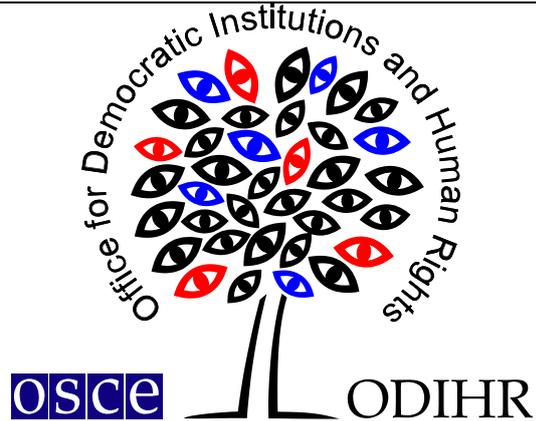


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OPINION

ON THE LEGAL FRAMEWORK REGULATING

POPULATION REGISTRATION IN THE

KYRGYZ REPUBLIC

Based on unofficial English translations of relevant laws and documents

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I. INTRODUCTION

1. *Based on Article 22 of the Law of the Kyrgyz Republic on Internal Migration of 2002¹, the Government of Kyrgyzstan is obliged to found a Population Register. Since it was established in 2010, the State Registration Service under the Government of the Kyrgyz Republic (hereinafter “the State Registration Service”) has been working on developing a concept for a unified state population register.² Since September 2010, OSCE/ODIHR has been supporting these efforts by providing expert advice in developing a strategy for a population register by highlighting the need for determining modalities of the technical implementation of the population register and the development of the legal framework regulating its functioning.*
2. *On 16 April 2012, the Deputy Chairman of the State Registration Service sent a letter to the OSCE/ODIHR informing it about the formation of a Working Group tasked to draft a legal basis for the functioning of the state population register in Kyrgyzstan. On this occasion, the Deputy Chairman forwarded to the OSCE/ODIHR analyses on legislation related to the establishment and functioning of a state population register prepared by the non-governmental legal clinic “ADILET”. In his letter, the Deputy Chairman requested an expert assessment and proposals related to “the elaboration of normative legal acts in the sphere of population registration” based on international standards and practice. Both the letter and the attached analyses were translated and forwarded to OSCE/ODIHR by the OSCE Centre in Bishkek.*
3. *In addition to these documents, the OSCE Centre in Bishkek provided OSCE/ODIHR with English translations of the following legislation: the Law on Internal Migration, the Law on Electronic Document and Electronic Digital Signature³, the Law on Personal Information⁴, Rules of Procedures of Civil Status Acts Registration⁵ (approved by Ministry of Justice Regulation) and the Regulation on the Rules of Registration and Deregistration of Citizens of the Kyrgyz Republic at the Place of Residence and Place of Stay⁶ (passed by Government Decree). Other legislation, including the Constitution of the*

¹ The Law on Internal Migration, adopted by the Legislative Assembly of the Jogorku Kenesh of the Kyrgyz Republic on 28 June 2002.

² In this context, it should be noted that reforms to the national registration system and the establishment of a reliable, efficient system of civil registration were recommended in Final Reports of OSCE/ODIHR Election Missions to Kyrgyzstan, see e.g. the OSCE/ODHR Election Observation Mission Final Report on the Parliamentary Elections of 10 October 2011, issued on 20 December 2011 (A. Priority Recommendations, p. 24), and the OSCE/ODIHR Election Observation Mission Final Report on the Presidential Elections of 23 July 2009, issued on 22 October 2009 (C. [Recommendations on] Election Administration, p. 24).

³ The Law on Electronic Document and Electronic Digital Signature, law no. 92, adopted on 17 July 2004, as amended by law no. 290 of 2 November 2009.

⁴ The Law on Personal Information, law no. 58, adopted on 14 April 2008.

⁵ Rules of Procedures of Civil Status Acts Registration, approved by Regulation No. 91 of the Ministry of Justice of 13 June 2001.

⁶ Regulation on the Rules of Registration and Deregistration of Citizens of the Kyrgyz Republic at the Place of Residence and Place of Stay, passed by Government Decree No. 886 on 4 December 2004, in the version of Government Decree No. 936 of 16 December 2004.

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Kyrgyz Republic⁷, and the Law on Parliamentary and Jogorku Kenesh Elections, was also consulted.

4. *This Opinion is provided as a response to the above request for expertise.*

II. SCOPE OF REVIEW

5. The scope of the Opinion covers the existing legal framework based on the legislation and documents received. Thus limited, the Opinion does not constitute a full and comprehensive review of all legislation potentially related to the issue of population registration in the Kyrgyz Republic.
6. The Opinion raises key issues of concern. The ensuing recommendations are based on OSCE commitments, and other international standards and good practices related to international standards on freedom of movement, data protection, freedom of information and other related rights, as found in the international agreements and commitments ratified and entered into by the Republic of Kyrgyzstan.
7. This Opinion is based on unofficial translations of the legislation and other documents received. A list of relevant legislation used has been added under Annex 1, while a translation of the Law on Internal Migration constitutes Annex 2 to the Opinion. Errors from translation may result.
8. In view of the above, the OSCE/ODIHR would like to make mention that this Opinion is without prejudice to any written or oral recommendations and comments to this or other legislation related to population registration, freedom of movement, access to information, data protection or other pertinent matters that the OSCE/ODIHR may make in the future.

III. EXECUTIVE SUMMARY

9. In order to ensure that legislation on population register will be fully compliant with international standards and commitments, it is recommended as follows:

1. Key Recommendations

- A. to incorporate Chapters 3 and 4 of the Law on Internal Migration in a new law on population register and discuss the need to retain a Law on Internal Migration, as limitations to the freedom of movement principle could be regulated in relevant legislation relating to e.g. emergency and disaster situations) ; [pars 17-22]
- B. to include in a law on population register sufficient safeguards to ensure data protection and security, clear responsibilities, transparency of processes, rights of data subjects (individuals), as well as provisions regulating access to data, based on the purpose of data and necessity of access; [pars 23, 38, 48-49, 51, 74-80, and 84]

⁷ The Constitution of the Kyrgyz Republic, adopted by referendum on 27 June 2010.

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- C. to specify internal control measures and external supervisory mechanisms in the law, and ensure transparency throughout; [pars 59-60 and 94]
- D. to limit the types of information that should be registered in a population register; [pars 67-72]
- E. to clarify the responsibilities and liabilities that both officials and individuals have under a law on population register; [pars 91-93]
- F. to ensure that flexible and consistent solutions reflecting the actual situation on the ground are found to ensure that all parts of the population are able to register, and that administrative hurdles are kept to a minimum; [pars 99-103];

2. Additional Recommendations

- G. to ensure consistency in all legislation related to the issue of population registration; [pars 29, 31, 34, 46, 65, and 78)
- H. to specify how and in which legislation different aspects of the provision of information from the population register are and will be regulated; [par 31]
- I. to expand the scope of the law on population register to cover all persons residing in Kyrgyzstan, including non-citizens; [par 32]
- J. do clearly outline responsibilities for registration, in particular civil registration, and ensure that these are the same for all persons residing in Kyrgyzstan; [pars 39-40]
- K. to ascertain that time limits for registration are not excessively short and retain a certain flexibility; [pars 39 and 41]
- L. to review and discuss the advantages and disadvantages of the obligation to register temporary residence; [pars 42 and 44]
- M. to ensure that military conscripts and prisoners maintain their permanent place of residence while being temporary stationed, respectively detained elsewhere temporarily; [par 44]
- N. to discuss options for automatic registration for certain groups of persons, e.g. military conscripts, prisoners, and other persons accommodated in state-run institutions; [par 44]
- O. to specify in relevant legislation that information on citizens of Kyrgyzstan residing abroad should only be provided on a voluntary basis; [par 45]
- P. to clearly establish the State Registration Service as the main authority to maintain the population register, and specify the responsibilities of other administrative authorities in relation to the collecting and updating of information in records; [pars 52 and 62]
- Q. to outline exceptions to the usual registration procedure in detail, and specify who shall benefit from such exceptions and on which grounds; [par 54]

- R. to stress in relevant legislation that the registration of individuals shall be free of charge, and that any costs raised for additional administrative tasks shall be limited to processing expenses; [par 56]
- S. to clearly outline the management and functions of the State Registration Service, and the main management tasks; [pars 58 and 61]
- T. to ensure that the population register includes historical information on changes made to the register in the past by way of a proper tracking procedure; [pars 66 and 86]
- U. to ensure the authenticity and validity of data stored; [pars 73 and 82]
- V. to avoid automated procedures in computerized system, and make sure they are never applied in relation to sensitive data; [pars 81 and 83]
- W. to ensure that the population register is regularly updated and, if found to be inaccurate or incomplete, amended accordingly and without delay; [pars 47 and 86]
- X. to explicitly include all residents of a country in the register, including non-citizens, and make sure that changes in citizenship only lead to amendments in the register, without affecting the registration of this person as a whole; [par 87] and
- Y. to incorporate into relevant legislation the right for individuals to object or complain against actions or procedures conducted in relation to data stored or processed in the population registration system. [par 90]

IV. ANALYSIS AND RECOMMENDATIONS

1. International Standards and Commitments

10. It is common practice in many OSCE participating States to oblige citizens to register their place of residence with the relevant state authorities, who will then use the information to provide the population with relevant state services. A population registration system⁸ should meet society's need for basic information on its citizens and other inhabitants to efficiently and effectively guarantee civil rights and provide core social services such as healthcare, schooling, etc. Population records may likewise be used for creating the voter register to be used in elections, as well as for statistics and taxation.
11. While the legal and administrative frameworks for population registration are not directly regulated in relevant international human rights instruments and commitments, they should be drafted and implemented in such a way as to maintain and safeguard important human rights of the population, and not inhibit the enjoyment of such rights. More precisely, and following the wording of the Preamble⁹ of the International Covenant on Civil and Political

⁸ Population registration should not be confused with civil registration – while it includes some or all of the tasks of civil registration, e.g., the registration of births, marriages, divorce, adoption and name changes, it goes beyond the mere collection of civil documents and statistics.

⁹ See the full text of the third paragraph of the Preamble: “Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political

Rights (hereinafter “the ICCPR”), population registration is an important tool that should provide for the creation of conditions whereby everyone may enjoy his civil and political rights. Other potentially affected rights protected by the ICCPR include the right to liberty of movement and freedom to choose one’s residence (Article 12 par 1), the right to privacy, home, family and the integrity of honour and reputation (Article 17 par 1), the freedom to seek, receive and impart information (Article 19 par 2), and right to vote and be elected by “universal and equal suffrage” (Article 25 (b)).

12. Thus, population registration systems should ensure that their manner of collecting, storing and processing data facilitates access to civil and political rights (including public services and the holding of free and transparent elections) and does not restrict the freedom of movement and the right to choose one’s residence, while maintaining the protection of personal data of individuals and ensuring that non-confidential data is accessible to the population.
13. Similarly, relevant OSCE commitments reflect OSCE participating States’ common determination to build democratic societies based on the rule of law¹⁰. Numerous commitments attest to the relevance of, e.g. the freedom of movement and residence¹¹, free voting procedures and universal and equal suffrage¹², and the right to information in general¹³. A functioning population register ensures the above rights and freedoms, which are part of a proper democratic system following the rule of law.
14. In 2009, the OSCE/ODIHR issued Guidelines on Population Registration, based on good practices recorded across the OSCE region, which describe criteria for the development of efficient population registration systems that correspond to the legitimate needs of the participating States and their citizens.

2. Relevant Domestic Legislation

15. The Constitution of Kyrgyzstan¹⁴ safeguards a number of the above-mentioned rights that could potentially be affected by a population registration system, namely the right to free elections based on universal, equal and direct suffrage (Article 4), the freedom of movement and choice of destination and residence (Article 25), also the right of access to information (Article 33) and protection of privacy (Article 29). It further guarantees other rights provided on the basis of a person’s residence, e.g. the right to education (Article 45), and the right to health protection (Article 47).

freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights [...]”.

