THE CURRENT STATE OF THE MIGRATION SYSTEM OF UZBEKISTAN: EXISTING PROBLEMS AND THEIR SOLUTIONS

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ABSTRACT:

In this article, proposals and recommendations have been developed to systematize, liberalize and bring existing migration legislation in line with international standards, improve the organizational and institutional framework, as well as the development of regional and bilateral migration relations in Uzbekistan analyzing the current state of the migration system of Uzbekistan, the existing problems and their solutions.

Keywords: migration, internal migration, passport system, international standards, migration legislation, political asylum, citizenship, refugee.

In recent years, the migration process in Uzbekistan has also intensified. This is directly related to a number of factors, including social, economic and others. According to the information of State Statistics Committee. In 2015, 139,280 people moved to Uzbekistan. This figure was 141,548 in 2016, 157,149 in 2017, 160,103 in 2018, 158,861 in 2019, and 1,105 in 2020. There has also been a significant change in the proportion of emigrants. In particular, in 2015, 168,579 people emigrated from the country for permanent residence. This figure was 167,796 in 2016, 175,748 in 2017, 174,832 in 2018, 169,547 in 2019, and – 13,611 in 2020. These figures confirm that the internal and external migration processes in the country have become more active and the need to guarantee the rights of migrants has increased.

The views of President Shavkat Mirziyoyev on ensuring the natural rights of the population in this regard set the task of further improving the organizational, legal and institutional framework of public administration in the field of migration in the country: “Our position on this issue is clear: a person should work wherever he is to feed his family and children. But he must work honestly and earn money legally. Our state is ready to create all conditions for this”.

This, in turn, requires an in-depth study of the issues of effective regulation of migration processes. The results of the study show that the main directions of improving the passport system of the Republic of Uzbekistan should be focused on:

• to develop its scientific and theoretical bases, to enrich its conceptual aspects
• harmonization of legislation with international standards and norms of law, elimination of existing conflicts and legal gaps in them;
• modernization of its organizational and institutional bases, adaptation to modern requirements.

The scientific and theoretical foundations of the passport system are directly related to the procedures of the former Soviet era and were formed under its influence. This is evidenced by the fact that the terms "passport system" and "registration" ("propiska") remain the main categories of expression of the migration system in our legislation.
The practice of developed countries shows that the movement of the population in the internal and external spheres is now expressed on the basis of "migration" and other related concepts. The analysis of the concept of migration shows that it is a broader concept than the passport system, which covers not only citizens, but also foreign citizens and stateless persons, and is the main category of "Migration Law", which is now emerging as a separate branch of law.

In this regard, emphasizing the validity of the views of the legal scholar A.V. Semyonova that "the formation and implementation of basic concepts in the field of migration is one of the important directions of the strategy to improve the legislation in this area.", the formation and development of the base of scientific categories related to migration in the theory and legislation of our country is an important requirement of today.

Migration Law is a system of legal norms regulating migration relations arising as a result of entry, exit, stay in its territory, transit or residence.

In this regard, especially, lawyer D.N. Muydinov's proposal to establish a Research Center for Migration in the system (structure) of the Academy of Sciences of the Republic of Uzbekistan, as well as the introduction of special courses on globalization and migration in higher education can be fully supported.

According to the "migration status", Uzbekistan is one of the largest exporters of labor (more than imports). Therefore, according to the lawyer scholar L. Maksakova, the primary task for the state is to reduce the economic damage that can be inflicted through the management of unorganized, disorderly and illegal migration, and to achieve the prevention of human rights violations. To do this, in our opinion, first of all, it is necessary to carry out work in the following areas:

1. adaptation of national legislation to the requirements of international law, ie the recognition and ratification of universally recognized international standards;

2. recognition of the relevant parts of international documents of this category and their implementation in national legislation.

