

9 Nazarbayev N.A. Strategy «Kazakhstan – 2050»: a new policy established state». Message from the President of the Republic of Kazakhstan — Leader of the Nation N.A.Nazarbayev to the people of Kazakhstan, Astana, December 14, 2012, <http://adilet.zan.kz/rus/docs/K1200002050>

10 Zhanuzakova L. *Newsletter «Maslikhats»*, 2009, 1, p. 14–30.

11 Zhanuzakova L.T. *Constitutional and legal problems of organization and activities of local representative bodies in the Republic of Kazakhstan*, Almaty: Saga, 2003, 340 p.

UDC 342.314(574)

A.Bozhkarauly

*Ye.A.Buketov Karaganda State University
(E-mail: altai6969@mail.ru)*

The struggle with illegal migration as mean of ensuring of national security

The problem of migration is characterizing with special complexity, as it covers not only legal aspects, but also the problems of sociology, demography, political economy, ethno geography, and the problems of labor resources in the economics. The legal aspect have the special important place, because the migration is closely connected with the legal security, regulation and organization of migration processes, from which depends other problems of essential value for living conditions of the society.

Key words: migration, types of migration, commuting, migration, labor migration, migration factors, ethnic migration, migration policy concept of migration.

In the modern world, the impressive size reaches legal and illegal migration, which are the main causes of political and economic instability in some countries, the demographic crisis — in other accelerated by factors such as the globalization of labor markets, the exchange of information, expertise and technology. Migration process is a permanent feature in all stages of human history. Migration is one of the ways for the mass of the population to respond to changes in life situation, accurately and clearly reflect to the changes taking place in society. It is difficult to find another social process that could be compared with migrations in this regard. Illegal migration is today one of the main threats to the national security of each state, is no exception, and the Republic of Kazakhstan. Situation of migration on post-Soviet territory has dramatically changed after the collapse of the Soviet Union. Because of the specificity of its geographical position Kazakhstan serves as a geopolitical center connecting European countries with Central Asian states, whereby the influx of foreigners in the country — an inevitable phenomenon that also contribute to the observed growth in the country and maintain a stable internal political situation [1; 32]. As a result, in the aspect of regional migration such countries as Kazakhstan and Russia are now «host» states, and Kyrgyzstan, Tajikistan and Uzbekistan are «sending states». Thus, in 2013 in the Republic of Kazakhstan arrived more than 987,000 foreigners (including 820 000 — from the CIS countries). From this number for violations of immigration laws to administrative responsibility were attracted 99.3 thousands of foreigners, and more than 3.4 thousand — expelled. The most typical violations of immigration laws are inappropriate purpose of stay, failure to depart at the end of the registration period, the occupation illegal employment [2]. Also for violations of immigration laws instituted 262 criminal cases (in 2012 — 197), including 111 cases — on the facts of non-enforcement of the expulsion order, 29 — on the facts of illegal immigration, as revealed in 2283 the illegal foreign labor [2].

In these conditions, extremely increases the relevance of research administrative and legal means of influence offenses in the sphere of the stay of foreign citizens and stateless persons in the territory of the Republic of Kazakhstan, which are based on administrative responsibility. Illegal (external) migration — is the entry in a particular country, stay in and departure from its territory of foreign citizens and stateless persons in violation of the legislation governing the stay of foreign citizens, arbitrary change of their legal status during the period of its territory, as well as leaving its citizens from the territory in violation of the legislation governing the procedure for their departure. In accordance with the Law «On Migration» on July 22, 2011 illegal immigration — is entry into the Republic of Kazakhstan and the stay of foreigners or stateless persons

in the Republic of Kazakhstan in violation of the laws of the Republic of Kazakhstan regulating the entry and stay as well as for transit through the territory of the Republic of Kazakhstan [3].

Thus, illegal immigration is a negative factor, getting a criminal nature and the worsening crime situation in the state.

According to the law «On Migration» on July 22, 2011 one of the main principles of the state policy in the field of migration is the protection of national interests and national security. To achieve the national security in the area of migration state aims to provide international cooperation in the regulation of migration processes, the prevention and suppression of illegal immigration [3].

Migration Policy of the Republic of Kazakhstan is constructed based on the realities of economic development, political and social stability. In the field of migration in Kazakhstan created a whole meets the international standards of the legal framework that allows to develop tourism, attract foreign labor to return to their historical homeland repatriates. The main regulations governing relations in this sphere is the Law «On Migration» of July 22, 2011, «On Legal Status of Foreigners» June 19, 1995 and the rules of entry and residence of foreign nationals, approved by Government Decision of 28 January 2000. They defined the rights and duties of foreign citizens and functions of public bodies for control over migration processes in the country [4].

In addition, in order to strengthen the control of migratory flows and combating with illegal migration, measures were taken to improve national legislation. Thus, one of the innovations of laws governing migration is the Law «On the identity documents», which was signed by the President January 22, 2013. In December 2013, the Law «On amendments and additions to some legislative acts on issues of labor migration», which provides a simplified procedure for issuing permits to migrant workers from the CIS to work for individuals.