¹⁰ See the Document of the Copenhagen Meeting of the Conference on the Human Dimension of the CSCE, Copenhagen, 29 June 1990, Preamble, I, par 2.

¹¹ See the Concluding Document of Vienna – The Third Follow-up Meeting, Vienna, 15 January 1989, Questions Relating to Security in Europe: Principles, par 20.

¹² See the Copenhagen Document, pars 5.1 and 7.1.

¹³ See, among others, the Concluding Document of Vienna, Co-operation in Humanitarian and Other Fields, par 34.

¹⁴ The Constitution of the Kyrgyz Republic, adopted by referendum on 27 June 2010.

2.1 The Law on Internal Migration

16. The main law setting out the establishment of a population register is the 2002 Law on Internal Migration. Besides the establishment of a population register, this law regulates “relations regarding internal migration in the Kyrgyz Republic” and related legal and organizational bases of internal migration processes. It further aims to create necessary conditions for places of permanent and temporary residence for forced migrants and their families.
17. Generally, it would appear that the existence of a population register goes beyond the parameters set by a law on internal migration – a population register should not aim to control or manage migration, but should rather be seen as a tool enabling the administration of a state to keep record of its population, in order to facilitate the provision of state services to the population and monitor the fulfillment of individuals’ obligations *vis-à-vis* the state. The debate on establishing a legal framework for population register should thus also involve discussions on whether the chapters on population register should really remain as part of the Law on Internal Migration.
18. Due to the wider scope of a population register, which also collects information related to civil status, it is recommended to regulate the functioning of such a register in a separate law. Chapters 3 and 4 of the Law on Internal Migration on registration of citizens and the unified state register respectively should thus be removed from this law, and incorporated in a new law on population register. Provisions on the right to choose one’s place of residence, e.g., Articles 3 and 6 of the Law on Internal Migration, could also be more appropriately included in a law on population register. At the same time, Article 3 would benefit from some revision, given that it also aims to prevent “spontaneous and unregulated migration” – this could be seen as an attempt to limit internal migration and the freedom to choose one’s residence.
19. In this case, the Law on Internal Migration would retain such topics as the freedom of movement guarantee (Chapter 2) and Chapter 5 on forced migration (as well as general provisions (Chapter 1) and concluding provisions (Chapter 6)). Since the freedom of movement guarantee is already included in Article 25 of the Constitution, it is unclear why this wide guarantee would need to be reiterated in a separate law. Indeed, the mere title of the law would appear to suggest the need to regulate internal migration, which would then imply that in principle (contrary to the Constitution), movement within the state of Kyrgyzstan is not completely free. This potential interpretation is further exacerbated by the existence of a chapter on “forced migration” in the Law on Internal Migration. Already the term “forced migration” evokes negative connotations of the state forcing persons to migrate against their wishes or limiting voluntary internal migration.
20. To demonstrate that the principle of freedom of movement is the rule, not the exception, throughout Kyrgyzstan, it would be advisable to reconsider the necessity of a Law on Internal Migration in the first place. While it is clear that there will be exceptions to this rule, such exceptions shall only be permissible in cases where they are necessary to protect national security,

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public order, public health or morals or the rights and freedoms of others (Article 12 par 3 of the ICCPR).

21. Consequently, the cases where it is permissible to limit the right to freedom of movement under Chapter 5 on forced migration of the Law on Internal Migration are limited to natural and ecological disasters, large-scale accidents, catastrophes, armed conflict and mass disorder. Article 8 in Chapter 2 on the right of citizens to freedom of movement describes additional scenarios where movement of people and the choice of residence may be restricted, namely if this is necessary in the interests of state security, the protection of public order and the protection of health of the population in frontier zones, closed military cantonments, closed administrative-territorial units, or disaster zones. Movement may also be limited in specific territories and localities subject to special conditions and a policy of residence and economic activity due to the danger of spreading mass infectious diseases or poisoning of the population, or in territories where a state of emergency or martial law is introduced.
22. These cases allowing for exceptions to the principle of freedom of movement could well be regulated in separate legislation, e.g. legislation on natural and other disasters, on specific restricted locations, military or otherwise, or on general legislation on public safety. Overall, such legislation would be more specific and to the point than a general law on internal migration, and would more accurately demonstrate the reasons behind and justification for limiting freedom of movement, be it the safety of individuals or the protection of public order or national security, than the current Chapter 5 on forced migration. At the same time, such laws should attempt to keep limitations to the freedom to choose one's residence at a minimum. The term "forced migration" should be avoided in the legislation mentioned above and should be replaced with more appropriate terms such as "evacuation" or the like.
23. At the same time, the obligation to register residence and related procedures may also be seen as limitations to individuals' freedom of movement. The legal framework for population registration, in particular as concerns the registration of residence, needs to include prominent safeguards to ensure freedom of movement and keep such limitations to a minimum.

2.2 Other Relevant Legislation and By-laws

24. Relevant by-laws regulating the registration of residence and of civil status in detail are the Regulation on the Rules of Registration and De-Registration of Citizens at the Place of Residence and Place of Stay and the Rules on Procedures of Civil Status Acts Registration respectively. The former implements the Law on Internal Migration by outlining the particularities of how to register and de-register and in which circumstances. The latter specifies the procedures for registering births, marriages, adoptions, name changes, and deaths, and for amending, restoring, cancelling, maintaining and storing registers.
25. Other legislation received includes the Law on Electronic Document and Electronic Digital Signature (hereinafter "the Law on Electronic Document") and the Law on Personal Information.

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26. The Law on Electronic Document specifies the use of electronic documents and signatures, and the rights, duties and responsibilities of participants in legal relations in the context of electronic documents' circulation. Chapter 1 of the law specifies the creation, use and validity of electronic documents. Article 2-9 on the storage of electronic documents and Article 2-10 on the security of information systems and networks refer to other legislation for relevant procedures and main terms. The same is true for rules on use and protection of information that is prohibited or restricted. Detailed provisions on the principles and terms of the implementation of digital signatures are laid down in Chapter 2 of this law.
27. The Law on Personal Information aims to ensure the protection of human rights and the rights and freedoms of citizens in relation to the collection, storage and processing of personal data. It further regulates the rights and responsibilities of information holders and the government system of personal data management.
28. Numerous sector-specific laws, such as legislation pertaining to elections, tax collection, social assistance, public utilities, and a wide array of other sectors of public life regulate data collection and sharing of data in their specific sectors. It is paramount that all of these laws are consistent with data collection and data sharing principles laid down in a law on population register.

3. The Proposal for a Law on Population Register

3.1 Legal Basis for the Law

29. As stated earlier in par 16 *supra*, the establishment of a unified population register in Kyrgyzstan is propagated in Article 22 of the Law on Internal Migration, which states that the Government shall found such a register, and also adopt a statute for the register in accordance with the law. The state authority responsible for population registration shall also be responsible for managing the population register, and the functioning of a Central Personal Databank.
30. Under Article 21 of the Law on Internal Migration, the population register shall aim to collect, store, update, and analyse information about the citizens of the Kyrgyz Republic and about the scale and direction of migration, and shall also provide such information to state authorities and the state administration, and other legal entities and individuals in accordance with the procedure determined by the legislation of the Kyrgyz Republic.
31. In addition to the above debate on the scope and necessity of the Law on Internal Migration (see pars 17-22 *supra*), it is noted that this provision does not outline which legislation is being referred to. It is recommended to clarify this point. Ideally, the provision of information to other parts of public administration should lie within the scope of the Law on Population Register, while sector-specific legislation could regulate the storing and sharing of information for specific public administrative bodies following the same principles related to storage and data protection as the law on population register. The provision of information to other legal entities and individuals,

on the other hand, is presumably regulated in specific Kyrgyz legislation on access to information.

32. Overall, it is recommended to explicitly expand the scope of the population registration system to cover not only citizens of Kyrgyzstan, but also non-citizens legally residing in the country. Under the Internal Migration Law, individuals who are not citizens but legitimately on the territory of Kyrgyzstan also have the right to freedom of movement and free choice of residence (Article 6 par 2). However, the provisions on registration and population registration appear to apply only to citizens. As all persons living on a given territory are eligible for basic state services, it is essential that the scope of the population register law covers all persons living on the territory of Kyrgyzstan. The use of the data on foreigners living there may not be used for all state services, e.g. the organization of elections, but it is important that it is also registered.

3.2 Purpose and Aim of the Law

33. A law on population register should regulate the competencies and proper functioning of a central population register. It should specify the legal entity in charge of running the population registry, define the information that should be registered and the purposes of registration, set out procedures for maintenance of the registration, and outline procedures for information-sharing, in particular which bodies shall be entitled to access which information in which specified circumstances. Also, such law should outline the responsibilities of the competent administrative bodies, including mainly the State Registration Service, but also other relevant bodies with access rights.
34. As already recognized in Article 21 of the Law on Migration, it is essential that all legislation on population registration, particularly provisions on residency registration and civil status registration, is uniform. Achieving a uniform and consistent system of population registration is one of the main aims of such legislation¹⁵, which shall replace existing, potentially diverging registration practice among different administrative bodies. Creating a consistent population registration system is the first step to a modern information and communications system to support the work of public administration.
35. In the Kyrgyz context, the actual structure would depend on the administrative structure of the country. Whether the running of a population register is only done on the central state level, or whether part of this is delegated entirely or in part to local authorities depends on state policy and hierarchies. Generally, it may be helpful to collect data related to individuals at the local level, in areas where people live. In such circumstances, it is important for all local offices to follow the same rules of registration, to ensure consistency throughout the state.
36. Local offices may be part of a centralized system where they collect data on behalf of a central body responsible for the entire process, or they may

¹⁵ See the OSCE/ODIHR Guidelines on Population Registration, p. 35.

participate in a de-centralized system, where the collection and storage of data is conducted at the local level, but may be shared with a centralized system. In this case, local data is processed on behalf of local authorities, and data in the population register is kept separate from other local data and not shared for purposes other than those specified by law. In any case, the law should be transparent in relation to the system, and shall inform individuals about where they will need to register.

37. Regardless of the system chosen by relevant decision-makers in Kyrgyzstan, it is essential that the responsibilities of all relevant authorities involved in this process are clearly defined in the law on the population register and reflected in relevant laws/by-laws on residency and civil status registration.

3.3 Main Concepts and Principles of a Law on Population Register

38. ODIHR's 2009 Guidelines on Population Registration list a range of guiding principles of population registration¹⁶. These include, *inter alia*, the mandatory nature of registration, the sustainability of such a system, relevance and purpose of data, confidentiality, facilitation of the freedom of movement of people, sound administrative procedures that are consistent and not too burdensome on the individual, and a non-discriminatory approach. Any law on population register as well as the laws/by-laws on residency and civil status registration and other relevant legislation should reflect these principles.
39. In order for a population registration system to function properly, registration should be mandatory. This obligation may be imposed on all individuals (both citizens and foreigners) residing on state territory, who will then be obliged to register actively with the relevant authorities, or it may be imposed on the state authorities, which are then required to collect all necessary data. Often, a combination of the two is most effective, e.g. civil registration of births may be done by hospitals, while residence registration could be imposed on the individual.¹⁷ Time limits for registering one's residence should not be excessively short, and should be supported by flexible regulations (e.g. extensions of deadlines, or flexibility with regard to the submission of certain documents).
40. In Kyrgyzstan, births should be registered by oral or written application of one or both parents; it is only if the parents are sick or have deceased, or if they are otherwise not able to do so, that "interested parties" or the medical institution that treated the mother during delivery may register a birth (Chapter 2 par 1 of the Rules of Procedures on Civil Status Acts Registration). This approach should be reconsidered and it should be discussed whether hospitals could not, as a matter of course, be obliged to register all births with the relevant authorities. The same approach could be discussed with regard to other examples of civil status registration. This could possibly ensure a much more consistent manner of civil registration. Further, it is not clear who "interested parties" under Chapter 2 par 1 of the Rules of Procedures on Civil Status Acts Registration would be, and why they would be permitted to register a birth instead of or in addition to a state medical institution. Moreover, it is not clear

¹⁶ *Ibid.*, pp. 18

¹⁷ *Ibid.*, p. 39

why birth registration of children with foreign or stateless parents should be treated differently from that of other children (Chapter 2 par 21 of the above Rules of Procedures).¹⁸ It is recommended to make the rules of birth registration more consistent.

