

Good Practices on Social Protection of Labor Migrants

Roundtable “International Experience on Protection of Labor Migrants’ Rights and Its Application to Kyrgyzstan”

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Lack of social protection of Kyrgyz labor migrants abroad

Healthcare

- Temporary and permanently residing Kyrgyz migrants in RF have the following rights:
 - Free first medical treatment
 - Free emergency medical service
 - Medical service based on Compulsory Medical Insurance (CMI)
 - Maternity certificate
- Temporary staying and undocumented Kyrgyz migrants are excluded from this healthcare system
 - Starting from 2012, Russian employers do not pay social taxes for temporary staying migrants, thus, these migrants are not entitled for CMI
 - Risk of getting sick for those who do not use paid medical services
 - Risk of deportation when turned for healthcare services
- Women and children are most vulnerable: according to surveys only 10% of women and 30% of children have access to free medical service; 40% of migrants get self-treatment at home and pay medical services only for their children
- High risk of infectious diseases (tuberculosis, HIV / AIDS) among migrants

Lack of social protection of Kyrgyz labor migrants abroad.

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Education: 10% of all migrants move to Russian Federation with children of school-age

- Lack of access to schools:
 - Undocumented parents (no residence registration)
 - Poor or no knowledge of Russian language
 - Lack of CMI
 - Lack of seats in schools
 - Only 10% of children from Central Asia attend kindergartens

Pension

- In 2011, RF adopted law on compulsory contribution to the Pension Fund of RF for all legal migrants
- Kyrgyz labor migrants do not accumulate pensions
- No mechanisms for portability of pensions for Kyrgyz labor migrants, though some dialogue is launched between KR and RF

ILO standards on social security for labor migrants

Conventions:

1. Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19)
2. The Equality of Treatment (Social Security) Convention, 1962 (No. 118)
3. The Maintenance of Migrants' Pension Rights Convention, 1935 (No. 48)
4. The Maintenance of Social Security Rights Convention, 1982 (No. 157), ratified by Kyrgyzstan in 10 Dec. 2008

- None of the Conventions are ratified by RF
- These Conventions establish five basic principles:
 - *Equality of treatment*
 - *Determination of the applicable legislation*
 - *Maintenance of acquired rights and provision of benefits abroad*
 - *Maintenance of rights in course of acquisition*
 - *Reciprocity*
- 2009: UN's Social Protection Floor Initiative
 - A basic set of essential social rights and transfers, in cash and in kind, to provide a minimum income and livelihood security for all and to facilitate effective demand for and access to essential goods and services.
 - The supply of an essential level of goods and social services such as health, water and sanitation, education, food, housing, life and asset-saving information that are accessible for all.

Good Practices: Social Protection Systems

EU social security system

- 27 member-states as well as to Iceland, Liechtenstein, Norway, and Switzerland
- The most far-reaching multilateral agreement, the most comprehensive system
- Regulation 883/2004 (1 May 2010) and Regulation 1231/10 (1 January 2011): complete social security protection for all legal migrant workers and the members of their families in the EU
- Regulation 883/2004: benefits are paid to persons moving to or residing in a different EU member-state.
- Regulation 1231/10: includes third-state (non-EU) nationals.

Portability of the UK Social Security System

- UK: major immigrant receiving country
- Categories :
 - European Economic Area (EEA) countries
 - Reciprocal social security agreement (SSA) countries
 - Bilateral SSA with the UK
 - all other countries

Good Practices: Social Protection Systems. Contd.

- EEA countries: the most comprehensive system of handling portability social security and health care benefits:
 - contributory long-term benefits
 - totalizing and calculating the replacement rate for the pension
 - EEA country resident coming to the UK have access to all benefits as UK residents.
- Reciprocal SSAs with non-EEA countries (similar privileges as to migrants within the EEA): Barbados, Bermuda, Bosnia-Herzegovina, Croatia, FYROM, Israel, Jamaica, Jersey and Guernsey, Mauritius, Serbia and Montenegro, Philippines, Turkey and the USA.

Ibero-American Social Security Convention

- Ratified by 8 countries out of 22 LAC signed the Convention
- Cash benefits: disability, old age, death of a family member, and employment injury
- Benefits in kind (e.g. medical benefits): can be concluded in bilateral or multilateral agreements
- Applicable legislation, equality of treatment, export of benefits, receiving benefits in third states on the same conditions as the nationals of the paying country.

Good Practices: Social Protection Systems. Contd.

CARICOM Agreement on Social Security

- The Caribbean Community (CARICOM): regional organization of 14 independent states.
- CARICOM Agreement on Social Security (1997): to coordinate the social security systems of the parties to the Agreement
- 13 CARICOM states and territories ratified
- The CARICOM Agreement responds to five basic principles of the ILO Conventions
- Long-term benefits (old age/retirement, disability and survivor pensions, and disablement and death pensions resulting from employment injuries)
- Covers all employed and self-employed persons their dependents and survivors.

Good Practices: Social Protection Systems. Contd.

‘Third-state’ totalizing

- Some countries have included ‘third-state’ totalizing provisions in their bilateral social security agreements.
- Third-state totalizing:

$$C1 + C2 + C3 = \text{benefits of Agr1}$$

- Ex: CARICOM Agreement on Social Security + bilateral social security agreements with Canada = eligibility for a Canadian benefit.

