



Control of Movement of People across Borders in Azerbaijan

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Introduction

After the collapse of the Soviet Union in the early 1990's, approximately 75% of migrants from countries in the transition region migrated to other countries in the transition region. For example. For example, migrants from Azerbaijan went one's way to Russia, but also to Kazakhstan and Ukraine. Therefore, these flows were mainly directed towards the Russian Federation until a major financial crisis hit this country in 1998 resulting in decreasing job opportunities for labor migrants there. Since then, migrants from Azerbaijan migrate to other countries including the US, Germany and Turkey¹. But Russia still is an important destination country because of flexibility of labor markets and wide opportunities for low-skilled labor force.

According to the methodological explanation of the State Statistical Committee of Azerbaijan on the migration “immigrants” is the number of those with the permission to enter the country for constant stay, emigrants is the number of those obtained permission to leave the country for constant residence including foreign citizens constantly staying in the country, as well as those without citizenship. Definitions of “immigrants” and “emigrants” with certain conditionality characterize migration, as the place of constant residence of a person can change several times over a year. Net migration growth is the difference between the number of departures and arrivals from within a country in a calendar year. This can be condensed but it is more precise. Migration growth rate is computed as ratio between the migration growths to the current data on average annual number of resident population. Migration growth for the calendar year is a ratio to the average annual population size.².

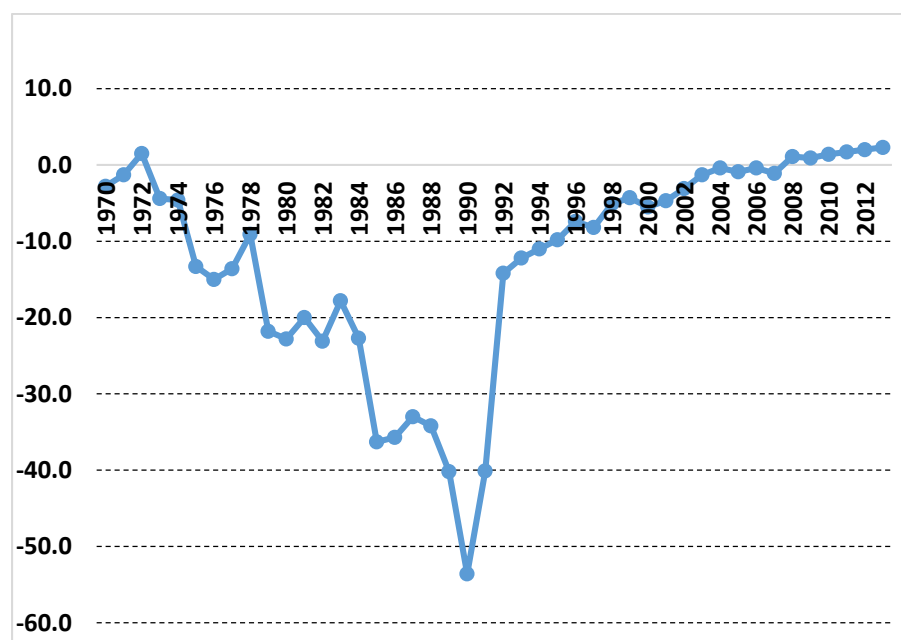
¹ Migration Policy Center (MPC) – Migration Profile of Azerbaijan (Demographic-Economic Framework of Migration, Legal Framework of Migration, Socio-Political Framework of Migration), MPC Team on the basis of CARIM East database and publications, June, 2013 (p.2)

² <http://www.stat.gov.az/source/demography/indexen.php>

Control of Movement of People and Labour Migration

The trend in the migration is associated with the economic situation. Movement of the labour force is an important process for every country happening in reverse directions – “from ad to” a country. Increasing cross-border labour mobility had a significant impact on Azerbaijan as transition country revealing advantage and disadvantage for the economy. The 2013 Transition Report of the the European Bank for Reconstruction and Development suggests that building high-quality human capital stock depends not only on the high quality of education but also on a country’s ability to attract and retain skilled people.³ As indicated Chart 1, the early 1990’s was characterized by high emigration from Azerbaijan due to the economic collapse, persisting unemployment and destructive war.

