

# **THE IMPACT OF THE REGISTRATION SYSTEM ON ACCESS TO BASIC SERVICES IN KYRGYZSTAN**

## **Executive Summary**

**Bishkek, Kyrgyzstan  
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## Introduction

According to the Constitution and legislation of Kyrgyzstan, if a person doesn't have a registration record (*propiska*), this should not be the ground for restricting their rights and freedoms. However, the provisions of some legal and regulatory acts seriously question the constitutional guarantees for protecting the rights and legal interests of the majority of people in Kyrgyzstan.

Provision of basic services in Kyrgyzstan is directly contingent on whether or not a person has a registration record at their place of residence. If such registration is missing, this restricts the ability of Kyrgyzstani citizens to participate in elections and to receive medical and social services to the full extent, makes it impossible to approach courts, and limits significantly access to free education in public schools and universities. A registration record is also required for starting your own business, receiving a credit, and becoming registered with tax authorities.

The existing *propiska* system gives legal status to discrimination, under which the ability to exercise the basic rights and to receive the services guaranteed to all citizens by the Constitution of Kyrgyzstan depends on whether or not a person has a registration record at their place of residence or temporary stay. In fact, people without registration remain excluded from public life and discriminated against in different situations and at various levels.

In 2009, the legal clinic *Adilet* analyzed, within the DanChurchAid programme on *Access to Basic Services*, the system of registration for citizens of Kyrgyzstan at their place of residence and place of temporary stay. Also, a research study was initiated to look into the impact of the registration (*propiska*) system on access to basic services in Kyrgyzstan (studied by the example of Bishkek) with involving experts of the Social Research Center at the American University in Central Asia. Quantitative and qualitative methods of data collection and analysis were used to obtain more detailed and objective information on the issue of *propiska* in Bishkek. In the course of the research study, a lot of work was done on examining the legislation that regulates access to basic services by the example of internal migrants, working children and pensioners. Information on programmes and social guarantees has been collected. The research study helped systematize cases on the impact of the registration system on the target groups. A comprehensive study of the registration system has been carried out, and different aspects of life among unregistered migrants and their family members, as well as working children and pensioners, have been analyzed. Also, the registration system in Russia and other post-Soviet countries has been studied, and recommendations have been developed on reforming the registration system in Kyrgyzstan.

## Analysis of the national legislation regulating the rules and procedures for registration

During the Soviet era, the notion of *propiska* (residential registration) was applied quite rigorously in Kyrgyzstan as well as in all other Soviet republics. In 1993, Kyrgyzstan, an independent state, adopted its Constitution which set out the right of citizens to move freely and to choose their own place of residence (Article 14).

On 12 January 1994, the Kyrgyz Republic acceded to the International Covenant on Civil and Political Rights whereby it undertook additional commitments regarding the respect for human rights, including the freedom of movement. Another important step was adopting the Law of the Kyrgyz Republic "On Internal Migration" (hereinafter the Law) in 2002. This Law introduced registration based on notification, and also identified a minimum list of documents and information that were required for registration. As laid down in the Law, registration was not viewed as a legislative rule, i.e. the absence of registration could not be the ground for restricting human rights and freedoms, while its presence could not be a condition for the exercise thereof (Article 10). The Law introduced a clear list of circumstances under which the right to move freely and to choose your own place of residence or temporary stay could be restricted (Article 8). Ironically, however, despite the notification-based registration, the same Law says that citizens are obliged to register at their place of residence or temporary stay. Thus,

except for direct obligation to register, the Law also mentions two types of registration, which are registration at the place of residence and registration at the place of temporary stay.

This second type of registration is, in turn, a significant drawback of the Law, as it restores the idea of registration at the place of short-term stay<sup>1</sup>, which used to exist during the Soviet times, but was never used in practice. According to this type of registration, a person who was coming for a short visit to another place had to register with internal affairs or local self-governance bodies. On 4 December 2004, the Government of the Kyrgyz Republic adopted a Resolution whereby it approved the Regulation “On Registration and Deregistration Rules for Nationals of the Kyrgyz Republic at the Place of Residence and Place of Stay” (hereinafter the Regulation). Thus, according to the law, every citizen has to register at their place of residence and place of stay (in case of leaving their domicile temporarily and moving to another place for more than 45 consecutive days without deregistration at their place of residence) within the Kyrgyz Republic “for the state to provide all necessary conditions allowing citizens to exercise their rights and freedoms, for them to fulfill their duties in front of other citizens, the state and society, and for the purpose of regulating migration.”<sup>2</sup>

From the legal point of view, the provisions in the Law and in the Regulation, on the one hand, do not restrict the right to move freely, only requiring to notify the registration bodies in case of any movement inside the country. On the other hand, the Law and the Regulation introduced mandatory registration for citizens. Furthermore, the issue of registration (*propiska*) for citizens is stipulated by a number of by-laws adopted by different agencies and local self-governance bodies which set out broader requirements regarding registration (*propiska*) and often fail to conform to the Constitution and basic laws.