41. The compulsory nature of registration of residence is currently laid down in Article 9 of the Law on Internal Migration, which imposes the obligation to register on individuals (though this appears to apply only to citizens). Under Article 16, citizens changing their place of permanent residence have ten working days to register; this time period is reduced to five working days in case of change of temporary residence (Article 17). It is noted that five days may well be too short, depending on the infrastructure of the respective location. It would thus be advisable to expand this time period.
42. In general, it should be debated whether there should be an obligation for persons to register their temporary places of residence at all. Given the non-permanent nature of such changes of residence, this may very well constitute a disproportionate burden, both on the individuals and on the administrative offices. The advantages and disadvantages of temporary registration would need to be balanced and debated in detail, also with regard to the timely provision of state services, and the preparation of accurate voters' lists for elections.
43. Safeguards for human rights of individuals "independently of registration" may be found in Article 10 of the Law on Internal Migration, while the protection of freedom of movement and of choice of permanent and temporary residence is laid down in Article 6. Article 11 provides individuals with a right to complain against potential violations of such rights.
44. At the same time, it is noted that under Article 16 par 5, the registration of a citizen at his/her place of permanent registration may be struck out of the register not only in case of changing of permanent residence, but also in case a person was called up for military service, or where he/she has been sentenced to prison. This would appear to imply that a person loses his/her permanent residence in cases where he/she is obliged by law to transfer temporarily to another location. This would run counter to the right of each person to choose his/her place of permanent residence, and to Article 17 par 1, which specifies that a citizen shall be registered at a place of temporary residence without striking him/her from the register at the place of permanent residence. Military conscripts and prisoners should maintain their permanent residence even during military or prison service, which is nothing else than a temporary change of address. In fact, aside from the discussion on the obligation to register temporary residence *per se*, it should be discussed whether military conscripts and prisoners even need to register temporarily themselves, or whether they should automatically be registered upon starting their military service or prison term. The same system could apply for other state-run institutions such as homes for the elderly, state-run accommodation services, or medical institutions, as discussed under par 40 *supra*. In these cases, individuals would be obliged to register with the heads of the institutions, who

¹⁸ Chapter 2 par 21 of the Rules of Procedures of Civil Status Acts Registration states as follows: "Birth registration of a child, when one parent is a citizen of the Kyrgyz Republic, while another parent is a foreign citizen, or a person without citizenship, should be based on joint application of parents."

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- would then inform the State Registration Service.¹⁹ Such options should be discussed and taken into account when drafting a new law on population register.
45. Citizens moving abroad should still be retained in the register with their last-known place of residence in Kyrgyzstan. Any information on addresses or civil status of citizens residing abroad should be provided to the Kyrgyz authorities on a voluntary basis. Relevant provisions on this in current legislation, e.g. Chapter 1 par 2 of the Rules of Procedures on Civil Status Acts Registration, should be clarified accordingly.
 46. A population registration system needs to function on a permanent and continuous basis. The entities responsible for population registration thus needs to have sufficient administrative stability, and shall operate within a sound legal framework. Such framework should be consistent with other relevant legislation; in particular definitions of terms laid down in a law on population register should be consistent with the definitions of these terms found in other legislation and in particular civil status and residency registration laws/by-laws.
 47. The data stored in a population register needs to be relevant for the identity, life events and place of residence of the population, and shall include data necessary to guarantee individuals' human rights, civil right and social benefits. To ensure the relevance of the data at all times, the existing data shall be updated on a regular basis. In this Opinion, Section 3.5 *infra* contains more detailed information on data types and processing.
 48. The kind of information included in a population register for each person usually includes personal data about individuals, including data concerning one's identity, residence and vital life events such as birth, marriage, etc. Such data needs to be handled with the utmost confidentiality, to protect the private lives of the persons concerned. The better such private data is protected, the greater the public trust in the population registration system will be. Persons registering their private data should be confident that such personal information will only be used for the purposes envisaged in the law.
 49. Particularly in the case of electronic registers, confidentiality of data and security of the system as a whole must be a primary focus²⁰. Basic measures should include control of both physical and virtual access, authentication and authorization, regulation of log-in protocols, oversight over outsourced tasks and control of information disclosure through the use of pertinent technologies. In case of both paper-based records and electronic records, the relationship between the two should be specified.
 50. In relation to electronic registers, confidentiality of electronic documents and data protection are not mentioned in detail in the Law on Electronic Document. Article 2-10 of this law obliges persons engaging in the development, processing, transmission, receiving and storage of electronic documents to use software and hardware that provide for appropriate security of documents. The same provision notes that the appropriate security level

¹⁹ As an example, see Sections 15 and 16 of the German Framework Law for Civil Registration (Melderechtsrahmengesetz), passed on 19 April 2002 (BGBl. I S. 1342), last amended in 2011.

²⁰ See the OSCE/ODIHR Guidelines on Population Registration, p. 20.

shall be provided by owners of information systems and networks. Article 2-10 par 3 then states that the main terms to ensure security of information systems and networks are provided by other legislation of Kyrgyzstan, without specifying which legislation it refers to.

51. A future law on population register should contain specific safeguards to ensure data protection and confidentiality of data, with regard to both paper and electronic data. Separation and secure storage of data, as well as clear and differentiated access requirements can help in this respect. Also, any law on a population register should include general obligations for officials handling data, in particular confidential data, and provisions outlining liability for disclosure of confidential data and negligent behaviour. In practice, the main principles could be formulated in the law, and more detailed provisions in a relevant by-law.
52. To ensure control over registered data and avoid confusion, it should be clear that the State Registration Service is the main authority which maintains stored data. At the same time, it should be clear which other administrative authorities will be responsible for collecting and updating information in records. Main records managed by the State Registration Service will therefore be the only legally valid source of personal data that may be used by all parts of public administration. Also, a person should only be required to register once – individuals should not be obliged to provide the same information on multiple occasions for different administrative bodies, as this is on the one hand burdensome for the individual, and on the other hand reduces the level of control that can be exercised in terms of data protection.²¹
53. In this regard, it is noted that Article 19 of the Law on Internal Migration allows for a simplified procedure of residence for persons moving to another location for employment reasons, based on an application by a state body or other organization concluding a contract with the respective individual. The procedure may also be applied for students upon request of their educational institution, and for certain categories of internal migrants, in particular forced migrants, upon request of bodies of local self-government.
54. The exact nature of this simplified procedure is not explained in Article 19, and it is not clear which part of the regular procedure will be simplified, and how. It is also not specified why certain persons shall benefit from this procedure, and the underlying criteria based on which institutions, private entities and public bodies may request and obtain such simplified procedure. If not explained in detail in residency provisions in a relevant law/by-law, exceptions such as these could be applied in an arbitrary manner and lead to unjustified preferential treatment of certain individuals. Exceptions to the usual procedure should be discussed prior to being included in the law on population register. If they are to be included, they should be explained and justified adequately in the text of the law.
55. The registration of individuals should itself be free of charge, to avoid situations where some persons do not register for financial reasons. Other services provided by the register may be subject to fees which should cover,

²¹ *Ibid.*, p. 21

but not exceed, the actual administrative costs incurred.²² Persons relying on social welfare should, however, be excluded from this obligation.

56. According to Article 13 par 4 of the Law on Internal Migration, state fees shall be raised for registration at the place of permanent residence. Based on the above discussion, this provision should be reviewed and ideally amended. Article 30 par 2 states that costs related to “data exploitation” and processing are covered by a fee for the provision of data in accordance with a procedure approved by the Government. This presumably refers to the provision of certain data. It is essential that such costs reflect only the processing expenses and not serve as a source of revenues for the State.

3.4 Bodies Responsible for Implementing the Law

57. Based on the structure for a draft law received from the Working Group, the unified state population register will be managed by the State Registration Service. The structure differentiates between the functions of the State Registration manager, of the Registration Service, and of other state organizations to ensure the functioning of the state register, which presumably refers to other public authorities and institutions competent to collect and update data in the register as well.
58. Generally, the management and functions of the State Registration Manager (which presumably refers to the head of the State Registration Service) could be combined in one provision. This provision should focus on a number of exemplary tasks that the manager of a State Registration Service should help ensure, namely e.g. the facilitation of registration, regular data transfer to public bodies and administration, regular monitoring of the accuracy and completeness of the register, and provision of information to individuals.
59. Article 27 of the Internal Migration Law regulates the management of the population register and lays down responsibilities of staff and registrar. Par 2 of this provision also specifies mechanisms of internal control and external supervision. Internal control shall be fulfilled by a permanent Commission established by the Registrar. The provision does not provide more information on the nature, establishment and composition of this commission. In a law on the population register, it would however be preferable if these aspects of internal control would be specified – the details of internal inspection could then be laid down in a by-law.
60. The means and procedure of external supervision through an Interdepartmental Council established by the government are also not specified in Article 27 par 2 or in Article 22 on the establishment of such council. If this is meant to be an independent body, then it would be advisable to task the parliament with its establishment. The law on population register should also specify who should be on this council, as well as the selection and appointment process for members, and the competences of the council. Such competences could include taking decisions on applications of external users to access data in the register, and auditing the technical system of sharing, collecting and updating data to ensure its compliance with the law. Generally, the State Registration

²² *Ibid.*, p. 43

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Service should be held to submit annual reports on the functioning of its services to the Government and independent council, which, in the interest of transparency, should then also be published.

61. Key functions of the State Registration Service should include the maintenance and service of data processing of the register, especially the provision of the appropriate infrastructure, of data, and of services to the administration and, as needed, other public bodies, and citizens. An appropriate by-law should regulate the framework for information processing and sharing.
62. In this context, the functions of other state organizations ensuring the functioning of the State Register, as laid down in the structure of the draft Law, should be elaborated and specified as clearly as possible.

3.5 Information Types, Storage and Processing

3.5.1 Information Types

63. The law on the population register should specify which types of information should be registered. Mostly, this would include information related to the identity of a person, his/her relevant life events, and address.
64. More specifically, this would include the following information:
 - name of a person (family and first name, patronymic, doctoral degree, monastic or artistic name);
 - date and place of birth;
 - gender;
 - legal guardian (first and family name, patronymic, doctoral degree, address, date of birth, gender, date of death);
 - citizenship;
 - address and former addresses;
 - date of registry and de-registry at present and past locations;
 - marital status (including date and place of marriage and divorce);
 - spouse (first and family name, patronymic, doctoral degree, address, date of birth, gender, date of death);
 - minor children (first and family name, patronymic, address, date of birth, gender, date of death; this should include adopted children);
 - passport and identification document (authority and date and place of issuance);
 - restrictions on disclosure of data; and
 - date and place of death (or a missing person's declaration by court order).
65. Generally, relevant passport and identification document should mirror the names and other up-to-date identity-related data stored in the population register, and the law on population register should be in line with relevant legislation on passports and names.