Chart 1. Net migration in Azerbaijan



Source: State Statistics Committee of Azerbaijan

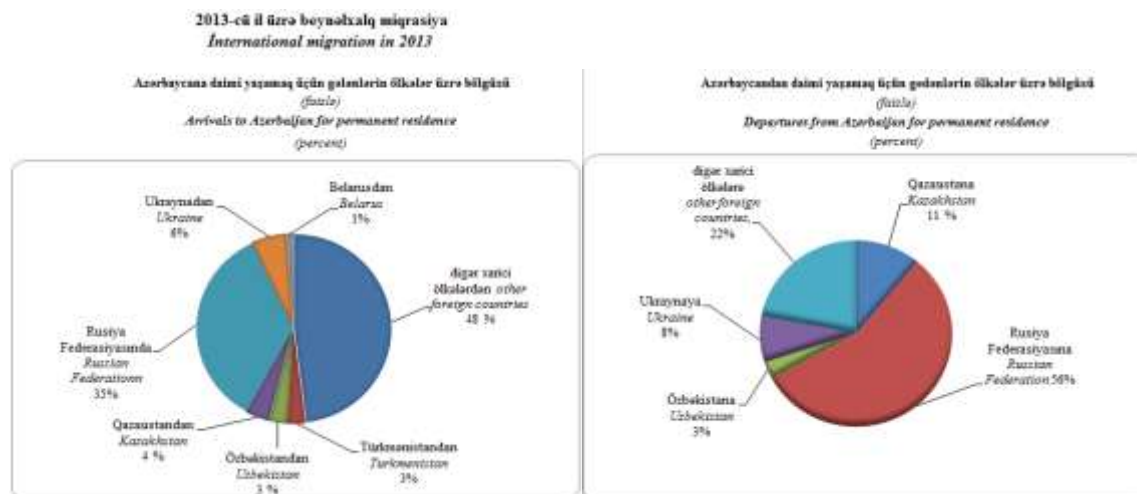
According to the Migration Policy Center’s profile report on Azerbaijan “952,404 Azerbaijani migrants resided abroad in years around 2012, who represent respectively 10.3% of the total population residing in Azerbaijan”⁴. On the other hand, Turkish presence is likely to be

³ <http://www.ebrd.com/news/publications/transition-report/transition-report-2013.html>

⁴ http://www.migrationpolicycentre.eu/docs/migration_profiles/Azerbaijan.pdf

expressive. Over 43,846 Turkish citizens lived and worked in Azerbaijan in 2012 and are mainly employed in construction and furniture businesses as well as other service companies.

Chart 2. International migration and departures from Azerbaijan for the permanent residence



Source: State Statistics Committee of Azerbaijan

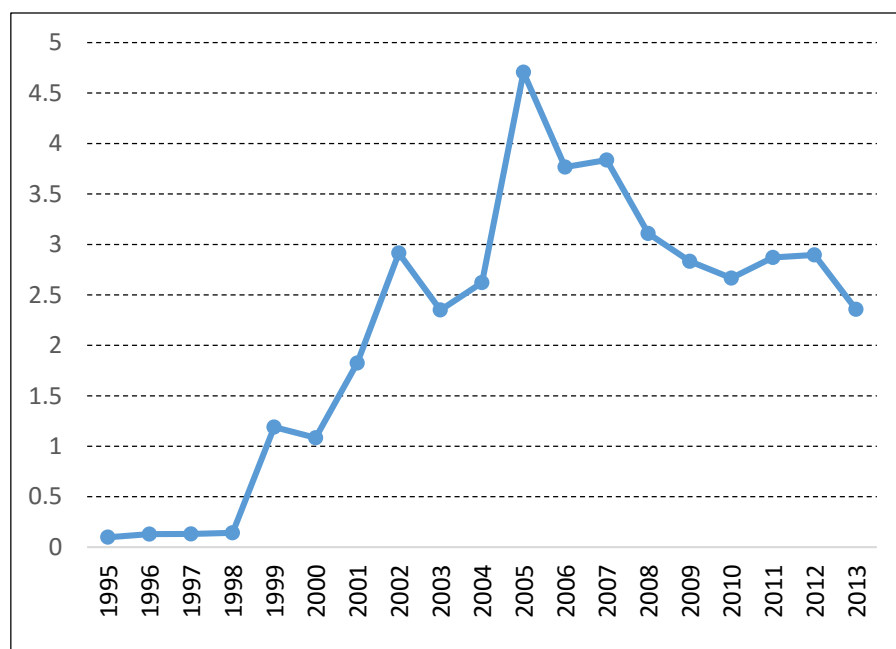
Remittances sending by Azerbaijani citizens working abroad play important role in household budgets. Also it is interesting fact that some CIS countries including Azerbaijan had higher inward remittances from Russia despite the current economic and financial crises of the Russia⁵. For example, remittances to Azerbaijan grew by 14.82% year-to-year to \$643 million in the first half of 2014⁶. The majority of remittances were sent from Russia with over 60% being received by persons in the rural regions of Azerbaijan⁷.