As a result of the analysis, it can be noted that the following issues contribute to the systemic persistence of migration-related problems in Uzbekistan, reducing the level of effective guarantees of human rights and freedoms in this regard:

1. Recognition and accession to universal concepts and standards recognized by the international community. To date, a number of systematic measures have been taken in Uzbekistan to ensure the rights of migrant workers. In particular, a specific regulatory framework has been formed in this regard. Existing national mechanisms have been further improved on the basis of decree of the President of the Republic of Uzbekistan dated August 20, 2019 No PF-5785 "On measures to further strengthen the guarantees of protection of citizens of the Republic of Uzbekistan and their family members engaged in temporary employment abroad" and resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated August 23, 2019 No 713 "On additional measures to protect the rights and legitimate interests of citizens of the Republic of Uzbekistan engaged in temporary employment abroad". However, these measures do not guarantee the rights and freedoms of Uzbek labor migrants and their families at the international legal level. That is, only the adoption and implementation of standards, defined as an international obligation, the obligation of the state to guarantee the rights of migrant workers, will create conditions for the state to protect the rights and freedoms of its citizens in the international arena.

In this regard, it is expedient to ratify “the Convention for the Protection of the Rights of Migrant Workers and Members of Their Families”, adopted by UN General Assembly Resolution 45/158 of 18 December 1990, and to explore the possibility of implementing its provisions in our national legislation.

2. Development of regional and bilateral migration relations. According to the study, in external migration, Uzbekistan interacts with the CIS countries in 87% of cases and with the rest of the world in 13%. This demonstrates the importance of bilateral agreements concluded by the Republic of Uzbekistan in the regulation of migration relations. Although bilateral agreements have been signed with Russia and Kazakhstan to protect the rights of migrants and combat illegal migration, the impact of these agreements is very low. That is, they do not adequately cover the mechanisms of protection of individual rights. In addition, there is a need to raise the level of combating
illegal migration to a new level by accounting for a single migration flow within the CIS, assessing the statistical status of these processes, coordinating cooperation between countries in the field of rapid information exchange. In this regard, it is appropriate to support L.X.Isakov's proposal to establish a specialized interstate migration body of the CIS member states with the status of a permanent commission.

Moreover, in order to combat illegal migration between the CIS countries and increase the level of protection of individual rights it is expedient to create and establish Regional Automated Migration Database of Migrants, which reflects necessary information about deported and banned, obtained a permanent or temporary residence permit, as well as a work permit, registered (excluded) persons. In our view, this base will, firstly, facilitate the regional regulation of migration relations; secondly, it creates conditions for the effective guarantee of the rights and legitimate interests of migrants within the region; thirdly, this step will pave the way for the creation of a single migration environment within the region, and in the future, the systematization of migration legislation.

3. Improving the organizational, institutional and practical framework of migration relations. The analysis in this direction clearly shows that there are a number of issues that need to be addressed in Uzbekistan. In particular, there is no practice in the country of generalization of information on migration accounting, coordination and management of functions of analysis of information of state bodies in the field of migration through a single state body. This, in turn, does not allow for a systematic study, identification, analysis and monitoring, prevention and forecasting of the causes and conditions of illegal (informal) migration, the factors that cause them, which negatively affect the future development of the country.

On this basis, there is a need to improve the system of coordination and management of migration relations in our country. In addition, in our view, in order to increase the level of protection of the rights and legitimate interests of Uzbek labor migrants, to enable them to work abroad in decent working conditions it is necessary to adopt intergovernmental "joint roadmaps" to ensure the rights of migrant workers (with clear organizational and practical mechanisms in this regard), and to develop programs of measures to assist each other in solving regional problems.

4. Systematization, liberalization and harmonization of existing migration legislation with international standards.

According to I.M. Zraeva, determining the effectiveness of legal regulation of migration is based on the following criteria: 1) the level of development of the terminological apparatus; 2) the accuracy of the legal regulation of liability for violations of migration legislation; 3) completeness of legal regulation of movement in the territory of the country; 4) the state of legal regulation of labor migration. In addition to the above, in our opinion, it is expedient to include in this list the basis of the activities of the competent state bodies for the full coverage of these relations. In general, based on these criteria, it is possible to determine the compliance of the migration legislation of the Republic of Uzbekistan with today's requirements.