Non-Resident Keralite Welfare Act of 2008

- 2009: bill to create Non-Resident Keralites Welfare Fund Act – 2008
- Welfare Fund: contribution of Rs. 300/pm from each Non Resident Keralite abroad; when returned and settled down permanently pays Rs. 100/pm only.
- Benefits to Members (contributed for not less than 5 years): pension (60 years of age); family pension; financial assistance on the death of a member due to illness or accident; medical treatment; marriage of women members and daughters of the members; maternity benefit; financial assistance or loans or advances for construction of dwelling houses or for the purchase of land and building or for the purchase of land or for the maintenance of house; education including higher education to the children of members; self employment assistance to reputed persons; incapacitated members due to permanent physical disability; financial assistance investment in any company or firm or co-operative society or institution constituted under the Act.

Good Practices: Pension Portability

- Pensions (old-age, disability, and survivor pensions): the most portable benefits
- Italy: all individuals regardless of nationality and country of residence can claim pensions when retirement age is reached given that the minimum contribution period was completed (currently 20 years).
- Italy: 84% of applicants from abroad are covered by SSAs, out of which 67% paid abroad. 16% make use of the national legislation on portability.
- EU Social Security System: third country migrants must choose the pension plan of only one state in the EU (of work or residence).
- Pension and bereavement benefits can be claimed for each year person contributed to the UK social security system. Therefore, the benefits are exportable but not portable.
- The pension is the most important benefit in terms of scope that is paid to recipients abroad: in 2006, the UK had 11,671,137 pensioners, from which 1,041,977 (or 9%) were located outside the UK; 32% lived in EEA countries; 17% lived in countries of bilateral social security agreement with the UK; 19% were in Canada, New Zealand, Japan and South Korea; another 23% in Australia; 8% pensioners were from countries where no agreements exist with the UK.

Good Practices: Pension Portability. Contd.

- German-Morocco agreement (pensions, unemployment, health care): Moroccans must be treated the same as Germans.
- Turkey and Tunisia's agreements with Germany do not include this principle of non-discrimination: a Turk must live in the EU, Turkey or another country with which Germany has a bilateral agreement, in order to receive a full German pension; otherwise, he takes a 30% reduction.
- German-Turkish agreement includes exportable pensions: lump-sum reimbursement of contributions upon leaving.
- New Zealand - Pacific island countries agreements: Pacific Islander receives full pension if he/she lived in New Zealand for at least 20 years since age 20 and received the New Zealand Superannuation. Pacific Islanders, through bilateral agreements with New Zealand, can receive this pension in their home country (22 countries with agreements with New Zealand). They can receive partial payment if they lived in New Zealand for less than 20 years with other rules attached. They must retain their original citizenship to receive the benefit outside of New Zealand.

Good Practices: Healthcare

- Bilateral agreements on the portability of health care benefits have hardly been concluded in the past.
 - Turkish-Austrian agreement: a Turkish retired migrant, worked in Austria and never been employed in Turkey, is covered by the Austrian health system; the migrant enjoys advanced access to the Turkish health system and receives medical treatment in Turkey like a Turkish retiree; any additional costs are reimbursed by the Austrian system, via direct transfers between the two systems.
 - The UK has several agreements with countries that allow UK residents to have their expenses for emergency care and hospital treatment reimbursed by NHS, but emergency care is not sufficient for permanently returned migrants. (These countries include Armenia, Azerbaijan, Bosnia, Croatia, Georgia, Gibraltar, Serbia and Montenegro, Kazakhstan, Kyrgyzstan, Macedonia, Moldova, New Zealand, Russia, Tajikistan, Turkmenistan, Ukraine, Uzbekistan and residents of Anguilla, Australia, Barbados, British Virgin Islands, Channel Islands, Falkland Islands, Iceland, Isle of Man, Montserrat, St. Helena, Turks and Caicos Islands.)

Good Practices: Healthcare. Contd.

- Many migrants receive medical treatment in the former host country
 - United States: returned migrants are still covered for medical treatment
 - Pacific Islands: many former migrants travel back to New Zealand for medical treatment. This is because once the migrants received permanent resident status they also receive a returning resident visa and have access to the public health.
 - Mexico started to offer health insurance specifically for Mexican migrants in the US to ensure that they and their families are covered.
- Net contributors versus net beneficiaries
 - In North-South migration, where migrant flows are asymmetric, this is a burden on the sending country's health care system, even with bilateral agreements.
 - Mexico insurance is one option to mitigate the problem: it generates some contributions from returning migrants; it also gives a choice to obtain more comprehensive medical services.

Good Practices: Healthcare. Contd.

- Bilateral agreements on the portability of health care benefits seem to be difficult to achieve
- Migrants within the EU enjoy the highest standards of health care benefits and the EU could serve as an example in this regard. Employees as well as retired people are always covered by their country of residence, causing no particular burden for health care system due to the rather symmetric migration.

Questions for discussion

- What model of social protection (pension, healthcare) can be applicable for Kyrgyz labor migrants in Kyrgyzstan and host country?
- What mechanisms should be provided to ensure pension portability/exportability of Kyrgyz labor migrants from the destination country to Kyrgyzstan?