One example of such problems is the use of secret agency-level orders by the registration bodies (internal affairs bodies) labeled “**for official use only**.” For instance, the Order of the Interior Ministry of the Kyrgyz Republic, Ref. No. 514, of 28 September 2007 “On Approving the Instruction on Passport Works” is labeled “for official use only,” in flagrant violation of the Kyrgyz legislation. Not only has this order not been published officially, but it hasn’t been registered with the departments of justice. However, it is effective and mandatory for the staff of passport and visa departments in the country.

Another example of by-laws which do not conform to the Law is the “Regulations on Temporary Registration for Citizens Residing in Bishkek” approved by the Bishkek Mayor’s Office on 23 May 1998 (hereinafter the Regulations on Temporary Registration). According to the Law, only two documents (application and passport) have to be produced to register at the place of temporary stay, while the Regulations on Temporary Registration allow the staff of passport offices at the police stations to ask for any “*other document providing grounds for issuing temporary propiska*.” This is why the overwhelming majority of migrants (44%)<sup>3</sup> view the registration procedure with the police as difficult, while 28%<sup>4</sup> do not register at all, even if they know they can be brought to administrative justice. One of the paragraphs in the Regulations on Temporary Registration (para. 13) prohibits to issue trade or services licenses to persons who do not have permanent or provisional *propiska* in Bishkek, which is not consistent with the Constitution or the law on freedom of labour, occupational choice and the right to social protection. Para. 10 of the same Regulations allows the municipal authorities to close down enterprises and merchants hiring people without *propiska* which is not consistent with the Law “On Internal Migration” (Article 48). This law sets out the liability of government bodies for not complying with the Law when adopting their regulatory acts on the enforcement of the Law.

As revealed in the course of the research study, there have been cases when staff members of the registration bodies violated the Law while enforcing its norms.

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<sup>1</sup> Regulations on the Passport System in the USSR, para. 22, approved by the Resolution of the Government of the Republic of Kazakhstan, Ref. No. 775, as of 17 October 1994

<sup>2</sup> Article 9 of the Law “On Internal Migration” adopted by the Jogorku Kenesh (Parliament of the Kyrgyz Republic) on 28 June 2002 (as amended in the Law of the Kyrgyz Republic, Ref. No. 144, of 16 October 2002)

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

According to the Code on Administrative Liability of the Kyrgyz Republic (CAL KR), administrative liability will ensue for violating the registration rules. Administrative fine in the amount of 0.5 basic rates (50 soms<sup>5</sup>) may be imposed on persons residing at a place without registration. If the same rule is violated again within one year after the first administrative penalty is imposed, such persons may face another fine in the amount of one basic rate (Article 384 of the CAL KR). The right to levy fines for violating the registration rules is vested in district police officers, and heads of territorial police departments and field police stations (Article 384 of the CAL KR). Liability of persons who are responsible for the compliance with the passport system rules is also laid down in the legislation. Thus, according to Article 386 of the CAL KR, an authorized officer may face a fine in the amount of two basic rates for allowing other persons to reside without registration. The same fine is levied on those who allow persons without registration to live in their houses. Public officials hiring persons without a passport or registration may also be held liable and face a fine.

In actuality, those persons who are not registered are able to get away by paying small fines if they have their ID with them when examined by the police. If they do not have any ID, they are taken, as suspects who committed an administrative offense (“residence without registration”), to court. Following the court’s decision, they may face administrative detention up to fifteen days in reception centres while being identified. Such persons will remain in custody before their relatives produce their passport, or before a response is submitted from the passport office at their place of registration. This may seem like nonsense, because a person may remain in custody for a few days before they are identified, and at the end they may only face an administrative fine in the amount of a few hundred soms<sup>6</sup>.

In addition, a person’s ability to receive an identification document (ID card proving Kyrgyz nationality or military card) is directly contingent on whether or not they have a registration record (*propiska*). In turn, one can only obtain a registration record if they have a passport and the rights to own housing. Given the fact that most of the people do not have any housing, and taking into account access to housing, this restricts the possibility of citizens to receive a passport significantly.