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66. Next to current information, the register should also include relevant historical information, in particular on past changes to personal data, with links to relevant administrative documentation.
67. It is essential that only such information is registered and stored that is absolutely necessary for the identification of individuals and the provision of state services²³. The more information is contained in the population registry, the more difficult it is to maintain, update and protect. For this reason, a population registry should maintain the minimum information necessary to perform its functions within the society that it serves.²⁴
68. In this context, it should be noted that Article 23 of the Law on Internal Migration reflects most of the above types of information, except, perhaps, restrictions on disclosure. At the same time, it contains additional information, e.g. information on employment/registration as unemployed, date of dismissal from work, social payments/pensions/allowances, data on emigrants from Kyrgyzstan (date of departure and country of destination), blood type, and ethnic origin.
69. While the matter of being employed or unemployed, and receipt of benefits may be relevant information to assess whether or not a person is entitled to certain social benefits, it should be discussed whether such information really needs to be included in a population register. This would largely depend on which administrative body is responsible in Kyrgyzstan for providing social benefits in this field – ideally, information required for this purpose should be stored there. At the same time, detailed information on the work, position and employer of an individual would appear to be unnecessary and quite invasive in terms of privacy rights.
70. Collecting and storing information concerning a person’s blood type would also appear to be quite invasive, given the very private nature of such information. The same would apply with regard to a person’s ethnicity or religion. A person should not be obliged to reveal any of the above, as this is very sensitive information.
71. While Article 8 of the Law on Personal Information forbids the collection, accumulation, storage and use of personal data disclosing racial or ethnic origin, nationality, political views, religious or philosophical views, as well as information related to the health status and sexual orientation, this limitation only applies if this is done for “the sole purpose of revealing [or knowing] these factors”. It is recommended to review both of the above provisions to assess which information needs to be disclosed in a population register, and to limit the list of information to such necessary data. In particular, it is recommended to reconsider including information on blood type, ethnic identity and religion in this list; persons should not be obliged to reveal such

²³ See the Proposal for a Directive of the European Parliament and the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data, COM(2012) 10 final, of 25 January 2012. Article 8 of this Proposal prohibits the processing of personal data revealing race and ethnic origin, political opinions, religion or beliefs, trade-union membership, of genetic data or of data concerning health or sex life.

²⁴ See the OSCE/ODIHR Guidelines on Population Registration, p. 18

information. Article 8 par 1 should also be revised accordingly – even if considered necessary for statistical purposes, individuals should not be required to disclose information on their political views, or sexual orientation. For the purposes of statistics or population census, such information may be collected, but this should be done separately from the population register’s usual collecting of information, in aggregated form. Also, in these cases, information should only be disclosed if anonymity is guaranteed.

72. Generally, information that is not required to be stored by law should be excluded from the register (this includes text fields for individual comments; if at all, only pre-defined comments should be permitted). This is currently reflected in Article 23 par 3 of the Law on Internal Migration.
73. Before information is stored, its authenticity needs to be validated – the law on population register or relevant by-laws should thus also include information about physical attributes and informational content of documents used to prove the validity of the information, e.g. watermarks, or the issuing authority of passports, either directly or by referring to other relevant legislation. The authenticity and integrity of the data stored should also be validated, to ensure that it was not tampered with.

3.5.2 Storing and Processing Information

74. With regard to the storing of information, it is paramount that the purpose for which each type of information shall be used and processed is clearly stated in the law on population register. Different categories of data should be stored separately, and ways of ensuring such separate storage in a secure manner should be discussed. Access should be limited and granted to only certain types of data, and only as needed for a respective purpose. Possibilities of safeguarding information and creating back-up registers should also be debated; the requirement for such back-up options to ensure restoration of data lost should be included in the law on population register, while technical details should be laid down in a relevant by-law.
75. Generally, the law on population register should specify which data is eligible for transfer.²⁵ Referrals of data from one entity to the other should be done following clear rules and procedures. Such data transfer should be regulated in line with sectoral competencies and the division of responsibilities (starting with the separation of powers in a state²⁶). Each data transfer from the population register to another government sector should be regulated in relation to the purpose of the transfer, the recipient (including possible non-state recipients) and the data categories to be transferred.²⁷ Consistency with other relevant legislation and by-laws, e.g. provisions related to personal data collected and published for voters’ lists, should be ensured. Also in such cases, the information submitted should be limited to what is necessary and relevant

²⁵ *Ibid.*, p. 42

²⁶ *Ibid.*, p. 36

²⁷ *Ibid.*, pp 41-42

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for the tasks at hand.²⁸ Technical implementation of data transfers and data fields should be regulated in a separate by-law.

76. Data transfers from the register to bodies outside the government administration should constitute an exception and be properly regulated. In particular, data transfer between the register and the police should follow detailed legal procedures, in keeping with the principle of division of responsibilities. Data transfers to the private sector should be limited to certain data items (e.g. name and address) and should never include sensitive or special categories of data²⁹, unless the data subject has provided his/her explicit consent.
77. Generally, data subjects (in other words individuals) should have effective means at their disposal to decide whether information contained in the state register may be shared with other entities of state. This could be done via general or specific approval forms on potential sharing and/or disclosure of data. This need not include aggregated data which does not reveal the identity of the respective persons.
78. Article 26 of the Law on Internal Migration currently outlines the use and referral of data. While aggregated reports may be used by everybody, data in the population register needed to draw up voter lists, or concerning children of school/pre-school age, military conscripts or alternative civil service, specialists and unemployed, may be used by the state administration and bodies of local self-government. In this context, consistency with relevant legislation shall be ensured. With regard to aggregated reports, it is essential that aggregated information contains merely statistical figures, but no personal individual information on persons.
79. Based on Article 26 par 2 (4), every citizen may have access to data in the register concerning him/her. Under Article 15 of the Law on Personal Information, such right is restricted for personal data of persons detained based on the suspicion of a crime, or charged with the commission of a crime, or if measures have been applied “related to [the] suppression of a crime awaiting for [an] accusation to be made”. This provision should be reviewed, as any person, regardless of whether he/she is suspected or indicted of a crime or not, should be able to access his/her data in a population register. Even in cases where a person is suspected of or indicted for a crime, the right to liberty and the right to a fair trial would allow such person access to certain information about himself/herself (see, in this context, the fair trial rights laid down in Article 24 par 5 of the Constitution and Articles 9 par 2 and 14 of the ICCPR). It is recommended to bear this in mind when reviewing this provision.

²⁸ See Article 14 par 3 of the Law on Presidential and Jogorku Kenesh Elections, which obliges all state bodies and local governments to provide assistance and “any information available” with regard to registered citizens on written request of the election commissions.

²⁹ Under Article 8 of Directive 95/46/EC of the European Parliament and the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, special categories of data are “personal data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, and the processing of data concerning health or sex life”.

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80. Additionally, Article 26 par 2 (5) permits the registrar to issue information about the names, education, and address of certain individuals to other individuals and legal entities. The list of information that may thus be passed on to other persons and entities appears quite wide – although data subjects are notified about this, they do not appear to have any control about whether other individuals or entities obtain their address or names or not. Even though Article 26 par 4 states that recipients of data may use it only for the professed aim, it would appear difficult to control the use of private data once it has been disclosed to others. For this reason, it may be more useful to further limit the types of data that may be disclosed to the private sector.
81. With regard to computerized population registration data, decisions on the transfer of data, particularly when affecting the rights of individuals, should never end up as automated procedures.³⁰ Automated transfer of data between public authorities should be subjected to the same requirements as mentioned above under pars 74-76, namely based on regulations stipulating the purpose of the transfer, name of the data-receiving authority, responsibilities of public authorities and data items to be transferred. This should never include sensitive or special categories of data.
82. In relation to sensitive data, data recipients should be unambiguously authenticated in the population register, and the data transfer should be encrypted, especially if the transfer is done via the internet. Information on the party accessing a specific set of data and the date when this data was accessed should be logged and stored for a set period. The use and analysis of such data should be limited to data-protection purposes, and it should only be accessible to certain personnel, internal audit and external supervision authority.
83. If data is collected in a too comprehensive manner, this may well violate the human right to informational self-determination, in particular as automated data processes will prevent the individual from exercising control over the type of personal data that is stored and transferred³¹. This aspect should be given careful consideration especially in cases where data collection is accompanied by a lifelong identification number for individuals (as in Article 25 of the Law on Internal Migration).
84. Along the same lines, the dangers for informational self-determination potentially created by data collected and provided in identification documents such as passports should also be discussed, in particular in relation to security authorities' access to such data.
85. In order for the population register to be up to date, it is essential that relevant changes, e.g. alteration of last names due to marriage, divorce or annulment, are sent to the register right after the change has taken place. The Procedures for Civil Status Acts' Registration, residency registration or a new law on population register should contain provisions obliging the relevant administrative bodies to send regular updates to the population register. In this regard, laws and by-laws should regulate both paper-based transfer and electronic transfer.

³⁰ See the OSCE/ODIHR Guidelines on Population Registration, p. 42

³¹ See the German Federal Constitutional Court's judgment in relation to Germany's Law on Population Census of 5 December 1983, Reg. No. 1 BvR 209/83.

86. Where data is incorrect or incomplete, the registrar should be permitted to amend or delete it on his/her own initiative, upon having received information on its inaccuracy or incompleteness. This is currently laid down in Article 27 of the Law on Internal Migration, which permits the registrar to amend incorrect data (based on Article 28, citizens may also require that such corrections be made). It would be advisable to put a tracking procedure in place that would indicate any changes that have been made to the register, which would include past data prior to the change, and references to the document based on which the change was made. Also, such corrections should be made within further delay once the registrar becomes aware of inaccurate or incomplete data.
87. Under Article 31, data shall be removed from the population register and transferred to the archive in case of the death of a citizen, or if the citizenship of the Kyrgyz Republic has been given up or withdrawn. The latter example for deletion from the register raises serious concerns, as changes in citizenship should not automatically exclude the registration of an individual in Kyrgyzstan. If a person changes his/her citizenship, but continues to live at a given address, there should be no reason to remove his/her data from the register completely. Instead, the relevant changes to this person's listed citizenship should be made. As discussed in par 32 *supra*, a register should include also non-citizens living in a given country. Thus, also foreigners should have the obligation to register, just like citizens, if they are living legally in a country. Relevant provisions (indeed, the majority of provisions) in the Law on Internal Migration should be amended accordingly when inserted into a new law on population register.

3.6 Responsibilities and Liabilities

88. Generally, the State is responsible for creating a population registration system and a public authority tasked to run and maintain this system. The State should also ensure that this registry is independent and separate from the police and military and regulatory authorities.³² The running of this registration system should be seen as a separate administrative task governed by a separate area of public law.
89. The employees working for the registration authority should be bound by secrecy and should not be allowed to collect, disclose, process, or use the register's data without proper legal justification or permission.
90. In order to enforce these responsibilities, the current legal system should provide individuals with a right to object or complain against certain actions/procedures conducted in relation to the population registration system. This complaints system, along with the pertinent control mechanism, would depend on the administrative structure in Kyrgyzstan. Article 11 of the Law on Internal Migration already provides for a complaints system, but only in cases involving individuals' freedom of movement or right to choose their residence. This right to complain should be expanded for all aspects of data collection and population registration in general, in particular in relation to violations of persons' privacy rights. Article 13 of the Law on Personal Information

³² See the OSCE/ODIHR Guidelines on Population Registration, p. 15

provides the right for individuals to go to court in case of “illegal activities [...] committed in relation to [...] personal data”, but does not specify what type of court procedures this would entail, nor whether this is preceded by any type of administrative procedure.

91. To avoid inconsistencies and lack of clarity in this field, the law on population register should also set out the proper procedures for all complaints related to the collecting, storing and processing of personal data, and should specify which body will be responsible for dealing with such complaints. The possibility to appeal against decisions rejecting complaints should also be specified, as should the appeals body and procedures. The outcomes of such procedures should be clear from the law, so that potential complainants will know the effect of any complaints that they may have.
92. Currently, Article 47 of the Law on Internal Migration merely mentions legal responsibility in case officials (but also citizens and organizations) violate and fail to observe the legislation of the Kyrgyz Republic on internal migration. This provision is not very specific, and it is merely implied that this may involve disciplinary actions, and responsibility under the administrative and civil law codes. Article 31 on liability for violating the Law on Personal Information is even more vague, as it simply mentions that violation of the law will entail liability in accordance with the legislation of the Kyrgyz Republic.
93. Neither provision outlines which action, taken by individuals or by state authorities, will constitute a violation of the respective laws and which type of violation will lead to which legal consequences, following which procedure and leading to which outcome. In the interests of clarity and foreseeability of legal provisions, such information should be included in the law on population register. Should the competent lawmakers not wish to include such procedural provisions in the law, then the law should at least include specific references as to the procedure and potential sanctions that may follow out of such procedures.
94. Finally, the supervisory functions carried out by the Interdepartmental Council established to monitor the functioning of the register (external control under Article 27 of the Law on Internal Migration) should be specified. The law should outline the measures that such council may take in cases where the work and functioning of the register is found to be inadequate or in violation of relevant legislation.