Chart 3. Personal remittances, received (% of GDP)

⁵ <http://www.worldbank.org/en/news/feature/2013/10/02/migration-and-remittance-flows-in-europe-and-central-asia-recent-trends-and-outlook-2013-2016>

⁶ <http://www.bne.eu/content/story/cis-remittances-migrants-russia-start-slide> (December 1, 2014)

⁷ International Fund for Agricultural Development (IFAD). 2006. Sending Money Home – Worldwide Remittance Flows to Developing and Transition Countries



Source: State Statistics Committee of Azerbaijan

Dependence on flows of remittances makes financial sustenance of rural households significantly volatile. Apart from this, International Organization for Migration (IOM) has identified main major labor migration challenges of Azerbaijan as follows⁸:

- a) *high migration flows from rural regions to cities and abroad in search of employment opportunities; escalating labor migration flows to Azerbaijan;*
- b) *transit migration through Azerbaijan originating from Central Asia and the Middle East;*
- c) *the return and integration of internally displaced ethnic Azerbaijanis from occupied Nagorno-Karabakh region;*
- d) *development and alignment of national migration policies and practices, including border management, to international standards in the context of the European Neighborhood Policy;*
- e) *capacity building for government officials dealing with migration management;*
- f) *effective combating with trafficking in persons.*

⁸ <http://www.iom.int/cms/en/sites/iom/home/where-we-work/europa/south-eastern-europe-eastern-eur/azerbaijan.html>

Legal framework of movement of people and labour migration

It is obvious that labor migration and labor markets influence each other, it means labor markets shape migration flows and migration flows regulate labor markets. Regulation of migration flows through legal requirements of labor market can be restrictive or relatively liberal where latter model is not case for Azerbaijan even though some legal improvements observed during last few years.

The first significant action taken regarding the regulation of cross-border movement of people in Azerbaijan after the independence was the adoption of the legislation on the legal status of foreign citizens and stateless persons (1996).⁹ Consequently, the Law on Immigration was adopted by the National Assembly (1998). This law outlines rules for the establishment of immigration quotas, specimen of documents for immigrants, rules on entry by foreign grants and stateless persons who have been granted immigrant status, and procedures for applying for such status.¹⁰ As a main regulatory act, the Migration Code of Azerbaijan was adopted on August 1, 2013 thus different normative-legal acts regulating free labor force movement and migration were put together¹¹, such as law “On legal status of foreigners an stateless persons” (1996), law “On immigration” (1998), law of the Republic of Azerbaijan “On labor migration” (1999), law of the Republic of Azerbaijan “On approval of the Regulation on rules of transit of foreigners and stateless persons through the territory of the Republic of Azerbaijan” (2002).

Adoption of the Migration Code is all-important for migration system development and it is definitely the start stage of new institutional regulatory mechanisms for migration. Main legal norms premeditated in these laws were transformed to the Code and some terms were given more clear definitions in the Code. Migration Code contains a number of norms improving the position of foreign migrants in Azerbaijan. For example, under the previous legal acts, permits issued to foreign migrants were extended for one year every time, while under the current Migration Code

⁹ Law of the Republic of Azerbaijan on the legal status of foreigners and stateless persons, No. 41-IQ, 13 March, 1996

¹⁰ Law of the Republic of Azerbaijan on Immigration, No. 592-IQ, 22 December 1998,

¹¹ <http://www.carim-east.eu/2029/law-of-ar-on-legal-status-of-aliens-and-stateless-persons/>

these permits can be extended for two years. Additionally, foreigners who invested the minimum of 500.000 manats into the country's economy can be granted temporary residence permits for the period of up to three years. Foreigner who entered into marriage with a citizen of Azerbaijan does not need to obtain a private permit to get engaged in labor activities. But current Migration Code does not explain many of the terms used in the Code (e.g. labor migrant's quota) and strongly express "restrictive free labor movement model":

1. *The Code does not cover all issues regulated by valid legal acts in the field of migration (e.g. the notion of identity document has not been clarified).*
2. *Granting of the refugee status and issues associated with acquisition of Azerbaijani citizenship are not within the scope of the Code.*
3. *There are also some shortcomings with temporary stay, temporary residence and permanent residence of foreigners in the territory of Azerbaijan.*
4. *While for registration of a foreigner in Azerbaijan in the place of their stay only the copy of their passport is required together with application filled in by a person who hired them, other documents are needed to extend their period of stay.*
5. *For the extension of period of temporary or permanent residence of foreigners or stateless persons, the same documents are required as for their first registration.*
6. *Extension of the temporary stay period relies on three provisions envisaged in the Code and request for additional documents is not justified in such urgent cases.*
7. *Previously a foreigner or stateless person who invested 100.000 manats into Azerbaijani budget or who had a bank account in Azerbaijan with a sum of 50.000 manats could apply for temporary residence permit, while now these figures went up to 500.000 and 100.000 manats respectively.*
8. *Under the Code, foreigners who do not speak the state language of Azerbaijan are not issued a permanent residence permit and the permit issued earlier is annulled. In international practice the knowledge of the local language requirement is applied to persons willing to acquire citizenship of that country.*
9. *Migration Code reduced the timeframes associated with work permits. Under the previous legislation, one needed to apply for extension of the work permit 22 days before its expiry, while now one needs 30 days.*

10. *In case of change of information in the document proving foreign worker's identity or in case of private permit loss the worker's employer had to contact the local administrative body within 15 days and apply for the new permit within 15 days, while now the deadlines are 5 and 10 days respectively*¹².

