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## Main directions in the development of uzbek legislation on migration

### Sakhipjamal DJOLDASOVA11

Academy of the MIA of the Republic of Uzbekistan

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### **ABSTRACT**

Migration has become one of the main factors that influence the socio-economic development and policies of states in the era of globalization and changes taking place in the world. This scientific article analyzes the main directions in the development of the migration legislation in the light of the reforms carried out under the Action Strategy on five priority development areas of the Republic of Uzbekistan in 2017-2021, which determined the modern migration policy of Uzbekistan. There are new trends identified in migration legislation which are aimed at simplifying the procedures for entering and leaving the country, receiving citizenship, through the introduction of information technology and the provision of services on the principle of "one-stop shop". The article indicates the urgency of protecting the rights and interests of citizens working abroad.

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# Ўзбекистон республикасининг миграция соҳасидаги қонунчилиги ривожланишининг асосий йўналишлари

### Калит сўзлар:

Миграция Миграция сиёсати Миграция қонунчилиги Меҳнат мигрантлари

### *RИЦАТОННА*

Глобаллашув ва дунёда рўй бераётган ўзгаришлар жараёнида миграция давлатларнинг ижтимоий-иқтисодий ривожланиши ва сиёсатига таъсир етувчи асосий бирига айланди. Илмий омиллардан мақолада Узбекистоннинг амалдаги миграция сиёсатини белгилаб берган 2017-2021-йилларда Ўзбекистон Республикасини ривожлантиришнинг бешта устувор йўналиши бўйича Харакатлар стратегияси доирасида амалга оширилган

E-mail: sakhipjamal.djoldasova@gmail.com

 $<sup>^{1}</sup>$  Doctor of Philosophy in Law, Associate Professor, Academy of the MIA of the Republic of Uzbekistan Tashkent, Uzbekistan



ислохотлар асосидаги миграция қонунчилигини ривожлантиришнинг асосий йўналишлари тахлил қилинди. Миграция қонунчилигида янги тенденциялар аниқланиб, улар мамлакатга кириш ва чикиш, фукаролик олиш, ахборот технологияларини жорий етиш ва "ягона ойна"тамойили хизмат кўрсатиш тартиб-таомилларини асосида қаратилган. Мақолада соддалаштиришга хорижда ишлаётган фукароларнинг хукук ва манфаатларини химоя қилиш долзарблиги кўрсатилган.

### Основные направления развития законодательства Республики Узбекистан в сфере миграции

### **РИДИТОННА**

# Ключевые слова: Миграция Миграционная политика Миграционное законодательство Трудовые мигранты

В процессе глобализации и перемен, происходящих в мире, миграция явилась одним из основных фактором, влияющих на социально-экономическое политику государств. В научной статье проанализированы основные направления развития законодательства в сфере миграции в свете реформ, осуществляемых в рамках Стратегии действий по пяти приоритетным направлениям развития Республики Узбекистан в 2017 - 2021 годах, которые определили современную миграционную политику Узбекистана. Выявлены новые тенденции миграционного законодательства, которые направлены на упрощение процедур въезда в страну и выезда из нее, приема в гражданство, путем внедрения информационных технологий и оказания услуг по принципу «единого окна». Показана актуальность защиты прав и интересов граждан, осуществляющих трудовую деятельность за рубежом.

To freely move around the territory of the country, to choose own place of residence and stay, to leave the country and return to it are inalienable human rights and freedoms in a modern democratic society. These rights, fundamental among universally recognized human rights, are reflected in the Universal Declaration of Human Rights, adopted by the UN General Assembly in 1948 and are included in the provisions of the Constitution of the Republic of Uzbekistan.

The article 28 of the Constitution of the Republic of Uzbekistan establishes the right of a citizen of the Republic of Uzbekistan to free movement within the territory of the republic, entry into and exit from the Republic of Uzbekistan.

Indicated constitutional norms are inextricably linked with the realization of other constitutional rights of citizens, such as the right to housing, the right to work, the freedom to conduct business, the right to social security and others. Since these rights are associated with the person and will of a person, and are inalienable for him/her, this article is placed in Chapter VII named "Personal rights and freedoms".