A registration record (*propiska*) is linked with obtaining an ID card proving Kyrgyz nationality, and therefore, it directly affects the access to basic services: electoral rights (*a registration stamp in the passport should be produced*)<sup>7</sup>; medical services<sup>8</sup>, social services and benefits<sup>9</sup>; judicial protection of rights<sup>10</sup>; and education.<sup>11</sup> Registration is also one of the requirements for starting your own business, receiving a credit, and becoming registered with tax authorities.

Thus, a number of irregularities that exist in legislative acts and by-laws of ministries and agencies, as well as those issued by local self-governance bodies, create such conditions that significantly restrict citizens in the exercise of their constitutional rights and freedoms.

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<sup>5</sup> A little more than 1 USD (*Translator’s note*)

<sup>6</sup> Around 5-15 USD (*Translator’s note*)

<sup>7</sup> Election Code of the Kyrgyz Republic (new version) of 23 October 2007, Ref. No. 158, para. 3, Article 22: “The basis for entering a citizen of the Kyrgyz Republic in the main or additional list at a specific polling station is the fact of their permanent or primary residence.”

<sup>8</sup> Rules for Assigning the Population of the Kyrgyz Republic to Groups of Family Doctors (GFDs) (approved by the Order of the Ministry of Health, Ref. No. 270, of 19 May 2009), para. 4.5: “If a citizen is not assigned to any GFD, they may seek primary medical and sanitary assistance at their actual place of residence, and become assigned to a GFD if they have a required reference from their place of residence, or pay for the services of GFDs according to the applicable price list,” para. 4.3: “A GFD may refuse to assign a citizen if they live outside the area covered by this particular GFD.”

<sup>9</sup> Law of the Kyrgyz Republic “On State Benefits in the Kyrgyz Republic” of 29 December 2009, Ref. No. 138, Article 12: “An application regarding monthly social benefits shall be lodged with the social protection bodies at the citizens’ place of residence (*propiska*).”

<sup>10</sup> Civil Procedure Code of 29 December 1999, Ref. No. 146, Article 132: “The application should include the name of the claimant, their place of residence, the name of the respondent, their place of residence...”

<sup>11</sup> Standard Agreement on General Education Facilities (approved by the Order of the Ministry of Education, Science and Culture of the Kyrgyz Republic, Ref. No. 376/1, of 24 October 1997), para. 43: “...those who do not reside at a specific location may be refused only in case the facility is full and cannot accommodate extra persons.” The Order of the Ministry of Education and Science, Ref. No. 549/1, of 5 September 2008 instructs educational facilities to accept the children of migrants without *propiska*, which does not work in practice, unfortunately.

## Main results of research on the impact of the registration (*propiska*) system on access to basic services in Kyrgyzstan

In January-August 2009, experts of the Social Research Center at the American University in Central Asia conducted a research study within the DanChurchAid programme, Access to Basic Services, on the impact of the registration (*propiska*) system on access to basic services in Kyrgyzstan (studied by the example of Bishkek). Quantitative and qualitative methods of data collection and analysis were used to obtain more detailed and objective information on the issue of *propiska* in Bishkek.

This research study has confirmed that the existing system of registration (*propiska*) gives legal status to discrimination, under which the ability to exercise the basic rights and to receive the services guaranteed to all citizens by the Constitution of the Kyrgyz Republic depends on whether or not a person has a registration record at their place of residence or temporary stay:

- On an average, as many as 19% of people in Bishkek live without registration, which means that every fifth inhabitant of the capital city does not have access to basic state services, such as the right to labour and protection of property, health care, education, social benefits, etc.
- More than one-third of all respondents made an attempt to register. The following were the main reasons for refusals:
  - absence of a valid passport (9.4%)
  - absence of other documents, such as a personal departure form and documents of entitlement for housing (53.8%)
  - refusal of lessors to provide a residence certificate (12%)
  - a lack of knowledge about the registration procedures (8.5%).
- More than a half of all respondents described the existing registration system (both temporary and permanent) as complicated, inaccessible, expensive and bureaucratic.

*Without propiska I don't have any rights. I just move around, and that's it. As they say, I'm up in the air. I cannot really go anywhere, or talk to anyone in a rude manner when I need to. I'd like to say that it shouldn't be this way. We are Kyrgyz. And first of all we experience problems because of propiska.*

**Sherimbubu, 65, of Issyk-Kul province**

- A little over 19% of the respondents pointed out that they experienced problems with receiving medical assistance from Family Groups Practitioners (FGP) because they didn't have *propiska*, while 23% of them said that they had faced such problems in the hospital. Most of the time, such problems were solved with the help of money (45% of cases in FGP and 60% of cases in hospitals).

