CIS Treaty on the Provision of Medical Care to Citizens of the Member States of the Commonwealth of Independent States with respect to the Provision of Medical Services (adopted on 27 March 1997, effective 27 March 1997);

CIS Treaty on Mutual Recognition of the Workers' Rights to Compensation for Injury, Occupational Disease or other Bodily Harm Associated with Fulfilment of Work Duties (adopted on 9 September 1994, effective 6 October 1995);

CIS Treaty on the Cooperation in Industrial Safety at Hazardous Industrial Facilities (adopted on 28 September 2001, effective 26 February 2002);

CIS Treaty on the Cooperation in Addressing the Matters of HIV Infection (adopted on 25 November 1998, effective 25 November 1998);

Treaty on the Mutual Recognition of Health Assessments Reports of Migrant Workers in Member States of the Eurasian Economic Community, approved by the Resolution of the Government of the Republic of Kazakhstan of 26 January 2013 No. 39 (between the Republic of Kazakhstan, the Republic of Belarus, the Kyrgyz Republic, the Republic of Tajikistan, the Russian Federation);

Treaty between the Republic of Kazakhstan, the Kyrgyz Republic, the Republic of Tajikistan and the Republic of Uzbekistan on Joint Action Against Terrorism, Political and Religious Extremism, Transnational Organised Crime and Other Threats to Stability and Security of the Parties (Law of the RK effective 2000).

Furthermore, the decision of the Council of Heads of the Commonwealth of Independent States of 10 October 2014:

approved the Programme for the Cooperation of the Member States of the Commonwealth of Independent States Against Illegal Migration for 2015–2019;

approved the Concept of the Cooperation of the Member States of the Commonwealth of Independent States against Trafficking in Persons.

By the decision of the Heads of the Member States of the Commonwealth of Independent States of 25 October 2013, the Programme for Cooperation of Member States of the Commonwealth of Independent States Against Trafficking in Persons for 2014–2018 was adopted.

The Treaty on the Cooperation of the Member States of the Commonwealth of Independent States Against Trafficking in Persons, Human Organs and Tissues was adopted on 25 November 2005 in the city of Moscow.

In the area of combating trafficking in persons, law enforcement agencies of CIS member states also use the following treaties:

The Treaty on the Cooperation of the Ministries of Internal Affairs (Police) of the Member States of the Commonwealth of Independent States in Combating Trafficking in Persons (adopted on 17 September 2010 in the city of Saint Petersburg);

The Treaty on the Cooperation among the General Prosecutor Offices of the Member States of the Commonwealth of Independent States Against Trafficking in Persons, Human Organs and Tissues (adopted on 3 December 2009 in the city of Astana).