4. The Proper Functioning of Legislation Related to Residency Registration

95. As stated above under par 39 *supra*, a population registration system only functions properly if all persons living on a specified territory are registered. As a consequence of having registered, individuals shall receive state services.
96. However, this system of residency registration laid down in a law on population register can only function if all members of society are able to register. At times, this may be hindered by certain requirements for registering that not all parts of the population are able to fulfill.

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97. Based on Article 14 of the Law on Internal Migration, citizens are required to submit their passport when registering residency. If younger than 16, they shall also submit their birth certificate, and special documents must be submitted for military servicemen or temporary military staff. Citizens released from detention shall also submit their certificates of release. Finally, Article 14 par 6 states that persons shall also submit their identity card – presumably (as also suggested by the wording of Article 16 of the Law on Internal Migration) identity cards may also be presented instead of passports.
98. Article 16 of the Law on Internal Migration is even more specific in that it notes that in cases of a change of permanent residence, the following shall be submitted: passport/identity document, a document stating the grounds for the occupation of a dwelling of a citizen (authorization, contract, declaration of a person who provided a dwelling, or other document), or a duly certified copy of a document, and, if applicable, a certificate verifying that a person has been struck off the register at the former address.
99. While it is presumed that most persons living in a state have some sort of identification document, this may not always be the case and may well depend on the relevant legislation, and on its implementation. If there are too many administrative requirements and hurdles for obtaining a passport or identity card, then this will prevent a number of people from receiving such identity documents, which will also affect their ability to register. In particular, active measures on the side of the authorities should ensure that categories such as internally displaced persons or persons without a fixed abode, but also vulnerable groups such as national minorities and women in rural areas will also be able to register and receive the requisite services.
100. Especially in cases where a permanent residence in a country is a requirement for obtaining a passport, this could create a never-ending cycle of obstacles for individuals who are not included in a population register – they would not be able to register without a passport, but need to prove registration in order to obtain a passport. In such situations, flexible solutions would need to be found to ensure that all persons are able to obtain both passports/identity documents, and registration (e.g. by allowing birth certificates to suffice, or other forms of evidence in cases where persons have no birth certificates or where these have been destroyed).
101. The other requirement for registration mentioned above, namely the “document stating the grounds for the occupation of a dwelling of a citizen”, could potentially pose additional hurdles for registration. While it would appear to be relatively simple for property owners or tenants to submit relevant contracts for this purpose, requiring declarations from third persons such as owners of properties could lead to delays or suspensions of procedures. In practice, such persons may not submit the needed documents and as a consequence, any registration procedures depending on their declaration may well never be completed.
102. Instead residency registration could be based on the declaration of an address/location, which all residents will be obliged to submit. Other types of supporting evidence could be witnesses, or contracts with public utilities companies.

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103. Upon suspicion that information may be false, registration officials could, within a specified period of time, conduct spot checks to determine the veracity of the declaration. If the respective person is found to actually reside at the declared location, the registration shall be considered verified and valid. In such cases, the law should specify within which time frame authorities must conduct spot checks, and disciplinary measures in case these provisions are violated. If the owner of a property claims that a certain person does not live at a registered address, the spot check is repeated.
104. In addition, it ought to be emphasized that an administrative registration procedure does not only require good and clear legislation, but also requires that such legislation is implemented properly. The above-mentioned control of the functioning of the registration system, whether by reporting requirements, regular inspections or outside supervision, must ensure that regardless of where a person lives, the requirements for registering are the same, as are the ensuing state services. This is one of the real challenges of installing a population registration system, which will only really begin once the respective legislation has been passed.

[END OF TEXT]

Annex 1: List of Selected Legislation of Kyrgyzstan Relevant to Population Registration

1. The Law on Internal Migration (adopted on 28 June 2002)
2. The Law on Electronic Document and Electronic Digital Signature (law no. 92, adopted on 17 July 2004, as amended by law no. 290 of 2 November 2009)
3. The Law on Personal Information (law no. 58, adopted on 14 April 2008)
4. The Rules of Procedures of Civil Status Acts Registration (approved by Regulation No. 91 of the Ministry of Justice of 13 June 2001).
5. The Regulation on the Rules of Registration and Deregistration of Citizens of the Kyrgyz Republic at the Place of Residence and the Place of Stay (passed by Government Decree No. 886 on 4 December 2004, in the version of Government Decree No. 936 of 16 December 2004)

Annex 2

Bishkek,

July 30, 2002, #133

The Law of the Kyrgyz Republic
on Internal Migration

(Version of the Laws of the KR of October 16, 2002 #144, December 2011 #232)

Chapter I. General Provisions

Chapter II. Right of citizens to the freedom of movement, freedom of choice of permanent or temporary residence within the territory of the Kyrgyz Republic

Chapter III. Registration of the citizens of the Kyrgyz Republic at the place of permanent or temporary residence within the territory of the Kyrgyz Republic

Chapter IV. Unified State Register of the Population of the Kyrgyz Republic

Chapter V. Forced migrants

Chapter VI. Concluding Provisions

This Law shall regulate public relations regarding internal migration in the Kyrgyz Republic, shall define the legal and organizational basis of the processes of internal migration and create the necessary conditions in a new place of permanent or temporary residence for forced internal migrants: both individual and family.

CHAPTER 1. GENERAL PROVISIONS

Article 1. Main definitions, used in this Law

This Law uses the following definitions:

Internal migration is the movement of citizens of the Kyrgyz Republic within the territory of the Kyrgyz Republic, caused by different reasons, aimed at permanent or temporary change of place of residence;

An internal migrant is a citizen of the Kyrgyz Republic who, for different reasons, has moved from one locality to another within the territory of the Kyrgyz Republic aimed at permanent or temporary change of place of residence.

Forced migration is the movement of citizens within the territory of the Kyrgyz Republic due to circumstances threatening their life, health or security, such as armed conflict, mass disorder, natural disaster, acute deterioration of environmental conditions, catastrophes of ecological and technical nature and other accidents and catastrophes caused by human activity.

A forced migrant is a citizen of the Kyrgyz Republic forced to leave his place of residence and move to another locality within the territory of the Kyrgyz Republic due to the circumstances threatening his life, health or security, such as armed conflict, mass disorders, natural disaster, catastrophes of ecological and technical nature and

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other accidents and catastrophes caused by human activity on the territory of the Kyrgyz Republic.

Unified State Register of the Population the system of unified computer-aided personal registration of the citizens of the Kyrgyz Republic.

Place of permanent residence is a place where a citizen of the Kyrgyz Republic permanently or mainly resides;

Place of temporary residence is a place where a citizen of the Kyrgyz Republic resides temporarily;

Personal data is data concerning individual information about a citizen of the Kyrgyz Republic gathered in accordance with this Law.

Personal identification number is an individual number, accorded by the Registrar to a citizen of the Kyrgyz Republic for life.

Registrar shall be the State body authorized to gather and input data to the Unified State Register of the Population, and responsible for the functioning of the Central databank of the personal data of the citizens of the Kyrgyz Republic.

An ecological migrant is a forced migrant who has his place of residence and moved to another locality within the territory of the Kyrgyz Republic due to the acute deterioration of the environmental conditions or due to an ecological catastrophe.

Article 2 . Main objectives of the present Law

Main objectives of this Law are:

- regulation of the processes of internal migration in the Kyrgyz Republic;
- ensuring the protection of the rights and legitimate interests of internal migrants;
- introduction and functioning of the Unified State Register of the Population;
- implementation by the state bodies of activities to support internal migrants;
- creation of the necessary conditions of life for internal migrants in new places of permanent and temporary residence;
- improvement of the mechanism of legal regulation of the processes of internal migration.

Article 3. Basic principles of regulation of internal migration in the Kyrgyz Republic

Regulation of internal migration in the Kyrgyz Republic shall be based on the following principles:

- human rights, guaranteed by the Constitution of the Kyrgyz Republic, shall be secured, in particular, the right to the free choice of the place of permanent and temporary residence, freedom of movement, right to liberty and security of person;
- non-discrimination, no impairment of the rights and freedoms on any grounds such as origin, sex, race, ethnic origin, language, religion, political and religious opinions or other status of personal or public nature;
- prevention of spontaneous and unregulated migration within the territory of the Kyrgyz Republic;

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- participation of internal migrants to become settled in a new place of residence with governmental support for their initiative and actions. This first of all concerns forced migrants from the areas of an ecological catastrophe or a natural disaster;
- cooperation of the relevant state bodies between themselves, as well as with public organizations, for regulation of the processes of internal migration.

Article 4. Legislation that shall regulate internal migration issues

In the Kyrgyz Republic relations arising during the process of migration of citizens of the Kyrgyz Republic within the territory of the Kyrgyz Republic shall be regulated by the Constitution of the Kyrgyz Republic, the present Law and other legal acts of the Kyrgyz Republic.

Issues of movement and registration on the territory of the Kyrgyz Republic of citizens of foreign countries and stateless persons, including refugees, shall be regulated by the Law on External Migration, the Law on Legal Status of Foreign Citizens and other legal acts. According to the legally enacted international treaties of the Kyrgyz Republic or following the decisions of the Government of the Kyrgyz Republic, the jurisdiction of chapters IV and V of the present Law may cover foreign citizens and stateless persons who permanently reside on the territory of the Kyrgyz Republic.

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Article 5. State authorities

(Became invalid in accordance with the Law of the KR of December 9, 2011 #232)

**CHAPTER II. RIGHT OF CITIZENS TO THE FREEDOM OF MOVEMENT
AND FREEDOM OF CHOICE OF PERMANENT OR TEMPORARY
RESIDENCE WITHIN THE TERRITORY OF THE KYRGYZ REPUBLIC**

Article 6. Right of citizens to the freedom of movement, freedom of choice of permanent or temporary residence within the territory of the Kyrgyz Republic

Every citizen of the Kyrgyz Republic according to the Constitution, laws and international Human Rights Treaties of the Kyrgyz Republic has a right to the freedom of movement and freedom of choice of permanent or temporary residence within the whole territory of the Kyrgyz Republic. The right of citizens of the Kyrgyz Republic to the freedom of movement and freedom of choice of permanent or temporary residence in the territory of the Kyrgyz Republic may be subject to restrictions only if they are imposed by the present Law.

Individuals, who are not citizens of the Kyrgyz Republic and who are legitimately on its territory shall have a right to the freedom of movement and freedom of choice place of permanent or temporary residence within the territory of the Kyrgyz Republic in accordance with the Constitution and laws of the Kyrgyz Republic as well as legally enacted international treaties of the Kyrgyz Republic.

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Article 7. Right to protection from involuntary displacement

1. Every citizen shall have the right to protection from involuntary displacement from the place of permanent or temporary residence.
2. Involuntary movement shall be prohibited:
 - 1) if based on the politics of apartheid, "ethnic cleansing" or similar practice, - - aimed at or resulting in the changing of the ethnic, religious or racial composition of the relevant population;
 - 2) during armed conflict, other than for security reasons or important reasons of a military nature;
 - 3) in case of the realization of large scale socio-economical development projects which are not justified by the most important and priority interests of the population of an administrative-territorial unit;
 - 4) during a natural disaster if there is no necessity to evacuate citizens concerned for the reasons of their security or the protection of health;
 - 5) for purposes of collective punishment

The time of displacement should not last longer than time needed to liquidate the consequences of the circumstances indicated in the paragraphs 2-4 of the present article.

