About the legal regulation of migration processes in the CIS countries

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Abstract - The article describes some of the legal challenges of migration management in CIS countries. A classification of the causes of migration, the analysis of migration legislation.

Keywords – migration, migration processes, migration policy, regulation of migration.

The phenomenon of "migration" dates back to ancient times when there was a chaotic dispersal of tribes and nationalities. This is a natural manifestation of human mobility. It is due to various historical events - the conquest of new lands, rapid urbanization and industrialization, merging or splitting of states, natural disasters, global economic crises, etc.

Migration as a spatial movement of population is characteristic of all human societies. However, the direction intensity and consist of migration flow and its social, economic and demographic effects are significantly different not only in different historical epochs, but also in countries with different social systems, levels of economic development and territorial differential, climatic conditions and structure of the population.

The causes of migration, in our opinion, may be varied:

- Political, when the political situation in state interferes with normal social and cultural development, oppresses or discriminates against particular nations and peoples.

- Socio-economic, when the economic crisis accompanied by a decline in production, the growth of inflation, rising unemployment (especially hidden), which leads to lower living standards and the crisis in the social sphere.

- The military, when the population migrates to the result of military operations in their state [1]. For directions (based on the geographical feature) migration is divided into inner and outer. When the internal migration movement occurs within the state, between its territorial units, from city to city, from village to town. External migration is characterized by moving from one state to another. We will consider this external migration between the countries of CIS member states.

Migration processes were reviewed and considered by many scientists - sociologists, political scientists, internationalists, etc. [2, 3, 4, 5, 6]

In these works focuses on various aspects of migration, such as: history, diaspora, philosophical analysis of the phenomenon of migration, sociological studies, the legal regulation of immigration and population, administrative regulations, etc.

We will try to reveal the legal side of management of migration processes, which in our opinion is no less important. That regulatory framework can have an impact on migration flows: stimulates or creates barriers. In addition, the legal regulation may be directed to the migratory activity of certain segments of the population depending on age, sex, nationality, etc.

Once upon a time there was a unified empire called the Soviet Union, which represented an association of more than fifteen republics and autonomous regions, different from each other in many ways. This is a different nation and nationality, history, culture and traditions. But they all share a common Soviet space. There was free movement throughout the territory of the USSR, there were no national borders within the Union, were all citizens of the Soviet Union. After the collapse of the Soviet Union all these republics gained their independence, steel comes sovereign, began to build their own international relations and domestic politics of the state.

The emergence of new states, the formation of the Commonwealth of Independent States and the development of the national legislation of its member countries gave rise to the development of many important pieces of legislation. These acts are governed by complex and ever-increasing problems associated with migrants, including refugees, migrants, migrant workers. The existing socio-economic relations, the current world crisis has made adjustments to the process development and improvement of immigration laws.

At the stage of evolutionary development in the CIS countries is immigration law, which only begins to develop, which is reflected in the emergence of institutions and the rule of law. Of course, not all international standards are reflected in immigration law and practice of CIS countries.

So, still forms the legal framework, developed and implemented new regulations. However, to date there was no codification of immigration law, constitutional law is not sufficiently secure the subject of immigration law. However, the specific subject of legal regulation, institutions, and
uniform rules of evidence for accelerated formation of an independent branch of the national migration law in many countries of the CIS.

Most of them, given the generally accepted standards in the world, have joined the founding documents of international law, such as the Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights. These documents laid the foundation for the recognition and respect for human rights on a global dimension. Freedom of movement in these documents is one of the basic principles and it is the basis of immigration law.

The main institution of immigration law is the institution of citizenship, as in the regulation of migration processes play an enormous role the principles, procedures, methods and conditions for acquiring citizenship. The legal regulation of these factors is of particular importance, since each state protects its citizens by all available lawful means. And although the issues of citizenship are governed by domestic law, the development of this institution has a significant impact and international law.

Based on the overall political and legal history, in most CIS countries, the regulatory framework on citizenship has an overall specificity. In the first years after the collapse of the Soviet Union the newly formed states have adopted laws on citizenship, for example, in Kazakhstan the Law "On Citizenship" was adopted in December 1991, Russia - In November 1991, Belarus - In October 1991, Azerbaijan - in June 1990, entered into force in January 1991, Kyrgyzstan - December 1993, Moldova - in June 1991.

A common feature of legislation in the sphere of citizenship of the CIS countries is the recognition of all the citizens, who at the time of formation of the state resided in its territory. In addition, the citizenship laws stipulate as a condition for acquiring citizenship renunciation of foreign citizenship, permanent residence in the territory of a certain period (from 5 to 10 last year).