Although the Law of the Republic of Uzbekistan № 510 "On ratification of the Constitution of the International Organization for Migration (Brussels, October 19, 1953)" was adopted on December 26, 2018 a normative basis for the fulfillment of the obligations provided for in it has not been created yet, ie there is no single structured legislation regulating these relations. This, in turn, requires a full inventory and comparative analysis of the existing regulatory framework.

When searching for normative legal acts with the word "migration" in the name through the National Database of Legislation of the Republic of Uzbekistan as of August 25, 2021 (https://lex.uz) only 13 documents (including 4 law, 6 presidential decrees, 3 government decree) were found to exist. For comparison, when such a search is carried out in the national databases of Russian and Kazakh legislation, there are 64 normative and legal documents in Russia (http://pravo.minjust.ru) and 101 in Kazakhstan (https://online.zakon.kz). It is obvious that the legislation in this area is not sufficiently developed. Furthermore one of the main reasons for this is the fact that in our system, formed based on the former Soviet Union, the same "passport system" (in 12 regulatory documents) and "registration" ("propiska") (in 34 legal documents) regulate migration processes. This shows the need to take the regulatory framework for the regulation of migration processes in our country to a new level, to instill a modern spirit in this regard.

If so, it should be noted separately, results of the study of the legislation of the United States ("The Immigration and Nationality Act of USA", "Immigration Reform and Control Act of the USA", "Illegal immigration reform and

By the Resolution of the 43rd Plenary Session of the Interparliamentary Assembly of the CIS Member States No. 43-3 of November 27, 2015, a model law on migration has been adopted and presented as a draft recommendation to States. This can serve as a guide for states to systematize migration legislation.

In addition, the views on the need for a unified system of migration legislation of the CIS countries, the need for codification in the example of Russia, put forward by Professor V.M. Redkous will also lead to the adoption of a single migration law for countries.

At present, the adoption of a single codified legislation in our country serves to resolve differences in the interpretation of legal norms in the field of migration, to systematize the existing regulatory framework, to identify and eliminate existing conflicts and legal gaps in this process, as well as to integrate the existing legal terminology into a single system.

On this basis, the proposal can be approved. At the same time, in our view, we must first address the issue of eliminating existing conflicts and legal gaps through a full inventory of existing legislation. Today in Uzbekistan there is a great need to harmonize the existing regulatory framework with international standards, the legal gaps that need to be addressed in the field of legal regulation of important areas of determining the legal status of the individual. The results of the study show that these measures should be implemented in the following promising areas: 1) development of the institution of political asylum in accordance with the principles of international law; 2) simplification of procedures for civil proceedings and liberalization of existing legislation.

The issues studied are the priorities that determine the political "image" of each state. In Uzbekistan, too, there is reason to believe that the normative base of the institution of political asylum is formed to some extent. In particular, by the Decree of the President of the Republic of Uzbekistan dated May 29, 2017 No PF-5060 "On approval of the Regulation on the procedure for granting political asylum in the Republic of Uzbekistan" the grounds, procedure and conditions for granting political asylum are set out (although the document does not mention the status of a "political refugee"). However, the results of a study of international law, including the requirements of the Convention relating to the Status of Refugees of 28 July 1951 (Article 12), show that a refugee's personal status is governed by the law of his (her) country of residence; determined by the law of the state. The above document (Decree No. PF-5060) does not meet the requirements even in terms of legal force. In addition, it does not fully reflect the legal mechanisms for the protection of the rights and legitimate interests of this category of persons (for example, the right to appeal against decisions).