Article 8. Restrictions of the freedom of movement, choice of place of permanent or temporary residence

Restrictions of the freedom of movement, choice of place of permanent or temporary residence may be imposed by the Government of the Kyrgyz Republic in the interests of state security, for the protection of public order and protection of health of the population in the following localities of the Kyrgyz Republic: - at frontier zones; - in closed military cantonments; - in closed administrative-territorial units; - in zones of ecological disaster or with the threat of natural or technical catastrophes;

- in the particular territories and localities with special conditions and policy of residence and economic activity due to the danger of the spread of mass infectious diseases or poisoning of the population;
- in territories where a state of emergency or martial law is introduced.

Article 9. Duties of the citizens to register the place of permanent or temporary residence

Every citizen of the Kyrgyz Republic shall have a duty to register his place of permanent or temporary residence within the territory of the Kyrgyz Republic in accordance with the present Law. The registration aims at securing, by the State, of the necessary conditions for the realization by citizens of their rights and freedoms, accomplishment of their obligations in relation to other citizens, the State and society, as well as regulation of internal migration.

Article 10. Guarantee of rights and freedoms independently of registration

Every citizen of Kyrgyz Republic shall enjoy the rights and freedoms guaranteed by the Constitution and legislation of the Kyrgyz Republic within the whole territory of the Kyrgyz Republic independent from the fact of registration at the place of permanent or temporary residence. The lack of registration may not be grounds for restricting the rights and freedoms of citizens.

Article 11. Protection of the right of citizens of the Kyrgyz Republic to the freedom of movement, choice of place of permanent or temporary residence within the territory of the Kyrgyz Republic.

A complaint may be lodged against any decision, action or negligence of the state authorities and offices of state administration, bodies of local self-government, officials and other legal entities and individuals when it concerns the right of citizens of the Kyrgyz Republic to freedom of movement, freedom of choice of permanent or temporary residence within the territory of the Kyrgyz Republic. The complaint may be addressed to a higher organ, higher official or directly to the court.

Article 12. Assistance to internal migrants

The Government of the Kyrgyz Republic, of state administration and bodies of local self-government, relevant social institutions and legal entities shall render all possible assistance and shall create necessary conditions of life at the new place of permanent or temporary residence for internal migrants who have changed their place of permanent or temporary residence due to economic or work reasons or reasons of study.

**CHAPTER III. REGISTRATION OF THE CITIZENS OF THE KYRGYZ
REPUBLIC AT THE PLACE OF PERMANENT OR TEMPORARY
RESIDENCE WITHIN THE TERRITORY OF THE KYRGYZ REPUBLIC**

Article 13. Registration of the citizens of the Kyrgyz Republic at the place of permanent or temporary residence within the territory of the Kyrgyz Republic

1. Registration of a citizen at the place of permanent or temporary residence within the territory of the Kyrgyz Republic shall be established with the aim of regulating internal migration, securing the necessary conditions for realization by an internal migrant (hereinafter - citizen) of his rights and freedoms as well as the accomplishment of his obligations in relation to other citizens, State and society. 2. Registration at the place of permanent residence shall be applied to the citizens who permanently reside at a dwelling on the territory of a relevant administrative-territorial unit of the Kyrgyz Republic.

3. Registration at the place of temporary residence shall be applied to the citizens who temporarily left their permanent place of residence to stay at another locality for a period exceeding 45 calendar days without being struck off the register at the place of permanent residence.

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4. State fee shall be raised from the citizens for the registration at the place of permanent residence in accordance with the Law on State Fees of the Kyrgyz Republic.

5. Relevant officials of the state authorities responsible for population registration and bodies of local self-government shall be responsible for the registration of citizens at the place of permanent or temporary residence.

6. State authorities responsible for the population registration and bodies of local self-government shall control observance by citizens and officials of the rules of registration and the striking off the register of citizens of the Kyrgyz Republic at the places of permanent or temporary residence.

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Article 14. Identity documents of a citizen that are required for registration

Identity documents of a citizen that are required for registration are:

- 1) passport;
- 2) birth certificate - for citizens below age of 16;
- 3) certificate issued by military units and military institutions for servicemen; 4) military card - for citizens who are doing their military service by call-up or by contract;
- 5) certificate of release from detention — for citizens released penitentiary institutions;
- 6) identity card.

See:

Decree of the Government of the KR of May 22, 2004 #375 “On approval of the Regulation on the identity card of the citizen of the Kyrgyz republic”;

Decree of the Government of the KR of July 27, 2004 #557 “On approval of the Regulation, description and sample of the passport of the citizen of the Kyrgyz Republic of 2004, and Regulation, description and sample of the national passport of the citizen of the Kyrgyz Republic of 2004”.

Article 15. Registration bodies

1. Registration of population shall be within responsibility of the state authority for population registration. In localities where there are no territorial units of the state authority responsible for population registration, population registration will be within responsibility of the local self-government bodies.

2. Registration bodies shall register the place of permanent or temporary residence and strike off the register, due to the change of place of permanent or temporary residence, citizens who reside on the territory under their jurisdiction. Registration bodies shall put a registration mark in the passport and other identity documents of a citizen, issue certificates and cooperate with other state authorities and offices of state administration and other organizations. Registration bodies shall transfer the information about registration of citizens following relevant requests from state and communal bodies.

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Article 16. Registration and the striking off the register of a citizen

1. A citizen, who has changed his place of permanent residence, has the obligation to submit an application, on the appropriate form, to the Registration body no later than 10 working days from the day of arrival at a new place of residence. With an application the following documents shall be presented:

- 1) passport or a substitute identity document of the citizen;
- 2) document stating the grounds for the occupation of a dwelling by a citizen (authorization, contract, declaration of a person who provided a dwelling or other document), or a duly certified copy of a document;
- 3) certificate of being struck off the register at the former address, if applicable.

2. Citizens who have ownership rights to a number of dwellings in the territory of the Kyrgyz Republic shall register the place of residence at only one of them.

3. The Registration body shall have a duty to register a citizen at the place of residence no later than 3 working days from the day of presentation of documents for registration. By the application of a citizen the Registration body shall send a notice about the change of place of permanent residence by a citizen to the Registration body of the former place of permanent residence where a citizen resided. If the Registration body of the former place of permanent residence has received such a notice, it shall strike off the citizen from its own Register.

4. Citizens of no fixed abode shall be registered with the relevant body of local selfgovernment under which jurisdiction is the territory where they reside.

5. The striking off the register of a citizen at the place of permanent residence shall be done in the following cases:

- 1) Change of place of permanent residence based on the application of a citizen or a notice of a Registration body that registered the citizen in a new place of permanent residence;
- 2) Call-up to a military service based on a notice of military commissariat;
- 3) Sentence to imprisonment based on the valid court judgment;
- 4) Eviction from an occupied dwelling or recognition of loss of the right to use the dwelling, based on the valid court decision;
- 5) Disclosure of information or documents used as grounds for registration that do not correspond to the facts, or disclosure of the facts of actions of officials at the moment of decision of registration, based on the valid court decision.

Article 17. Registration and striking off the register of a citizen at the place of temporary residence

1. Registration of a citizen at the place of temporary residence shall be done without striking off the register at the place of permanent residence.

A citizen arrived at a place of temporary residence in a dwelling that is not his place of permanent residence for the period exceeding 45 calendar days, shall have an obligation to submit an application, on the appropriate form, to the Registration body

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within 5 working days from the day of his arrival. The passport or a substitute identity document of the citizen should be presented to the Registration body.

2. The Registration body shall have a duty to register a citizen at the place of temporary residence in a dwelling that is not his place of permanent residence the same day as the documents for registration were submitted.

3. The individual or legal entity owning a dwelling based on the property rights, who provided a temporary residence for a citizen, should assist him in registration at the place of temporary residence.

Article 18. Registration of a citizen at the place of permanent or temporary residence in the localities with a special regime

For registration of a citizen at the place of permanent or temporary residence in the localities with a special regime in accordance with Article 8 of the present Law, permission shall be given following the procedure established by the Government of the Kyrgyz Republic.

Article 19. Simplified procedure of registration at the place of permanent or temporary residence

A simplified procedure of registration at the place of permanent or temporary residence may be provided for citizens who moved to another locality with the aim to carry out a job according to a work contract based on an application of a state body or other organization that concluded a contract with a citizen. The simplified procedure of registration of a citizen at the place of permanent or temporary residence may be provided for students from other localities or other educational institutions based on an application of the relevant educational institution. The simplified procedure of registration at the place of permanent or temporary residence may be provided to some categories of internal migrants, forced migrants in particular, based on the decision of the bodies of local self-government.

Article 20. Registration rules

The Government of the Kyrgyz Republic shall adopt the Rules of registration and striking off the register at the place of permanent and temporary residence within the territory of the Kyrgyz Republic including the simplified procedure as well as registration in localities with special regime.

See:

Decree of the Government of the KR of December 4, 2004 # 886 “On approval of the Regulation on rules of registration and striking off the register of citizens of the Kyrgyz Republic at the place of permanent and temporary residence”.

CHAPTER IV. UNIFIED STATE REGISTER OF THE POPULATION OF THE KYRGYZ REPUBLIC

Article 21. Unified State Register of the Population of the Kyrgyz Republic

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Unified State Register of the Population of the Kyrgyz Republic (further the Register of Population) shall be intended for collection, storage, up-dating and analysis of information about citizens of the Kyrgyz Republic the subjects of registration, about scale and direction of migration, and also for providing such information to state authorities and of state administration of the Kyrgyz Republic, to other legal entities and individuals in accordance with the procedures determined by the legislation of the Kyrgyz Republic.

Article 22. Establishment of the Register of Population and control of its management

The Government of the Kyrgyz Republic shall be the founder of the Register of Population. The Statute of the Register of Population shall be adopted by the Government of the Kyrgyz Republic in accordance with the present Law.

The state authority responsible for the population registration (further the Registrar) shall be responsible for the management of the Register of Population and functioning of the Central Databank of Personal Data.

An Interdepartmental Council under the Government of the Kyrgyz Republic will be established to fulfill control on the collection, use and protection of data in the Register of Population. Establishment of the Council and its rules of activity shall be approved by the Government of the Kyrgyz Republic.

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Article 23. Content of the Register of Population

The Register of Population shall consist of personal data of citizens of the Kyrgyz Republic. The content of the personal data of the citizens shall constitute a basis of the state informational resources on the population, formation and use of that data shall be produced by the Central Databank of Personal Data.

Personal data shall have the following structure:

1. General personal data:

1) personal identification number of a citizen (IDPN);

2) personal identification data of a citizen:

- family name;

- first name;

- patronymic name;

- former family, first and patronymic names (in case of any changes);

- sex;

- date of birth;

- place of birth;

3) graphical image (photograph);

4) citizenship:

- citizenship;

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- grounds for acquisition or withdrawal of citizenship;
- date of acquisition or withdrawal of citizenship;
- 5) data on place of permanent or temporary residence:
 - previous place of permanent residence;
 - current place of permanent and/or temporary residence;
 - oblast;
 - rayon (district);
 - town, village;
 - micro-district, street, house number, block, apartment number;
 - previous addresses;
 - type and date of registration;
 - date of striking off the register;
 - place of destination;
- 6) in case of death — data on death:
 - date, place and cause of death, place of burial.
- 2. Additional personal data:
 - 1) family status and personal data on relatives:
 - family status;
 - names and personal identification number of father;
 - names and personal identification number of mother;
 - names and personal identification number of guardians;
 - names and personal identification number of spouse;
 - names and personal identification numbers of children;
 - date of establishment and/or breakup of kinship ties;
 - 2) data on accomplishment of military service:
 - military registration;
 - striking off the military register;
 - place of service;
 - military ranks and professions obtained;
 - 3) data on education and degrees:
 - educational institution;
 - date of enrolment to an educational institution;
 - date of termination of (exclusion from) educational institution;
 - profession obtained;
 - type and date of granting (deprivation of) a degree;
 - 4)
 - employment/unemployment status;

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- place of employment;
- previous places of employment;
- profession and/or position;
- date of employment/registration as unemployed (registration at labor exchange);
- date of dismissal;

5) social payments:

- type of pension/social allowances;
- date of granting (or canceling) of pension/social allowances;

6) emigrants' data:

- date of leaving the country;
- country of destination;

7) blood group;

8) ethnic origin

3. Information on documents confirming the data indicated in the present article:

name (code) of a document;

series;

number;

date of issue;

term of validity;

body that issued the document.

