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State-legal regulation of migration processes in the Republic of Kazakhstan

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, ethnogeography, 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, migrationpolicyconcept ofmigration.

In the twenty-first century, the Republic of Kazakhstan is a leader in the global community. One of the most important evidence is holding EXPO – 2017 in the republic. This suggests that countries with the entire international community have a lot of trust a honor to Kazakhstan. In addition national leader Nursultan Nazarbayev in his message to the people «Strategy» Kazakhstan – 2050: «a new of established state» confidently declares that the Republic of Kazakhstan today is successful state having its face, its features and its position. Currently, humanity is faced with new global challenges of the XXI century. And the President of the state in his message in 2013: «For our country and the region, I highlight ten key of challenges. We must consider each of them, if we plan to continue to achieve new successes in its development» [1]. Major global challenges, and victory over which will bring Kazakhstan to a new historical level are acceleration of historical time, the global demographic imbalances, the threat of global food security, acute water shortage, global energy security, exhaustible natural resources, the Third Industrial Revolution, increasing social instability, a crisis of values of our civilization and the threat of a new global destabilization.

One of the highest priority issues faced by Kazakhstan, is the demographic imbalance. «The growing demographic imbalance creates new waves of migration and exacerbates social tensions around the world. We in Kazakhstan, faced with migratory pressures in some regions of the country where illegal migrant workers destabilize local labor markets. We must also understand that it is likely in the foreseeable future may face and the reverse process — labor immigration outside of our country», — noted the President in the Message to the Nation [1]. This is a very important issue for the entire state. Migration processes — a permanent feature at all stages of the history of mankind. Migration is one of the ways of mass public response to changing situations, accurately and clearly reflect the changes taking place in society. It is hard to find another social process that could compare with migration processes. The problem of migration in Kazakhstan is gaining social and political urgency and relevance due to the scale of migration flows and their implications for the country. Mass migrations accompanied by catastrophic loss of qualified professionals and have serious socio-economic and political consequences for the young independent state. In addition, labor migration as a form of mass migration gains and increasingly growing in nature. Labour migration is presently one of the most significant migratory flows in the world. With the increasing integration in the global economy intensified the movement not only of inventory flows, but also labor. International migrants are a mixed

group, which includes seasonal workers, workers on temporary contracts, a highly skilled workforce, students, refugees, victims of human trafficking. The ILO estimates that in 2010 the numbers of international migrants reached 214 million people, about 90 % of them are migrant workers and their families [2]. The problem arises in the fact that most of the immigrants, including migrant workers who have moved to the territory of Kazakhstan for a better life are illegal. The most typical violations of migration legislation are irrelevant purpose of the stay of foreigners in the country, failure to depart at the end of the registration period, as well as employment of illegal labor activities. Depending on the purpose of entry into the territory of the Republic of Kazakhstan and stay on the territory of the Republic of Kazakhstan distinguish the following main types of immigration:

- with the aim of returning to their historic homeland;
- for the purpose of family reunification;
- to get an education;
- with the purpose of work;
- humanitarian and political reasons.

Currently migration processes in the Republic of Kazakhstan are characterized by high activity. Over the past 7 years more than 170 thousand foreigners came to the temporary stay in the country. Thus, in 2011–2012, carrying out work as a goal to stay in Kazakhstan indicated only 1.3 thousand foreigners from countries of Central Asia, while a private trip — 80 thousand people. In this case for the illegal use of foreign labor brought to administrative responsibility 3 thousand individuals who accepted for employment nine thousand illegal migrant workers [3]. In connection with this, the country faces the question of strengthening the legal framework in the field of regulation of migration processes.

In the Republic of Kazakhstan held a lot of work in the field of regulation of migration, including illegal migration, both at national level and expanding international cooperation in the field of international relations. Major national document in state regulation of migration processes is currently the law of the Republic of Kazakhstan dated July 22, 2011 «On Migration» (with alterations and amendments of 13.06.2013 year). This law regulates the social relations in the field of migration, the legal, economic and social foundations of migration processes. Thus, in accordance with the Law «On Migration», the migration — is permanent or temporary, voluntary or forced movement of people from one country to another, as well as within the state [4]. Also defines the concept of «illegal migration», i.e. it entry into Kazakhstan and stay of foreigners or stateless persons in Kazakhstan in violation of the country's legislation governing the entry and residence, as well as transit through the territory of the Republic. In the Republic of Kazakhstan are guaranteed not only the rights and freedoms of citizens, but also of immigrants. Thus, in accordance with Article 5 the immigrants in the Republic of Kazakhstan shall have the right to:

- 1) the rights and freedoms provided for the citizens of the Republic of Kazakhstan, unless otherwise provided by the Constitution, laws and international treaties;
- 2) education, health and social care in accordance with the laws of the Republic of Kazakhstan;
- 3) for free movement in the territory of Kazakhstan, open for visits by immigrants;
- 4) free choice of place of residence in accordance with the laws of the Republic of Kazakhstan;
- 5) go to court and state authorities for the protection of their property and personal non-property rights;
- 6) for a fee of adaptation and integration services in the centers of adaptation and integration of repatriates, except repatriates and their families who receive these services free of charge [4]. In addition, immigrants have to bear responsibilities among which the main ones are to uphold the Constitution and laws of the country, including the established order of entry, exit and stay on the territory of the Republic.

State policy in the field of migration is based on the following principles:

- 1) recognition and guarantees the rights and freedoms of migrants in accordance with the Constitution of the Republic of Kazakhstan, laws and international treaties;
- 2) protection of national interests and national security;
- 3) combination of the interests of individuals, society and the state;
- 4) transparency of regulation of migration processes on the basis of reusable and update information;
- 5) a differentiated approach to the regulation of the state of various kinds of immigration [4].

Law «On Migration» is not the only means of regulating migration processes. In the Republic successfully implemented concept of migration policy for 2007–2015, this aims to improve the quality of existing and development of new areas of migration management in Kazakhstan. In accordance with the concept an important component of the migration policy of the Republic of Kazakhstan shall be to ensure the coun-

try's security, the fight against illegal migration. In this direction will be technically and organizationally a new strengthened and rebuild the country's borders, improve the technical design of the system and the granting of visas. In order to comply with the principles of transparency and legitimacy will be ongoing monitoring of migrants in terms of their legal and good tolerance in the country. In case of violation of any condition of stay of illegal migrants to apply national and internationally recognized rules of detention, deportation or return or certification of its stay in the country [5]. Thus, according to the Concept of Migration Policy in 2013–2015 years will be settled the labor market in accordance with the socio-economic needs of the country.

In general, the Concept will contribute to the protection of labor and social rights of migrants, successful adaptation and integration of immigrants into society, ensuring the needs of a highly skilled labor force and balance supply and demand on the labor market of the country.

The aims of migration policy are not limited to their achievement only at the national level. Questions about combating with illegal migration are traditionally considered when discussing the implementation of international programs to combat crime at every meeting of the MIA of RK. In order to manage the return and reception of migrants illegally staying on the territory of the contracting parties, Kazakhstan is considering the issue of readmission agreements with 12 countries in Europe and Central Asia. Currently signed readmission agreements with Germany, Norway, the Czech Republic, the Swiss Confederation, Latvia and Lithuania [6].

As a part of the legal framework of the Common Economic Space in respect of the freedom of movement of labor, the Law of the Republic of Kazakhstan dated June 27, 2011 ratified the Agreement on the Legal Status of Migrant Workers and Members of Their Families, signed the Governments of Belarus, Kazakhstan and the Russian Federation on November 19, 2010 in St. Petersburg [6].

At present the international legal framework in the field of migration are quite extensive. The proof is an agreement between the Government of Kazakhstan and other countries in the fight against illegal migration. Thus, the Government of the Republic of Kazakhstan dated December 8, 2011 approved the Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Estonia on cooperation in combating organized crime and other forms of crime, providing also the fight against illegal migration. It is also approved the Agreement between the Government of the Republic of Kazakhstan and the Government of the Russian inter-regional and cross-border cooperation, providing for cooperation in the fight against illegal migration. These examples are not exhaustive. Also acts concluded in Astana there are agreement between the states — participants of the CIS on exchange of information in the fight against crime, and the Convention on the Legal Status of Migrant Workers and Members of Their Families states. It is also approved the program of cooperation between the CIS member states in combating illegal migration for 2012–2014.

Within the framework of the Customs Union developed and ratified the agreement:

- Cooperation on combating illegal migration from third countries;
- Right on the status of migrant workers and their families.