On this basis, in our view, it is necessary to strengthen the legal basis for determining the (political) refugee status in our national legislation. In this regard, it is necessary to raise the above-mentioned legal document to the level of the Law of the Republic of Uzbekistan "On Refugee Status", mean the grounds for recognizing a person as a refugee, the rights and obligations of refugees, the grounds for loss or deprivation of refugee status, the grounds for deportation, their right to appeal, as well as the procedure for ensuring international cooperation on these issues.
In recent years, the work to reduce the statelessness of an individual in Uzbekistan has reached a new level. In particular, according to the Ministry of Internal Affairs of the Republic of Uzbekistan, in 2017 - 1064 people, in 2018 - 2760 people, in 2019 - 5650 people, in 2020 - 8310 people were granted citizenship of Uzbekistan. As a result of the adoption of the Law No. ZRU-610 "On Citizenship of the Republic of Uzbekistan" dated March 13, 2020, conditions have been created for the granting of citizenship status to about 50,000 stateless persons permanently residing in our country.

It is obvious that the reforms in this area are aimed at eliminating the trend of statelessness, meeting the requirements of international law on the basis of minimizing these indicators. However, in our view, the systematic implementation of these organizational measures, as well as the need to bring our national legislation in line with international standards. In particular, the ratification by Uzbekistan of the Convention on the Reduction of Statelessness of August 30, 1961 (at least in the national interest) serves first, to further improve the positive "image" of the Republic of Uzbekistan in the international arena; secondly, to further develop the legal framework for reducing statelessness in the country; to a certain extent to bring national legislation in line with international standards.

In recent years, along with the legal regulation of migration processes in our country, a number of important measures have been taken to ensure the passport and visa system in accordance with modern requirements. In particular, the organizational, legal and institutional framework for the implementation of modern innovative methods in the management of migration processes has been created. The system and procedures for providing public services in the field of passport and visa have been significantly simplified.

By the decree of the President of the Republic of Uzbekistan dated April 10, 2017 No PF-5005 "On measures to radically increase the efficiency of law enforcement agencies, strengthen their responsibility to ensure public order, reliable protection of the rights, freedoms and legitimate interests of citizens", the "comprehensive program of measures to radically reform the system of internal affairs" was approved.

With this document on the basis of the Department of Immigration, Emigration and Citizenship of the Ministry of Internal Affairs, the General Directorate of Migration and Citizenship has been established and the tasks of wide introduction of information and communication technologies in the system (paragraph 5) and modernization of the "passport-visa" system (paragraph 55), which provides for the updating of interdepartmental software.

By the resolution of the President of the Republic of Uzbekistan dated July 11, 2017 No PP-3126 "On measures to radically improve the activities of law enforcement agencies in the field of migration and citizenship" an electronic system has been set up to provide simplified procedures for issuing biometric documents, reviewing and processing documents for travel abroad, permanent and temporary registration, location registration, and provision of public information on address information.

By the resolution of the President of the Republic of Uzbekistan dated July 4, 2018 No PP-3836 "On additional measures to optimize the procedure for entry of foreign citizens to the Republic of Uzbekistan" the system of registration and issuance of electronic entry visas "e-visa.uz" has been launched. The State Center for Personalization under the Cabinet of Ministers of the Republic of Uzbekistan is responsible for coordinating the activities of this system and processing the available data.

Based on the requirements of the Regulation on the procedure for registration of foreign citizens and stateless persons in the territory of the Republic of Uzbekistan at the place of temporary residence by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated September 28, 2020 No 59, a special electronic automated program for registration of residents of dormitories, accommodation facilities and medical institutions owned by private homes, enterprises, organizations and institutions (E-guest) has been created. Automated information system that provides for the registration of foreign citizens and stateless persons permanently residing in other regions of the country by the Department of Migration and Citizenship of the Ministry of Internal Affairs at the place of temporary residence through interagency electronic cooperation (Adress system) has been improved.