According to the Comprehensive plan to address the problems of migration, strengthening control of migration flows from neighboring countries, the creation of favorable conditions for domestic skilled labor in order to prevent their excessive outflow to foreign labor markets to 2014–2016 years, a major focus of migration policy is strengthening measures to curb illegal migration. So, in order to accomplish the task will be carried out joint interstate operations and preventive measures aimed at detection and suppression of violations of immigration laws. In addition, will be done work on the implementation together with the competent authorities of foreign countries of measures to counter illegal migration, there will be seminars, roundtables to explore the experience of foreign countries for the prevention of the facts of illegal migration, as well as protecting the rights of migrant workers, planned for 2015 [5]. The legislation establishes the conditions and procedures for exit of citizens of the Republic of Kazakhstan abroad for permanent residence, as well as establishing the grounds for denial of permission citizen of the Republic of Kazakhstan on leaving the country for permanent residence. In addition to this study carried out new editions of the Criminal Code, the executive and the Administrative Code, which would increase penalties for violations of immigration laws, including on the part of citizens of the Republic of Kazakhstan [2].

The Republic of Kazakhstan is an active supporter of stability and security, has become a full participant in the process of interaction and cooperation among the partners, other interested countries and international organizations, and NGOs on the implementation of migration policy. So, in 2013, during the visit of the President of the Republic of Belarus Lukashenko A.G. to Kazakhstan in October 4, 2013 were signed two international treaties in the field of migration:

- Agreement between the Republic of Kazakhstan and the Republic of Belarus on the order of stay of citizens of the Republic of Kazakhstan in the Republic of Belarus and the citizens of the Republic of Belarus in the Republic of Kazakhstan;

- Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Belarus on readmission and Executive Protocol on the procedure of its implementation [2].

In accordance with the Request of the Prime Minister of the Republic of Kazakhstan from July 4, 2013 on results of the state visit of the President of Turkmenistan G. Berdimuhamedov to the Republic of Kazakhstan on 10–11 May 2013, the Ministry of Internal Affairs in conjunction with the Committee on National Security prepared information on establishing a working relationship with Turkmenistan on cooperation, exchange of information and experience in the field of combating illegal migration, international terrorism and drug trafficking.

Also signed readmission agreements with nine countries (Germany, Switzerland, Norway, the Czech Republic, Latvia, Lithuania, Russia, Uzbekistan, Belarus), considering the issue of bilateral intergovernmental

tal agreements on readmission with another 12 states. Focuses on the control of entry and stay in the country of foreign nationals, illegal migration prevention facts [2].

In January 2014 was signed an agreement on visa-free travel for holders of diplomatic passports from 48 countries, holders of service passports — with 33 countries, for national passports — with 14 countries [2].

On an ongoing basis the work on the implementation of the Unified Information System (UIS) «Berkut-MIA» carried out. In software UIS control over the entry, stay and departure of foreigners includes additional features electronic approval visa support and visa consular offices of cleared materials abandon foreigners for permanent residence and citizenship in reception, as well as jobs for closing entry to foreigners who have violated migration legislation of the Republic of Kazakhstan [2].

In matters of immigration control and the fight against illegal migration Republic of Kazakhstan is working closely with international organizations such as the Organization of the Collective Security Treaty, the Eurasian Economic Community, Customs Union and the Common Economic Space.

Continuing development of common approaches in countries — participants of the Customs Union to regulate migration processes and harmonization of legislation in this area, the establishment of joint control of the automated systems of entry and residence of foreigners in the territory of the Republic of Kazakhstan, the Russian Federation and the Republic of Belarus.

In the framework of the CIS major priority to improve the efficiency of combating illegal migration are:

- further cooperation with the International Centre for Migration Policy Development (ICMPD), International Organization for Migration (IOM) and other international and regional organizations specialized on combating illegal migration;
- development of model laws aimed at unification and harmonization of the national legislation of the Commonwealth countries in the fight against illegal migration;
- harmonization and improvement of existing national immigration legislation and regulatory framework on immigration control;
- development of inspection techniques on the state border states — participants of CIS cargo and vehicles in order to effectively curb illegal migrants;
- stirring up the cooperation of the states — participants of CIS on readmission [6].

The International Organization for Migration (IOM) launched a regional approach, led by the Coordinating Office in Astana. Thus, the IOM Strategy in Central Asia for 2011–2015 identified the following objectives:

- Promote better understanding of many aspects of migration among government employees, communities, employers.
- Assist in the creation of an effective system of migration management.
- Promote and protect the rights of migrants.
- Contribute to poverty reduction in the countries of Central Asia, among migrants and among the receive and send their communities.
- Promote the creation of necessary conditions for decent work and equal opportunities.
- To maintain stability in the communities and the integration of migrants in conflict-prone areas.
- Encourage people to travel.
- Provide assistance in combating human trafficking, including prevention of trafficking protection of trafficking victims [7].

