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КЫРГЫЗ РЕСПУБЛИКАСЫНДА КАЧКЫНДАРДЫН АБАЛЫН БЕРҮҮНҮН МАСЕЛЕЛЕРИ

ВОПРОСЫ ПРЕДОСТАВЛЕНИЯ СТАТУСА БЕЖЕНЦА В КЫРГЫЗСКОЙ РЕСПУБЛИКЕ

ISSUES OF GRANTING REFUGEE STATUS IN THE KYRGYZ REPUBLIC

***Аннотациясы:** Макалада Кыргыз Республикасында качкын статусун берүүнүн жалпы маселелери, качкындардын укуктарын коргоо жаатындагы эл аралык укуктук документтер, ошондой эле качкындардын укуктарын коргоону жөнгө салуучу улуттук укуктук жана ченемдик укуктук база каралып, БУУнун Качкындар иштери боюнча башкы комиссарынын ролун ачып берген качкындардын укуктарын коргоо жана Кыргыз Республикасынын аймагында катталган качкындардын саны жөнүндө маалыматтарды берүү.*

***Негизги сөздөр:** качкын статусу, качкындардан качуу принциби, БУУ КИБЖКК, адам укуктары, көзкарандысыздык, жол-жобо, ыйгарым укуктуу орган, башпаанек, эл аралык укуктун принциби.*

***Аннотация:** В статье рассмотрены общие вопросы предоставления статуса беженца в Кыргызской Республике, международно-правовые документы в области защиты прав беженцев, а*

также национальная нормативно- правовая база, регулирующая вопросы защиты прав беженцев, раскрыта роль УВКБ ООН в деле по защите прав беженцев, а также даны данные по количеству беженцев, зарегистрированных на территории Кыргызской Республики.

Ключевые слова: *статус беженца, принцип не высылки, УВКБ ООН, права человека, независимость, процедура, уполномоченный орган, убежище, принцип международного права.*

Abstract: *The article discusses general issues of granting refugee status in the Kyrgyz Republic, international legal documents in the field of protection of refugees' rights, as well as the national legal and regulatory framework governing the protection of refugees' rights, discloses the role of UNHCR in protecting the rights of refugees, and provides data on the number of refugees registered in the territory of the Kyrgyz Republic.*

Key words: *refugee status, principle of non-refoulement, UNHCR, human rights, independence, procedure, authorized body, asylum, principle of international law.*

The collapse of the Soviet Union and the independence of the Kyrgyz Republic revived a new democracy in the heart of Central Asia. The reformation of society, new values and a new vector of development have determined the state policy in the field of respect and protection of human rights. In this area, the main documents were signed and implemented, including the 1951 Convention relating to the Status of Refugees (hereinafter referred to as the Convention), as well as the Additional Protocol to the Convention of January 31, 1967 (hereinafter referred to as the Protocol). The first refugees during the period of independence arrived from the states covered by the war, Tajikistan and Afghanistan.

Today, the Kyrgyz Republic has a developed legal and regulatory framework in the field of granting refugee status. Among the main legal acts regulating the granting of refugee status, the following can be distinguished:

1. The Constitution of the Kyrgyz Republic dated June 27, 2010;
2. Law of the Kyrgyz Republic dated March 25, 2002 No. 44 "On Refugees"
3. Resolution of the Assembly of People's Representatives of the Jogorku Kenesh of the Kyrgyz Republic "On the accession of the Kyrgyz Republic to the Convention on the Status of Refugees of June 23, 1951 and to the Protocol Relating to the Status of Refugees of January 31, 1967" Bishkek dated March 6, 1996 P No. 255-1
4. Resolution of the Government of the Kyrgyz Republic "On Approval of the Regulation on Work with Refugees in the Kyrgyz Republic" dated April 4, 2003 No. 188

The Constitution of the Kyrgyz Republic of June 27, 2010 (hereinafter – the Constitution) guarantees the observance of fundamental human rights and freedoms. Article 19 of the Constitution stipulates that the Kyrgyz Republic, in accordance with international obligations, provides asylum to foreign citizens and stateless persons persecuted for political reasons, as well as for violations of human rights and freedoms.

The refugee status review procedure presupposes the following. A person applying for refugee status first of all applies to the authorized body at the place of stay, which is the State Migration Service under the Government of the Kyrgyz Republic. The procedure for considering an application for granting refugee status has been developed in accordance with the Regulations on Work with Refugees, approved by the Resolution of the Government of the Kyrgyz Republic dated April 4, 2003 No. 188. It is also provided that entry into the territory of the state can be both legal and illegal. It is important to note that an asylum seeker has a reasonable risk of persecution in his country of origin. And because of this, he does not have enough time or funds to obtain the necessary documents for legal entry into the territory of the receiving state.

After applying to the authorized body, the person applying for refugee status receives a certificate of registration of the application, which is issued for a period of three months. Within five working days, the person must register with the population registration authority at the place of stay.

Further, the authorized body examines the case of the person applying for refugee status. In case

of a positive decision, the person receives refugee status. In case of a negative decision, the person has the right to use the opportunity to appeal against the decision in the judicial system of the Kyrgyz Republic.

In accordance with its obligations, the Kyrgyz Republic guarantees the provision of the principle of non-refoulement. The principle of non-refoulement is often referred to as the “cornerstone” or “centerpiece” of the international refugee protection regime. With the exception of the right to asylum, ensuring that no refugee is sent back to the place where he or she will be persecuted is the strongest obligation that the international community of States is prepared to make to those who can no longer enjoy the protection of their own government. At the same time, the obligation of non-refoulement serves as the starting point for all subsequent rights that can be claimed under the 1951 Refugee Convention [7, p. 44].

In the initial meeting between a refugee and the authorities of a potential asylum State, protection against refoulement naturally becomes the first and most important consideration [7, p. 45].

It is also impossible not to appreciate the role of the UNHCR in protecting the rights of refugees in the Kyrgyz Republic. UNHCR opened an office in Kyrgyzstan in 1995 with the original goal of helping the country protect the more than 20,000 refugees who fled Tajikistan as a result of the civil war. Over the years, half of the refugees integrated into the local community, receiving Kyrgyz citizenship, and the other half voluntarily returned to Tajikistan. Building on the actions taken, UNHCR is working with partners in Kyrgyzstan to improve refugees' social and economic rights, including the right to own property, register their own businesses and gain access to social safety nets on an equal basis with the country's citizens.

Through its oversight function, UNHCR monitors compliance with international refugee law, cooperates with border services and relevant ministries and supports their efforts to ensure unhindered and non-discriminatory access to asylum and develop appropriate procedures.

Former Chairman of the State Migration Service under the Government of the Kyrgyz Republic Bolotbek Ibraimzhanov, noted that as of January 1, 2020, there are 206 refugees in the republic, including 90 people from Afghanistan, 79 from Syria, 23 from Ukraine, and Iraq 6, from Tajikistan – 4, from Iran – 2, from Morocco and Ethiopia – one each.

Developing its own legal and regulatory framework, the Kyrgyz Republic clearly adheres to the basic principles and norms of international law, and fundamental provisions for the protection of refugees' rights.

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