List of abbreviations

APK — Assembly of People of Kazakhstan

AO (Russian) = JSC — Joint-stock company

APC — Administrative Procedure Code of the RK

FLA — Free legal assistance

WB — World Bank

GDP — Gross domestic product

HIV — Human immunodeficiency virus

EKO — East Kazakhstan Oblast

SC — Supreme Court of the RK

WTO — World Trade Organisation

GA — General Assembly

SGLA — State-guaranteed legal Assistance

CC — Civil Code of the RK

GVFMC — Guaranteed Volume of Free Medical Care

GPO — General Prosecutor's Office of the RK

CPC — Civil Procedure Code of the RK

DIA — Department of Internal Affairs

DNSC — Department of the National Security Committee of the RK

DMP — Department of the Migration Police of the MIA RK

EAEU — Eurasian Economic Union

SIS — Single Information System

EC — European Commission

UAPF — Unified Accumulative Pension Fund

EU — European Union

ECHR — European Court of Human Rights

UTN SB — Unified Telecommunications (Transport) Network of State Bodies

SES — Single Economic Space

LRK — Law of the Republic of Kazakhstan

LIS — Legal Information System

FWF — Foreign workforce

CAP — Committee of the Administrative Police of the MIA RK

CMCE — The Committee of Ministers of the Council of Europe

NSC — The National Security Committee of the RK

CAO — The Code of Administrative Offences of the RK

CHR — Commission on Human Rights under the President of the RK

MIA — The Ministry of Internal Affairs of the RK

IAC — Inter-Agency Commission

IAWG — Inter-Agency Working Group

IMF — International Monetary Fund

MHSD — The Ministry of Health and Social Development of the RK

MFA — The Ministry of Foreign Affairs of the RK

LEB — Local Executive Bodies

- MID The Ministry for Investments and Development of the RK
- MCS The Ministry of Culture and Sport of the RK
- MNE The Ministry of National Economy of the RK
- IOM The International Organisation for Migration
- MES The Ministry of Education and Science of the RK
- ILO The International Labour Organisation
- MCI Monthly calculation index
- SME Small and medium enterprises
- MRCSA The Ministry for Religious and Civil Society Affairs of the RK
- MoF The Ministry of Finance of the RK
- MoJ The Ministry of Justice of the RK
- NGI Non-governmental institution
- NC National Company
- RLA Regulatory legal acts
- NGO Non-governmental organisations
- WFCL Worst forms of child labour
- IAA Internal affairs authorities
- OSCE Organisation for Security and Cooperation in Europe
- CSTO Collective Security Treaty Organisation
- UN The United Nations
- CPO Crime prevention operation
- NGF --- Non-governmental fund
- OECD Organisation for Economic Co-operation and Development
- ALE Association of legal entities
- UNDP UN Development Programme
- P. Paragraph
- Subpar. Sub-paragraph
- RK The Republic of Kazakhstan
- RT The Republic of Tajikistan
- RU The Republic of Uzbekistan
- RF The Russian Federation
- CICA The Conference on Interaction and Confidence-Building Measures in Asia
- PPE Personal protective equipment
- CIS The Commonwealth of Independent States former Soviet republics, except Baltic states and Georgia (as of August 2009)
- AIDS Acquired immune deficiency syndrome
- Art. Article
- The US The United States
- TB Tuberculosis
- LC Labour Code of the RK
- TNC Transnational corporation
- CU The Customs Union
- DIA Directorate of Internal Affairs (UVD)
- UNOHCR UN Office of the High Commissioner for Refugees

UNOHCHR — UN Office of the High Commissioner for Human Rights

CC — The Criminal Code of the RK

PC — The Penal Code of the RK

OMP — Office of the Migration Police

CPC — The Criminal Procedure Code of the RK

FSSD — The Federal Security Service Directorate

FSS — The Federal Security Service of the RF

FMS — The Federal Migration Service of the RF

CA — Central Asia

PEA — Private employment agency

SIS — The Schengen Information System

SCO — The Shanghai Cooperation Organisation

SKO — South Kazakhstan Oblast

UNESCO — The United Nations Educational, Scientific and Cultural Organisation

UNICEF — The United Nations International Children's Emergency Fund

UNODC — The United Nations Office on Drugs and Crime

USAID — The United States Agency for International Development

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11. Материалы национального диалога «Обеспечение доступа к специальным социальным услугам для жертв жестокого обращения, включая жертв торговли людьми и бытового насилия», проведенного МОМ совместно с КПЧ, Офисом Программ ОБСЕ в Астане, Посольством США в 2014-2016 годах. [Materials of the national dialogue "Ensuring Access to Special Social Services for Abuse Victims Including Victims of Trafficking in Persons and Domestic Violence" conducted by IOM jointly with CHR, OSCE Programme Office in Astana, the U.S. Embassy in 2014–2016]

12. Материалы по трудовой миграции Представительства МОМ в Казахстане. [Materials on labour migration of the IOM Mission in Kazakhstan]

13. Материалы по борьбе с торговлей людьми и оказанию помощи жертвам торговли людьми Представительства MOM в Казахстане. [Materials on combating trafficking in persons and providing assistance to victims of trafficking in persons of the IOM Mission in Kazakhstan]

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15. Материалы национального диалога «Расширение прав и возможностей уязвимых мигрантов и жертв торговли людьми в Повестке дня 2030 в области устойчивого развития» [Materials of national dialogue "Expanding the Rights and Opportunities of Vulnerable Migrants and Victims of Trafficking in Persons in the 2030 Sustainable Development Agenda"], Almaty, 23 September 2016.

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