**Interviewer:** Please tell me whether you have approached any hospitals over the last two years.

**Adilet:** Two years ago I had appendicitis. I didn't know I had appendicitis, and my friend and I went to the City Hospital No. 4. They didn't accept me without *propiska*. After that we went to the Republican Hospital, and they didn't accept us either. Then we approached them through our friends, and this is how I was treated.

**Adilet, 26, of Jalalabad province**

- 47% of the respondents had certain problems with taking their children to school because they didn't have registration. Over 47% of the respondents solved the problem with the help of money, while 35% were able to solve it through their relatives or friends. Some parents were forced to send their children back to villages as they failed to take them to school.

*I have eight children, and I decided to come here in order to earn money to feed them. We lived in an apartment, and the children were scattered. They accepted only one*

*child to school, to the first grade, and the second one who was supposed to study in the fifth grade was not accepted because there was no propiska. We sent him back to the village, and he studied there in the school, and lived with the neighbours. One year later he came back here. We talked to the school [administration] and he was accepted. It's very difficult without propiska.*

**Kanykei, 50, of Jalalabad province**

- Two-thirds of migrants who are eligible for social benefits do not receive them because they don't have *propiska*.

*In fact, I have a right to receive benefits. But as I don't have propiska, no social assistance is provided. They tell me if I don't have propiska in the city I should receive all benefits in the village. But in the village they tell me that I left and they stopped paying benefits. As a result, we receive benefits neither here nor there, and keep living as if we were not citizens of Kyrgyzstan.*

**Kanykei, 50, of Jalalabad province**

- 60% of the respondents said they were not able to receive their pensions because they had a problem with *propiska*.

*I wanted to retire, but you cannot do it without documents. As I have many children, I would be eligible for social benefits, but again, I don't have any documents. This is how it goes, we don't participate in anything and we live without any state support because we don't have documents.*

**Cholpon, 60, of Osh province**

#### **Recommendations:**

1. To conduct a full-scale research study at the national level on the impact of the registration system on access to basic services (ABS) with analyzing possible economic, social and cultural influence on the public. In this regard, it is required to strengthen inter-agency interaction along with the active involvement of non-governmental and international organizations working on developing and proposing the most advanced registration methods. A formal approach to analyzing and studying the initiatives coming from public associations should be removed.
2. On the basis of the analysis that will be conducted, to develop recommendations on introducing the most appropriate and efficient registration system, and to work out mechanisms for citizens to exercise their rights and freedoms, regardless of whether or not they have a registration record at their place of residence or temporary stay.
3. To establish a working group on introducing amendments to the applicable law regarding the impact of the registration system on access to basic services.
4. To establish a permanent mechanism under a relevant authority (registration body) whereby meetings will be held to discuss all issues related to exercising the right to access basic services by the public based on the applicable registration system.
5. To ensure continuous and effective agency control and prosecutorial supervision over competent authorities and public officials who should rigorously follow and implement the laws and by-laws that guarantee all citizens the right to exercise their constitutional rights and freedoms regardless of their place of residence and place of stay. Unavoidable punishment for creating obstacles for internal migrants, senior citizens, children and adolescents from at-risk groups in accessing basic services only because they are not registered at their place of residence or temporary stay should become a regular practice.

6. To introduce regular full-scale information campaigns on increasing legal awareness of internal migrants, senior citizens, children and adolescents from at-risk groups about their rights and freedoms, including the right to access basic services, and ways of protecting their rights that were violated. To open specialized centres providing legal counseling and assistance to internal migrants, senior citizens, children and adolescents from at-risk groups facing discrimination only because they are not registered at their place of residence or temporary stay in order to facilitate them in regaining their rights and receiving compensation for all damage that was caused.
7. To undertake steps toward capacity building of relevant services and agencies in order to improve the quality of their work and to ensure timely access to basic services. In this regard, a study centre should be created under a relevant authority, and a special study programme should be developed for the staff of relevant services and agencies.
8. To ensure close interaction between government agencies and local self-governance bodies in solving issues related to access to basic services for migrants, senior citizens, children and adolescents from at-risk groups regardless of whether or not they have a registration record at their place of residence or temporary stay.
9. To undertake steps toward establishing partnership at the regional level between the relevant government structures and NGOs working in this area in order to exchange experience, to study the best practices and to find the most appropriate and efficient registration system.

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