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Kazakhstan's legislation in the regulation of migration processes improved at the present time. The latest innovation was the news that the activities of labor migrants in Kazakhstan plan to legalize. At the Majilis plenary session the Chamber approved the second reading of the draft law «On amendments and additions to some legislative acts of Kazakhstan on labor migration». «The main purpose of the bill is to legalize migrant workers, and improving state regulation of migration processes in terms of facilitating the issuance of permits for foreign labor by individuals», — said a member of the House Committee on Legislation and Legal Reform of Majilis Olga Kikolenko presenting Bill in Astana. According to her presentation, the adoption and implementation of the bill would lead to legalization of foreigners engaged in illegal employment, and improving the protection of the domestic labor market, increase revenues, reduce factors for corruption and immigration offenses. Deputies made new law legal concepts — immigrant labor, immigrant labor reso-

lution, prescribes a mechanism of entry and stay of labor migrants in Kazakhstan. As well as the procedure for issuing permits compulsory labor immigrants with the down payment of personal income tax. In addition it was accepted changes and additions to the Law «On Migration» regarding competence of bodies of internal affairs, the authorized body on migration aimed at the implementation of Presidential Decree of 16 January 2013 [7]. Legalization of migrant workers from CIS countries will be an effective way to implement the migration control.

Thus, migration is a social phenomenon that can bring benefits to society as well as a negative impact on it. In recent years, the scale of labor migration has increased significantly; the main factors contributing to this demographic and economic situation in the world. Kazakhstan has emerged as one of the largest centers of attraction of labor not only in the region but also in the world. Problem of illegal migration has become one of the causes of the demographic imbalance in the country, one of the global challenges of the XXI century. However, the regulation of migration processes in Kazakhstan solved as nationally and internationally. Today Kazakhstan is not only strengthening international cooperation in this field, but also improves the intrastate regulatory framework. All of this suggests show that the Republic of Kazakhstan can adequately cope with the global challenges of the twenty-first century.

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А.Божқараұлы

Қазақстан Республикасындағы көші-қон үрдісінің мемлекеттік-құқықтық реттелуі

Қазақстандағы көші-қон мәселесі өзінің күрделілігімен ерекшеленеді. Себебі онда құқықтық сұрақтардан басқа, саяси-экономикалық, демографиялық, әлеуметтік, этногеографиялық және экономикадағы еңбек ресурстары мәселелері де өзектілігімен көрінуде. Солардың ішінде заңдық аспектісі ерекше орынды иеленеді. Заң саласы көші-қон үрдісін ұйымдастыру, оны реттеуде, құқықтық қамтамасыз етуде маңызды роль атқарады.

А.Божқараұлы

Государственно-правовое регулирование миграционных процессов в Республике Казахстан

В статье отмечено, что проблема миграции в Казахстане характеризуется особой сложностью, так как в ней переплетены не только правовые вопросы, но и вопросы социологии, демографии, политической экономики, этногеографии, проблемы трудовых ресурсов в экономике. Определено, 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.

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К вопросу о понятии муниципального нормотворчества

В статье дана характеристика муниципальному нормотворчеству. Рассмотрены проблемы в сфере организации и регламентации местного самоуправления в Российской Федерации. Акцентируется внимание на существовании индивидуальных особенностей вопросов местного значения отдельно взятого муниципального образования.

Ключевые слова: органы государственной власти, нормотворчество, муниципальное образование, местное самоуправление, правотворчество, государственная власть, население, нормативно-правовые акты.

Местное самоуправление составляет одну из основ конституционного строя России, форму осуществления народовластия. Однако реализация любой формы власти возможна только через принятие компетентными органами и исполнение всем обществом в целом нормативно-правовых актов, регулирующих общественные отношения.

Муниципальное нормотворчество — одно из приоритетных направлений деятельности местного самоуправления, посредством которого реализуются его властные полномочия по управлению местным сообществом. В результате правотворчества создаются общеобязательные правила поведения — нормы, воплощаемые в принимаемых местным самоуправлением актах, которые в силу этого приобретают нормативно-правовой характер [1].

Нормотворческая деятельность проявляется на первой стадии правового регулирования. Она является одной из важнейших составляющих механизма правового регулирования в различных его трактовках [2].

Для того чтобы разобраться в нормотворческой деятельности органов местного самоуправления и дать определение понятию муниципального нормотворчества, необходимо понять суть создания и реализации местного самоуправления в Российской Федерации.

Согласно п. 2 ст. 4 Европейской хартии местного самоуправления от 15 октября 1985 г. органы местного самоуправления в пределах, установленных законом, обладают полной свободой действий для осуществления собственных инициатив по любому вопросу, который не исключен из их компетенции и не отнесен к компетенции другого органа власти [3].

Положения Европейской хартии отражены и дополнены в Конституции РФ. В соответствии со ст. 130 Конституции РФ местное самоуправление в Российской Федерации обеспечивает самостоятельное решение населением вопросов местного значения, а также согласно ч. 2 ст. 132 Конституции органы местного самоуправления могут наделяться законом отдельными государственными полномочиями с передачей необходимых для их осуществления материальных и финансовых средств.