State Migration Management Policy Concept, which the Cabinet of Ministers of Azerbaijan had approved in 2004, following inter-ministerial consultations and the compilation work of the Unified Migration Management Commission, in cooperation with the IOM.¹³ Institutional and legal migration reforms continued towards the end of 2000s. To improve the management of the information system of the cross-border of movement of people in Azerbaijan, single migration information system and entry-exit and registration inter-departmental automated data-retrieval system were established during 2008-2010. The most salient step was the application of the One Window principle to the migration management in 2009. With this decree, the procedures of applying for permanent or temporary stay in the country and individual work permits were simplified for foreign citizens and stateless persons. This decree determined the main responsibilities of the State Migration Service. Recently, some of the responsibilities of the State Migration Service were shared with ASAN Service (State Agency on Social Innovations and Services to Citizens)¹⁴. A minimum of 57 countries and territories granted visa free or visa on arrival access to regular Azerbaijani passport holders, and 31 of them are visa free accessible.¹⁵ Azerbaijan itself cannot be considered as a liberal country in terms of visa application. The Government of Azerbaijan allows citizens of specific countries to visit Azerbaijan for tourism or business purposes with an ordinary Azerbaijani passport, and for official purposes with a diplomatic and service passport, without having to obtain a visa for a certain period. Citizens of other countries are required to obtain a visa before travelling to Azerbaijan, from the embassy or consulate of the Republic of Azerbaijan.

¹² <http://www.carim-east.eu/2029/law-of-ar-on-legal-status-of-aliens-and-stateless-persons/>

¹³ International Organization for Migration, 2008. 'Migration in the Republic of Azerbaijan: A country Profile 2008'. p. 29, Geneva

¹⁴ <http://freeeconomy.az/prints/t-dqiqatlar/>

¹⁵ Henley & Partners, 2012. 'Visa Restrictions Index Global Ranking', <https://www.henleyglobal.com/fileadmin/pdfs/visarestrictions/Global%20Ranking%20-%20Visa%20Restriction%20Index%202012-06.pdf>, [15 April 2013]

The EU-Azerbaijan Visa Facilitation and the Readmission agreements entered into force on September 1, 2014. The agreement makes it easier and cheaper for citizens of Azerbaijan, in particular those who travel most, to acquire short-stay visas allowing them to travel to and freely throughout most EU countries. A short-stay visa is a visa for an intended stay of no more than 90 days per period of 180 days. Under the agreement, visa fees will be reduced from €60 to €35, and some categories of citizens are to be exempt from the fees altogether. For some categories of frequent travelers and under certain conditions, member states are supposed to issue multiple-entry visas with a validity from one to up to five years. Holders of diplomatic passports are exempted from the visa obligation. The agreement also provides that the visa handling fee will not be collected for certain categories of applicants, including members of official delegations, children below the age of 12, pensioners, researchers and students. Implementation of the provisions of the agreement is subject to application of full reciprocity by all parties of the agreements. Readmission agreements set out clear obligations and procedures for the authorities of EU member states and Azerbaijan. They regulate when and how to take back people who are illegally residing on the territories of the parties. They cover not only the illegally staying nationals of both parties but also third country nationals. Full respect of human rights as provided by the European Convention of Human Rights is guaranteed during the application of readmission agreements¹⁶.

Conclusion and policy recommendations

Azerbaijan relatively improved cross-border migration policy and management incrementally raising its accumulated organizational capabilities on migration management and formulation of relevant policies. Also, new institutional entities were established with adequate resources and proper legislature to control the cross-border migration processes. But there are some deficiencies in new Migration Code and challenges in enforcement of labor migration by

¹⁶http://eeas.europa.eu/delegations/azerbaijan/press_corner/all_news/news/2014/20140901_visafacilitation_enters_into_force_en.htm

appropriate government agencies which can be characterized as “restrictive model” of labor force movement.

1. In order to achieve efficacious management procedures on emigration, immigration, transit and asylum issues there is need to implement additional capacity-building and technical assistance projects and initiatives supporting related policy fields.
2. There is need to support the State Migration Service, as well as other State agencies, for strengthening existing institutional capacity in formulation, implementation and monitoring of migration policy and initiating legislation.
3. The capacities of the Ministry of Foreign Affairs also should be improved to have optimal technical facilities for the issuance of visas and other relevant travel documents and readmission requests.
4. Government should concentrate on human rights protection of migrants and developing capabilities on that issue.
5. Government should improve the current border management systems and existing practices in order to meet international and EU standards.