Thus, illegal migration from the secondary moved into the category of global problems has become a challenge to the world community, the scope and possible consequences of exacerbations that may pose a serious threat to international stability and sustainable development of nations. The Republic of Kazakhstan is one of the most successful countries in the post-Soviet space, attracts a large number of illegal migrants — mostly from Central Asia. Increasing migration creates many new challenges not only for the migrants, but also the state as a whole. These challenges include the following issues: increasing irregular migration, smuggling and trafficking; population displacement as a result of conflict, natural disasters and economic crisis, as well as illegal migration, which poses a threat to national security. However, Kazakhstan is actively working on the regulation of migration processes, including illegal migration, is working to improve national legislation, has successfully implemented programs such as the IOM Strategy in Central Asia for 2011–2015 year, Comprehensive plan to address the problems of migration, strengthening control migration flows from neighboring countries, the creation of favorable conditions for domestic skilled labor in order to prevent their excessive outflow to foreign labor markets to 2014–2016.

References

- 1 Суворов А. Действия полиции и внешняя миграция в Казахстане // Саясат. — 2003. — № 11. — С. 29–33.
- 2 Миграционная ситуация в Республике Казахстан на 2013 год // Интернет-портал СНГ. — [ЭП]. Режим доступа: <http://www.e-cis.info/page.php?id=24091>
- 3 Закон Республики Казахстан от 22 июля 2011 г. № 477-IV «О миграции населения» (с изм. и доп. по состоянию на 12.06.2014 г.). — [ЭП]. Режим доступа: <http://adilet.zan.kz/rus/docs/Z1100000477>
- 4 Закон Республики Казахстан от 19 июня 1995 г. № 2337 «О правовом положении иностранцев» (с изм. и доп. по состоянию на 10.12.2013 г.). — [ЭП]. Режим доступа: http://adilet.zan.kz/rus/docs/U950002337_
- 5 Постановление Правительства Республики Казахстан от 31 декабря 2013 г. № 1593 «О Комплексном плане по решению проблем миграции, усилению контроля за миграционными потоками из сопредельных государств, созданию благоприятных условий для отечественных квалифицированных кадров с тем, чтобы не допустить их чрезмерного оттока на зарубежные рынки труда на 2014 — 2016 годы». — [ЭП]. Режим доступа: <http://adilet.zan.kz/rus/docs/P1300001593>
- 6 [ЭП]. Режим доступа: <http://www.cis.minsk.by/>
- 7 МОМ-стратегии в Центральной Азии на 2011–2015 годы // www.iom.kz

А.Божқараұлы

Заңсыз көші-қонмен күресу ұлттық қауіпсіздікті қамтамасыз ету құралы ретінде

Көші-қон мәселесі өзінің күрделілігімен ерекшеленеді. Себебі, оған тек қана құқықтық сұрақтардан басқа, саяси-экономикалық, демографиялық, әлеуметтік сұрақтармен қатар, этногеографиялық және экономикадағы еңбек ресурстары мәселелері де өзектілігімен көрінуде. Солардың ішінде заңдық қыры ерекше орынды иеленеді. Заң саласы көші-қон үрдісін ұйымдастыру мен оны реттеуде, құқықтық қамтамасыз етуде маңызды рөл атқарады.

А.Божқараұлы

Борьба с незаконной миграцией как средство обеспечения национальной безопасности

В статье отмечено, что проблема миграции характеризуется особой сложностью, так как в ней переплетены вопросы не только правовые, но и социологии, демографии, политической экономии, этногеографии, проблемы трудовых ресурсов в экономике. Автор подчеркивает, что среди них юридический аспект занимает особое место, поскольку от надлежащего правового обеспечения, регулирования и организации процессов миграции зависит решение других вопросов, имеющих существенное значение для жизнедеятельности общества.

References

- 1 Suvorov A. *Sayasat*, 2003, 11, p. 29–33.
- 2 The migration situation in the Republic of Kazakhstan for 2013, the Internet portal of the CIS, <http://www.e-cis.info/page.php?id=24091>
- 3 The Law of the Republic of Kazakhstan 22 July 2011 № 477-IV «On Migration» (with alterations and amendments as of 12.06.2014, the), <http://adilet.zan.kz/rus/docs/Z1100000477>
- 4 The Law of the Republic of Kazakhstan dated June 19, 1995. № 2337 «On legal status of foreigners» (with alterations and amendments as of 10.12.2013), http://adilet.zan.kz/rus/docs/U950002337_
- 5 Resolution of the Government of the Republic of Kazakhstan dated December 31, 2013 № 1593 «On a Comprehensive plan to address the problems of migration, strengthening control of migration flows from neighboring countries, the creation of favorable conditions for domestic skilled labor in order to prevent their excessive outflow of foreign markets work on 2014–2016 years», <http://adilet.zan.kz/rus/docs/P1300001593>
- 6 <http://www.cis.minsk.by/>
- 7 IOM Strategy in Central Asia 2011–2015 years, www.iom.kz