Regulation of citizenship may also be carried out within the framework of bilateral and multilateral agreements between individual states.

In January 1995 came the Treaty on the legal status of citizens of Russia and Kazakhstan, which together with the Agreement on the facilitation of acquisition of citizenship has created a legal framework to resolve migration issues.

In 1993 at a meeting of CIS leaders in Ashgabat, the Russian Federation presented a draft of the dual citizenship of the CIS countries, but it was not supported by other States Parties [7, p.18.].

November 6, 1997 is open for signature by the European Convention on Nationality, which defines some new policy orientations with respect to citizenship. Provided by the Convention on the rights of citizenship, honest and fair refugee status or citizenship. Fixed a guarantee that the conclusion or break a marriage does not automatically change the nationality will determine [8]. It should be noted that not all countries, including Kazakhstan, have joined the convention.

In addition to the laws "On citizenship" most of the CIS member states have also adopted regulations concerning the legal status of foreigners, refugees and displaced persons, stateless persons.

The legal status of foreigners and stateless persons in most cases determined by the constitutions. The legal status of foreign citizens and stateless persons, their rights, freedoms and duties, the procedure for resolving issues related to entry into and exit from it determine and fix the special laws. The most advanced in this regard, for example, Moldova [9], Kazakhstan [10], the Russian Federation.

In some cases, on whether permanently or temporarily residing in a particular State entity, the amount depends on the rights of foreign citizens and stateless persons. The procedure for issuing permits, such as residence permits, work permits and other issues related to immigration, the annual immigration quota established by the legislation of the host country [11].

As for the legal regulation of issues of refugees, many of the CIS countries to join an existing universal system of international legal protection of refugees. 1951 Convention on Refugees, together with the Protocol, ratified in 1967, Armenia, Azerbaijan, Georgia, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan and Turkmenistan.

In the framework of the CIS Convention adopted several regional solutions and agreements: the decision "On creation of the Interstate Fund for assistance to refugees and internally displaced persons" (Kyrgyzstan, Russian Federation, Tajikistan, Kazakhstan has signed but not ratified); agreement "on issues related to the restoration of the rights of deportees persons, national minorities and peoples, "the agreement" On assistance to refugees and internally displaced persons ", the Convention;" The Rights and Fundamental Freedoms "(Georgia, Kyrgyzstan, Moldova, Tajikistan)." On the Rights of Persons belonging to national minorities " (Georgia, Moldova, Turkmenistan, Ukraine).

Due to objective reasons, such as - the deterioration of the socio-economic situation, the sharp decline in living standards, the effects of armed conflicts have led to an unprecedented migration. The largest number of dimensions of labor migration is achieved in countries such as Armenia, Georgia and Tajikistan.

Cooperation on labor migration by the CIS countries through the conclusion of agreements on a common level, as well as bilateral agreements. Thus, Belarus has signed bilateral agreements "on labor and social protection of citizens who are working outside their home states," with the Russian Federation, Moldova, Ukraine, Lithuania, Latvia and Poland. Georgia and Germany have developed an agreement to exchange two thousand migrant workers. In April 1994, Kyrgyzstan and Russia concluded a bilateral agreement "on labor and social protection of migrant workers." Moldova has bilateral agreements "On the general use of migrant workers" with the Russian Federation (May 1993), Ukraine (December 1993), Belarus (May 1994). In general, the management of labor migration, social protection of migrant workers have not received adequate attention of the CIS countries and development [12].

Thus, the challenges have forced governments and legislative bodies of the CIS countries to seek and to take adequate measures to address the migration sphere. The
presence of many common approaches in the development of immigration law in the CIS shows a comparative analysis of the formation of migration policy and legislation of the former Soviet Union.

Migration Policy of Kazakhstan has developed in a special way.

One of the first government decision regulating the migration processes, was the adoption by the Cabinet of Ministers of Kazakh SSR decree "On the procedure and conditions for resettlement in the Kazakh SSR, indigenous people, willing to work in rural areas, from other republics and foreign countries" [13] in 1991.

In 1992 was passed, "Immigration Law" and the government has embarked on a deliberate policy of repatriation. Kazakhstan, one of the few countries that has been active diaspora policy, which aims to preserve ethnic identity, national identity for Kazakhs living abroad, which has strategic importance. In this regard, the President stated annual quota for the Kazakh population migration from the CIS countries and abroad.