Data that is not mentioned in the present article should not be indicated in the Register of Population.

An intra-departmental collection of other data may be permitted by the legislation of the Kyrgyz Republic.

Article 24. Procedures for management of the Register of Population

The main procedures for the management of the Register of Population shall be the initial input of data, updating, exclusion and archival storage of information.

1. Initial input of data to the Register of Population shall be realized based on a birth certificate, that shall be sent to the Registrar by the Registry Offices or on an identity document, following an application by a citizen.

2. Updating of data in the Register of Population shall consist of systematic input of changes (and corrections, additions) to the personal data:

1) by justified application of citizens;

2) by the state authority responsible for the population registration - in case of registration of birth, marriage, divorce; change of family name and/or name; proof of paternity, adoption; death, and also in case of correction, addition, replacement, re-registration or annulment of documents on civil status; deprivation of a citizen of parental rights; changes in personal identification data, family status; establishment or

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breakup of kinship ties; issuing documents to citizens, registration of the permanent or temporary place of residence, change of citizenship and nationality;

3) by the state authority responsible for foreign affairs - in case of registration of citizens permanently or temporary residing abroad;

4) by the state authority responsible for defense - in case of registration of persons liable for call-up;

5) by the state authority responsible for education - in case of registration of those who have entered educational institutions and have terminated (ceased) education;

6) by the state authority responsible for labor, occupation, migration, retirement and social protection - in case of changes in socio-economical situation of a citizen (type of employment, status of unemployment, granting of pension or other social allowances);

7) by the employers and other institutions in case of employment (conclusion of labor contract) or dismissal (cessation of labor contract).

Changes to the Register of Population shall be made observing the chronological order.

3. Data shall be input to the Register of Population only based on the documents that confirm the authenticity of data about a citizen. Reference to the document that served as a ground for updating of data is necessary. Data about those documents are noted in the Register.

4. The Register of Population shall be kept in State and official languages. The Register of Population shall be kept in electronic version and on a card file. The data described above shall be provided in accordance with the Rules, adopted by the Government of the Kyrgyz Republic. 5. Officials who provide non-authentic data, who exceed the time limits for providing the necessary data or who did not provide the necessary data shall be called to account in accordance with the legislation of the Kyrgyz Republic.

6. In case of loss or damage of data in the Register of Population, its restoration shall be done. This fact shall be registered in due form.

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Article 25. Personal identification number

1. Identification of a citizen in the frame of the Register of Population shall be done based on the Personal Identification Number (IDNP) that is the main identification characteristic of a citizen on the territory of the Kyrgyz Republic.

2. Personal Identification Number shall be a 14-digit number and shall have the following structure: SDDMMYYYYCNNNC

S — sex (1 - woman, 2 - man, 3 non-resident);

DDMMYYYY - date of birth (day, month, year);

C - characteristic of the registration;

NNN - serial number;

C - control figure.

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3. A Personal Identification Number shall be assigned by the Registrar to each subject of registration during the initial input of data about him to the Register of Population and shall stay unchanged for the whole period of existence of such data.

4. The Personal Identification Number shall be indicated in the passport, birth certificate, state certificate of social protection, driving license and other identity documents of a citizen.

Article 26. Use and protection of information kept in the Register of Population

1. The Registrar shall process and use the data only for the aims stated in the present Law.

2. The data in the Register of Population shall be used in the following manner:

1) data in a form of aggregated reports may be used by all legal entities and individuals;

2) data, needed to draw up lists of voters for elections, concerning children of school and pre-school age, concerning call-up to military service or civil (nonmilitary) service, on specialists and the unemployed, may be used by the of state administration and bodies of local self-government (if the data concern the citizens residing on the territory under their jurisdiction).

3) in case of special request by a state body or any other legal entity the data should be provided in accordance with a competence of the body that has requested the data and only with official permission of the Registrar;

4) every citizen of the Kyrgyz Republic shall have a right of access to the data in the Register of Population that concern him, if such data are included in the Register;

5) The Registrar may issue information only about family, first and patronymic names, education and address of certain individuals (simple reference) to other individuals and legal entities that are not mentioned in the items 1-4 of the present paragraph. This rule is also applied if someone requests information to be provided about the number of registered residents.

3. In case of transfer of data following the request of individuals or legal entities in accordance with the item 5 of the paragraph 2, the Registrar shall send a notification to the citizens who are subject of such requests. Notification should contain the family, first and patronymic names of an individual or the name of the legal entity that requested the information and also the aim of the request.

4. Recipients of data may use that data only for the aims for which the data were given.

5. In accordance with the legislation of the Kyrgyz Republic a fee may be charged for providing authorized information to the individuals and legal entities following the procedure and tariffs approved by the Government of the Kyrgyz Republic.

Article 27. Responsibility for the management of the Register of Population and its use

1. Responsibility for the management of the Register of Population and functioning of the Central Databank of Personal Data lies with the Registrar.

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The officials, whose obligations include the management of the Register, shall have the responsibility for the completeness, authenticity, integrity of information and nondivulgence of that data in accordance with the legislation of the Kyrgyz Republic. The officials shall be prohibited to receive, process or use the data about citizens.

If data in the Register of Population do not correspond with the facts, the Registrar shall, based on the documents provided, correct the information. The Registrar shall be prohibited to correct the information in the documents provided, and cannot require the applicant to do so.

2. The quality of personal data, collection, formation and use of the state informational resources about the population shall be supported by the system of internal and external control.

Internal control of the management of the Register of Population and use of the information received shall be fulfilled by the permanent Commission established by the Registrar. External control shall be by the permanent Interdepartmental Council established by the Government of the Kyrgyz Republic.

Article 28. Rights of citizens to access the data in the Register of Population

Citizens whose data are included in the Register of Population shall have the right to get, free of charge, a reference containing their personal data with the aim of legitimacy and accuracy checks of the Register and its management.

Citizens, presenting their identification documents, shall have the right to check the indicated personal data in the Register of Population and, if any mistake is identified, to require corrections to be made. Registered citizens shall also have the right to require the removal of data that concern them, if the collection of such data was inadmissible or if such data were not any more needed for the fulfillment of the Registrar's tasks.

Disputes concerning the removing or changing the data in the Register of Population shall be resolved by a court.

Article 29. Publication of data of the Register of Population

Data from the Register of Population is published in the form of aggregated reports.

Article 30. Financing of the Register of Population

The establishment of the Register of the Population and its functioning as well as fulfillment of control over it, shall be financed the State budget of the Kyrgyz Republic and from other sources in accordance with the legislation of the Kyrgyz Republic. To cover the costs related to data exploitation and processing the Registrar may charge a fee for the provision of data in accordance with the procedure approved by the Government of the Kyrgyz Republic.

Article 31. Removing data from the Register of Population

1. Removing data from the Register of Population and transfer of data to the archive shall be realized in case of:

1) death of a citizen;

- 2) the giving up or the withdrawal of citizenship of the Kyrgyz Republic
2. The Registrar shall remove the data if such data is not necessary any more for accomplishment of the tasks determined by the present Law. This rule shall also be applied to the cases when the collection of such data was inadmissible.
3. Personal data shall be kept in the archive for 75 years.

CHAPTER V. FORCED MIGRATION

Article 32. Forced migrants

The Kyrgyz Republic shall secure the protection of the rights and legitimate interests of forced migrants. The State shall take the responsibility to realize a package of necessary measures in order to implement the provisions of the present Chapter and to provide legal protection to forced migrants. For the purpose of the present Law the following shall be considered as forced migrants:

- 1) ecological migrants;
- 2) migrants from places of natural disasters, large-scale accidents and catastrophes;
- 3) migrants from the areas of armed conflict and mass disorder.

For the purposes of the present Law migration for economic or labor reasons shall not be included in the term “forced migration”.

Article 33. Ecological migrants

I. In case of ecological catastrophes or acute deterioration of the environmental conditions (hereinafter - ecological disaster) in the particular areas of the Kyrgyz Republic when there is a threat to the life and health of people living there, the Government of the Kyrgyz Republic shall immediately take a decision initiated by the state authority responsible for prevention of the emergency situations on moving the citizens considered as ecological migrants, to the safe areas of the Kyrgyz Republic.

Herewith the Government of the Kyrgyz Republic will identify a zone of an ecological disaster and classify the territories by the level of danger to the health of citizens, who if moved to other safe areas of the Kyrgyz Republic, may get the status of forced migrants in accordance with the article 38 of the present Law.

2. The Government of the Kyrgyz Republic and the relevant offices of state administration in cooperation with the bodies of local self-government shall render assistance to forced migrants to return to the former places of residence when the consequences of ecological disaster have been liquidated and the sanitary conditions of the locality affected by the ecological catastrophe have been improved.

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Article 34. Rendering immediate aid to ecological migrants

1. The Government of the Kyrgyz Republic together with the bodies of local self-government shall adopt the measures for settlement of ecological migrants. Herewith ecological migrants, before obtaining the status of forced migrant, shall get all necessary support and be provided with the necessary conditions of life, including food and basic sanitary and medical services, and shall as well be subject to a comprehensive physical examination.

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2. The Government of the Kyrgyz Republic shall adopt a special national program and package of measures of medical treatment, rendering of improved health status, rehabilitation and social protection of affected citizens.

3. Compensations shall be provided to the ecological migrants depending on the damage to their health caused by an ecological catastrophe or acute deterioration of the environmental conditions and on the level of risk of a migrant, remaining on the territory of an ecological disaster.

Article 35. Rendering support to citizens who have not left a zone of an ecological disaster

1. Citizens who have not left a zone of an ecological disaster as well as ecological migrants should get all necessary help and be provided with the necessary conditions of life, including food, drinking water and medical and sanitary services. Citizens indicated in the present article shall be subject to a comprehensive physical examination. The Government of the Kyrgyz Republic shall adopt a special national program and a package of measures in respect of such individuals to ensure their medical treatment, rendering of improved health status, rehabilitation and social protection, and as well for the socioeconomic development of the area.

2. The Government of the Kyrgyz Republic shall determine the compensation for the population victims, depending on classification of the areas by the level of risk.

3. The Government of the Kyrgyz Republic together with the bodies of local self-government shall take measures to improve the ecological conditions of the area of an ecological disaster.

Article 36. Forced migrants from the places of natural disasters, large-scale accidents or catastrophes.

1. In case of natural disaster, large-scale accidents and catastrophes and in other circumstances a state of emergency may be imposed by the State in accordance with the constitutional law of the Kyrgyz Republic on the State of Emergency.

2. Authorized state authorities and offices of state administration of the Kyrgyz Republic in the situation of a state of emergency, depending on actual circumstances, shall have the right to temporarily evict citizens from the areas which are dangerous for living and shall have an obligation to provide them with other permanent or temporary dwellings.

3. Citizens described in the paragraph 2 of the present article, before they are recognized as forced migrants in accordance with the article 38 of the present Law, shall be provided with all necessary support and basic conditions necessary for life, including food, drinking water and basic sanitary and medical services.

4. Following the liquidation of the consequences of natural disasters and other circumstances indicated in the present article, the Government of the Kyrgyz Republic and the relevant offices of state administration together with bodies of local self-government shall render assistance to the forced migrants to return to the former places of permanent residence and to get re-settled there, including restoration of destroyed houses.