By the decision of the Prosecutor General's Office, the Ministry of Internal Affairs and the State Security Service of the Republic of Uzbekistan dated October 23, 2019 No 52/82/27, the procedure for interdepartmental cooperation to ensure the temporary restriction of the departure from the Republic of Uzbekistan of a debtor individual who has not executed a writ of execution or a court document that is a writ of execution for unjustified
According to this, after the decision is made to temporarily restrict the debtor's travel abroad, the information about the restriction is automatically sent to the General Directorate of Migration and Citizenship of the MIA and the Border Troops of the State Security Service through the Unified Interagency Electronic Cooperation System.

Despite the measures taken, the existence of institutions and mechanisms in the national passport and visa system of Uzbekistan, which still need to be improved, is clearly visible. As of the beginning of 2021, Uzbekistan ranked 86th in the updated ranking of world passports published by the international consulting company Henley & Partners (H&P). This rating is based on the number of countries where a passport holder can enter without a visa. According to this, citizens of Uzbekistan can enter 57 countries without a visa or obtain a visa upon arrival.

It is obvious that in the international arena, Uzbekistan's rating on guaranteeing the right to freedom of movement is insufficient. Therefore, in our view, the country needs to automate the passport and visa system, further improve the quality of public services in this area. To do this, it is necessary to pay close attention to the organizational mechanisms of the analyzed industry.

Based on the results of the study of law enforcement practice, it can be concluded that today in our country it is expedient to introduce the following procedures, including a system of public services in electronic form:

1. introduction of a system of sending inquiries on the status (stage) of consideration by the competent authorities of applications of foreign citizens and stateless persons for a permanent residence permit or a permanent residence permit in the Republic of Uzbekistan;

2. introduction of a system of familiarization with the decisions made by the competent authorities on permanent or temporary registration in the country;

3. creation of favorable conditions for persons (citizens) permanently residing abroad to pass through the consular account;

4. introduction of a system of verification of civil, communal or other types of indebtedness of a person, which is the basis for travel abroad and acquisition of citizenship of the Republic of Uzbekistan;

5. introduction of a system for informing citizens and stateless persons permanently residing in Uzbekistan about employment opportunities abroad;

6. introduction of a system for obtaining certificates of citizenship of the Republic of Uzbekistan or a permanent residence permit in the country;

7. Introduction of a system of sending a request to consular offices to obtain a certificate of return to the Republic of Uzbekistan in case of loss of passports or other identity documents of citizens and stateless persons abroad.

In our opinion, the organization and implementation of fundamental and scientific-innovative projects and state grants aimed at improving the organizational, legal and institutional mechanisms of migration processes in the Republic of Uzbekistan, addressing the following issues related to migration are important requirements today:

- development and adoption of a draft concept of public policy defining the goals, objectives, principles of migration policy in the country, as well as priorities and development prospects;

- through scientific analysis of the problems of systematization of existing legislation in the field of migration, identification of their features and patterns (trends) – development and adoption of a draft Migration Code; development and adoption of a draft Presidential Decree on the clear delimitation of tasks, powers and responsibilities of state bodies in the field of migration, the implementation of a unified state policy in this area through the abolition of their duplicative functions, coordination and effective management;

- creation of a mobile application "Musofir" and a bot "Migration Counseling (MM)" on the social network Telergam; serving to further expand the geography of effective migration through the widespread introduction of modern information and communication technologies and tools, advanced methods and forms of work in the
management of tourism and migration processes, increasing the volume of interactive public services in these areas, containing a migration database;

development of scientific conclusions and recommendations on the ratification of the UN Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or its specific norms;

in order to simplify and optimize the population registration system, further expansion of the range of services provided by public service centers in the field of migration, citizenship and passport and visa, development of mechanisms for effective regulation of internal migration providing for the introduction of convenient means of identification (ID-card) for the population (including foreign citizens and stateless persons permanently residing in the country), automated registration of tourists (including on the basis of the "migration card" system);

development of a special curriculum for teaching the subject of "Migration Law" as a separate field of law in the training of personnel for the competent state bodies in the field of migration, preparation of textbooks, manuals, various visual aids on the basis of this program.