In the first decade of the existence of sovereign Kazakhstan's legislation regulating migration relations developed rather chaotic and fragmented [14], which was due to the need for urgent action at the legislative level by circumstances. This, above all, the massive displacement of population in other countries, changes in the general situation on the labor market.

In 2009 launched the program "Nurly Kosh", designed in 2009-2011 [15]. It involves an increase in quotas to receive repatriates in 5000 families (from 15 to 20 000). Acceptance of repatriates and internal migration in addition to the program "Nurly Kosh" regulate the following valid documents: Territorial Development Strategy of Kazakhstan till 2015 [16], the State Programme for Rural Development of the Republic of Kazakhstan for 2004-2010 [17].

Finally, in 2011 in the Republic of Kazakhstan adopted a new law "On Migration" [18]. The new law stipulates that ethnic Kazakhs themselves have entered the territory of the Republic of Kazakhstan and staying on the territory of our country, file an application for inclusion in the immigration quota for repatriates in the management of migration police of the Territorial Department of the Interior. A resident outside the Republic of Kazakhstan with the proposed place of residence in Kazakhstan - in missions abroad. Overseas after receiving the Commission's consent to the inclusion in the quota, will assist in the resettlement of ethnic Kazakhs. However, foreign institutions MFA has not provided for this full-time employees.

The Act provides for the provision of adaptation and integration services oralman and their families. However, at present the country has only 4 centers and integration of repatriates.

Thus, the Act aimed at all the Kazakhs, regardless of the status oralman who arrived in the Republic of Kazakhstan for permanent residence in the historic homeland. Among those who have taken over the years of independence of Kazakhstan citizenship of the Republic of Kazakhstan, 98% are repatriates.

Legal scholars, practitioners, and the migrants themselves are unanimous in their opinion that the development of relevant sub-legal acts. Thus, to date, the Committee of Migration Police are developed and approval procedure of the Government of the draft decisions on the approval of the immigration quota for 2012-2014 repatriates, the rules included in the immigration quota for repatriates, rules of payment of lump sum benefits, differentiated according to regions and settlements including costs for primary adaptation, travel to their homes and possessions, and the allocation of funds for housing or receiving preferential credit loan for the construction, rehabilitation or acquisition of housing.

The main migration processes in Kyrgyzstan were formed from the migration mobility of the population of Slavic nationalities feel in the early nineties of the twentieth century, social discomfort. According to Gennady Kuma in 1992 was discounted the role of the Russian language in the life of a multinational republic. Parliament has not given even the Russian language the status of the language of interethnic communication, despite the fact that according to the census in 1989 than 1090 thousand people call this Russian native language, and a survey conducted among the population confirmed this fact [19].

Hope for the assistance of the international community was the main reason podvignuvshih while Armenia, Azerbaijan, Russia and Tajikistan to join the UN Convention on the Status of Refugees 1951 and Protocol 1967 not less, and seemed to be reasonable prospects of hope constructive cooperation between the CIS countries: in September 1993. signed an agreement on assistance to refugees and IDPs, which provided for the creation of a special fund of the Interstate assistance to refugees and internally displaced persons. At the same time agreement was signed on priority measures to protect victims of armed conflicts, a little earlier - the Agreement on matters relating to the restoration of the rights of deported persons, national minorities and peoples, and later - the Convention on the Rights of Persons belonging to national minorities. In fact, the whole of this period was marked by a balance between reliance on international assistance and cooperation within the CIS.

Overall, it is possible to allocate all the CIS countries during the migration, is the following: paramount emigrated representatives do not cover the nation, respectively, the titular nationalities immigrated, most of the immigrants of all countries of the CIS - Russian, the main motive for migration in the initial stage was to return to their historic homeland - repatriation.

The analysis shows that the evolution of immigration legislation in the countries of the CIS countries is based on the priorities of migration policy on a particular stage of development of statehood, as well as to address the problem areas that arise in the course of legal practice, further optimization of the legislation in the field of migration and improving the migration processes.
References


[13] The Cabinet of Ministers of Kazakh SSR № 711 "On procedure and conditions for resettlement in the Kazakh SSR, indigenous people, willing to work in rural areas, from other republics and foreign countries" on November 18, 1991


[15] The "Nurly Kosh" was approved by the Government of the Republic of Kazakhstan on December 2, 2008 № 1126.


[18] Law of the Republic of Kazakhstan on migration from July 22, 2011 № 477-IV SAM