Article 37. Forced migrants from areas of armed conflicts and mass disorder

Citizens may be recognized as migrants from areas of armed conflict and mass disorder who have moved from areas where armed conflict or mass disorder take place to safe areas of the Kyrgyz Republic in accordance with the decision of the Government of the Kyrgyz Republic initiated by the state authorities responsible for defence, internal affairs and prevention of emergency situations. In accordance with the article 38 of the present Law they may be granted the status of forced migrants.

After an armed conflict or mass disorder has ended, in cases where there is no threat to life and security of the population, the Government of the Kyrgyz Republic and the relevant state administration together with bodies of local self-government shall take measures to support the population to return to the former place of permanent residence and to get re-settled there, including the restoration of destroyed houses.

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Article 38. Recognition of a citizen as a forced migrant

1. To be recognized as a forced migrant a citizen shall have the obligation within five working days after he left the place of his former permanent residence for reasons stated in the articles 33, 36 and 37 of the present Law, to address in person or by means of an authorized representative with an application to an Office of the Migration Service in the place of his new temporary residence. The Office of the Migration Service may prolong the time for the above-mentioned application if a citizen has got legitimate reasons for that.

2. Before the decision will be taken on the issue of recognition as a forced migrant a citizen shall have right, following the procedures adopted by the Government of the Kyrgyz Republic to:

- 1) reside in a place of temporary settlement or with his relatives;
 - 2) enjoy medical and medicinal help on general grounds.
3. A citizen mentioned in paragraph I of the present article shall have an obligation to:
- 1) transfer to the authorized body data needed for the consideration of his application for recognition as a forced migrant;
 - 2) respect the order of living in the place of temporary settlement.

4. The Office of the Migration Service that has got the relevant application shall adopt a decision on recognition of a citizen as a forced migrant within 5 working days from the day of registration of the application.

A citizen recognized as a forced migrant shall receive a certificate on the appropriate form.

5. The status of forced migrant shall be ceased in cases of:

- 1) liquidation of the consequences of the circumstances indicated in the articles 33, 36 and 37 of the present Law;
- 2) return of the citizen to the former place of permanent residence or free provision in that area of another dwelling or land plot of a fixed size.

Article 39. Refusal to recognize a citizen as a forced migrant

1 A citizen who applied to be recognized as a forced migrant may receive a negative decision if he did not permanently reside in the area at time when the circumstances indicated in the articles 33, 36 and 37 of the present Law arose, or has the permanent residence in another, safe area on the territory of the Kyrgyz Republic.

A written notice indicating the reasons for negative decision in recognition of a citizen as a forced migrant and the procedure for appeal against this decision shall be delivered or sent to a citizen within 3 days from the day when the decision was adopted.

2. A negative decision in recognition of a citizen as a forced migrant may be appealed against in a court within one month from the day he received the written notice.

3. A decision on recognition of a citizen as a forced migrant may be cancelled if he provided false data at the time of application.

Article 40. Main guarantees in relation to the forced migrants

Forced migrants:

1) shall enjoy on basis of equality the same rights and freedoms guaranteed by legislation of the Kyrgyz Republic as the local population of a specific area of the Kyrgyz Republic;

2) should not be discriminated against in the enjoyment of any rights and freedoms on the grounds that they are forced migrants;

3) should not be arbitrarily arrested or detained on the grounds that they are forced migrants. They should not be retained or forced to stay in a camp;

4) shall enjoy the right to seek safe conditions of life in an another part of the country;

5) shall not be forced to return or to be settled in any place where a threat to their life, security, liberty and health may occur;

6) shall have the right to get information as to what happened to their relatives and about the place of their abode;

7) shall not be subject to interference in their private life. Family members shall have the right to stay together;

8) shall have the right to an adequate standard of living and to the access to basic medical and other social services;

9) shall have the right to recognition everywhere as a person before the law and to the restoration of documents lost during the displacement;

10) cannot be arbitrarily deprived of their property.

Article 41. Forced displacement of citizens

1. A decision on the forced displacement of citizens shall be adopted by the Government of the Kyrgyz Republic. Before such decision is adopted, the Government of the Kyrgyz Republic shall consider all possible alternative ways in

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order to avoid forced displacement. In case of lack of alternatives, the measures shall be taken in order to minimize displacement and its unfavorable consequences.

2. The relevant offices of state administration, that implement such displacement, shall ensure that forced migrants are located properly and that displacement is made in adequate conditions of security, health protection, hygiene and food provision.

Families separated because of displacement should be reunified, if possible, in the shortest period of time.

3. The following guarantees shall be respected, except if displacement takes place during emergency situations caused by armed conflicts and natural disasters and other catastrophes indicated in the articles 33, 36 and 37 of the present Law:

1) issue of a special decree by the Government of the Kyrgyz Republic about the displacement;

2) informing forced migrants of the reason and procedure of their displacement, and also if appropriate - about compensation and place of re-settlement;

3) adopting the measures for free and conscious consent of the citizens for their displacement;

4) the right of forced migrants to an effective remedy if their rights and freedoms are violated during such displacements shall be secured.

Article 42. Rendering help to the forced migrants

Citizens recognized as forced migrants in accordance with the present Law:

1) shall be provided a dwelling or a plot of land in the administrative-territorial unit determined by the Government of the Kyrgyz Republic or the compensation for material damage shall be made. Conditions and procedure of granting a dwelling, plot or compensation and rendering any other necessary help shall be determined by the Government of the Kyrgyz Republic;

2) shall be rendered assistance in employment or registration as unemployed if employment is not possible;

3) shall be rendered assistance in obtaining professional training (training anew) and in up-grading qualifications;

4) shall be informed about the living conditions and possibilities of employment in these localities;

5) shall be rendered help at time of joining a building co-operative society and also help in individual house-building, including obtaining a land plot and construction materials;

6) shall receive relevant social payments (pensions, allowances) in the new place of permanent or temporary residence;

7) shall receive medical and medicinal help on preferential terms;

8) in the case of single forced migrants - aged or disabled in need of assistance - shall be provided with a place in an institution of social protection of the population in priority order;

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- 9) shall be rendered assistance in getting children to be accepted at pre-school institutions and schools, and also in the transfer of students to the relevant institutions of secondary or high professional education;
- 10) shall be assisted in receiving places in sanatoriums for spa treatment in case when a damage to health has occurred;
- 11) depending on circumstances, shall receive lump sum allowance by procedure and in amount, determined by the Government of the Kyrgyz Republic;
- 12) shall receive other assistance in accordance with decision of the Government of the Kyrgyz Republic and bodies of local self-government.

Article 43. Rights of forced migrants to receive compensation for damage to their health and property

1. Citizens belonging to the categories indicated in the articles 33, 35 and 37 of the present Law, shall have the right to compensation for damage caused to their health and property. Amount of compensation shall be determined by the Government of the Kyrgyz Republic.
2. Ecological migrants and citizens indicated in the article 34 of the present Law - victims of an ecological disaster, shall be subjects to special compulsory medical observation for life. Rendering medical aid to such citizens and their clinical examination shall be implemented by the public health institutions. The list of these institutions and procedure of rendering medical aid and in-clinic examinations shall be adopted by the bodies authorized by the Government of the Kyrgyz Republic.
3. Causative link between a disease or disability of a citizen, indicated in the present article, and ecological or natural disaster shall be established by the Medical Labor Expert Commissions (MLEC) and other bodies authorized by the Government of the Kyrgyz Republic. Causative link of total or partial loss of ability to work by citizens - victims of ecological or natural disaster, shall be recognized as established if the mentioned-above commissions did not establish the absence of such causative link.
4. Citizens who are not satisfied with the conclusion of the mentioned MLEC shall have the right to apply for re-examination by the Republican Medical-Labour Expert Commission in order to establish a causative link between a disease or disability and ecological or natural disaster.

(Version of the Law of the KR of October 9, 2002 #144)

Article 44. Additional privileges not stated in this Law

Local governmental administrations, enterprises, institutions, organizations and trade unions within the frame of their competence may adopt additional measures for providing food, improving living conditions, medical and transport services in relation to forced migrants, as well as to other categories of internal migrants that are under the jurisdiction of the present Law.

Article 45. Establishment of a fund of support for forced migrants

A fund for support of forced migrants may be created with the aim of support for forced migrants. The fund shall be formed:

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- 1) from insurance funds, voluntary payments by enterprises, organizations, associations of entrepreneurs and other associations, from donations, including donations from foreign and local organizations and individuals;
- 2) from dwellings allocated by the bodies of local self-government following a centralized procedure.

The procedure of forming and using the fund for the support of forced migrants shall be established in accordance with the legislation of the Kyrgyz Republic.

Article 46. Provision of humanitarian aid

Humanitarian aid in a form of medicines, money, clothes, food and other products may be rendered to the forced migrants indicated in the present article by organizations, enterprises, individuals, international and foreign organizations.

Humanitarian aid to forced migrants should be used for that purpose. Provision of humanitarian aid and its distribution shall be implemented in accordance with the legislation of the Kyrgyz Republic.

All relevant offices of state administration shall secure and contribute to the free transportation of humanitarian aid and provide to aid providers immediate free access to the forced migrants.

CHAPTER VI. CONCLUDING PROVISIONS

Article 47. Responsibility for the violation of this Law

For a violation and a failure to observe the legislation of the Kyrgyz Republic on internal migration, officials and citizens may be subject to disciplinary, administrative and civil liability, while organizations may be subject to administrative and civil liability in accordance with the legislation of the Kyrgyz Republic.

Article 48. Effect of other legal acts on internal migration

1. State bodies shall be responsible for the respect of the provisions of the present Law while adopting other legal acts concerning the practical implementation of the present Law.

Any by-laws restricting the rights guaranteed by the present Law shall be, from the moment of their adoption, null and void or null and void at the relevant part. If during the hearings and resolution of disputes courts identify non-compliance of by-laws to the provisions of the present Law, they should apply the present Law.

2. Damage caused to individuals by realization of a by-law contradictory to the present Law, shall be subject to compensation in the total amount at the expense of the resources at the disposal of a state body that adopted such by-law.

Article 49. Entering into force of this Law

I. This Law shall enter into force from the day of its publication, with the exception of Chapter IV and paragraph 6 of article 14.

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2. Chapter IV and paragraph 6 of article 14 of the present Law will enter into force from January 1, 2004. The Government of the Kyrgyz Republic shall:

- implement during the year 2003 computer-aided automation of the system of issuing national passports, identity cards, birth certificates, marriage and death certificates;
- conduct a study and co-ordinate structure of documents and amount of information with all Ministries and departments of the Kyrgyz Republic with an interest in the introduction of the State Register of Population;
- till January 2004 implement an introduction of the State Register and identity cards completely with processing of requests received.

See:

Decree of the Government of the KR of May 22, 2004 #375 “On approval of the Regulation on the identity card of the citizen of the Kyrgyz Republic”.

3. Citizens of the Kyrgyz Republic are considered to be registered at the place of permanent or temporary residence within the territory of the Kyrgyz Republic according to their registration at the moment of entering into force of the present Law.

4. The Government of the Kyrgyz Republic is entrusted to:

- adopt necessary legal acts referred by the present Law to the competence of the Government of the Kyrgyz Republic;
- during a 3-month period, make proposals on introducing amendments and addenda to the legislation acts deriving from the present Law.

5. The Government of the Kyrgyz Republic, bodies of state administration and bodies of local self-government shall bring their legal acts in compliance with the present Law.

6. Regulation on the Passport System in the Kyrgyz Republic, approved by the degree of the Government of the Kyrgyz Republic on October 17, 1994 #775 is recognized as null and void.

A.Akaev, President of the Kyrgyz Republic

Adopted by the Legislative Assembly

Zhogorku Kenesh of the Kyrgyz Republic on June 28, 2002