According to the International Organization for Migration, if the estimated number of international migrants in 2000 comprised 150 million, in 2020 the number increased



up to 272 million and comprised 3.5% of the world population (in 2000 - 2,8 %). Out of 272 million migrants in 2020, 164 million (60.3%) are labor migrants, women and children - 61.8%, refugees - 9.5%, internal migration - 15.1% [1. P. 10].

The migration process also affected Uzbekistan. According to the State Committee of the Republic of Uzbekistan on Statistics, in 2018 the number of arrivals was 160,103 in 2019 this figure stood at 158,861. The largest share of arrivals from abroad to the Republic of Uzbekistan (in % of the total number of arrivals from abroad) falls on arrivals from the Republic of Tajikistan (26.2%), the Republic of Kazakhstan (24.9%) and the Russian Federation (21.4%), and the smallest - for the Republic of Kyrgyzstan (16.4%) and other countries (11.1%) [2. P. 319].

The rate of departures from the country is much higher than those of arrivals. So, if in 2018 the number was 174 832 people, then in 2019 it was 169 547 people. The largest share of those who left the Republic of Uzbekistan abroad (in% of the total number of those who left abroad) is accounted for by those who left for the Republic of Kazakhstan (47.9%) and the Russian Federation (45.6%), and the smallest - for Israel (1.1%), The United States of America (0.7%) and other countries (4.7%) [3. P. 319]. The numbers in 2020 are naturally not comparable with previous years. In connection with the announcement of a pandemic around the world due to the spread of the COVID-19 virus, the borders between countries are working in a limited mode.

Generally these indicators show that migration is a dynamic process and has been developing at a rapid pace over the past twenty years. Positive and negative events taking place all over the world serve as factors in the development of migration processes.

The certain forms of migration in general and specific migration processes affect the country's economy, socio-political situation, national relations, demographic changes, i.e. there is an inverse relationship. That is why the comprehension, analysis and forecast of new trends in the development of the migration movement are especially relevant. The thorough study will allow one to anticipate the emergence of negative phenomena and prepare for them, help to identify the main trends in migration processes and develop a new migration policy [4. P. 4].

It should be noted that the country's migration policy[5] is based on the provisions of the constitution. Constitutional norms establish general approaches and provisions in relation to the conditions of the state and its current situation with migration and determine the foundations of the legal status of citizens, foreign citizens, and stateless persons The mechanisms for implementing the migration policy are carried out through migration legislation. The latter establishes the procedure for obtaining citizenship, entering and leaving the country, residence order, the powers of the subjects of the migration process (individuals, public organizations, government bodies), etc.

The migration legislation of Uzbekistan consists of the Constitution of the Republic of Uzbekistan, the law of the Republic of Uzbekistan "On the population census", "On employment of the population", "On citizenship", " On the list of categories of personscitizens of the Republic of Uzbekistan subject to permanent registration in the city of Tashkent and the Tashkent region", "On private employment agencies."

Moreover, a number of decisions were adopted by the President of the Republic of Uzbekistan to further improve the passport system, to improve the procedure for the departure of citizens of the Republic of Uzbekistan abroad, to optimize the procedure for entry of foreign citizens into the Republic of Uzbekistan, to introduce a system of safe,



regular and legal labor migration and a number of other regulatory legal acts, including departmental regulatory legal acts of state bodies, whose functions include the regulation of issues related to the implementation of the state's migration policy.

The analysis of national legislation shows that the main directions of migration policy in Uzbekistan are the following: simplification of procedures for entering and leaving the country, staying and moving around the country, improving the procedure for granting citizenship; streamlining the system of external labor migration; improving the mechanisms for attracting foreign labor; improvement of mechanisms for prevention, warning, detection and putting an end to violations of migration legislation; development of international cooperation in the field of migration.

### Simplification of procedures for entering and leaving the country, staying and moving around the country.

Over the past year, this direction was reformed with the aim to improve the activities of the internal affairs bodies in the field of migration processes and registration of citizenship. We could witness an introduction of the electronic system for the provision of public services and regulation of the reception of citizens on the passport system, providing a contactless form of interaction. So, in accordance with the Decision of the President of the Republic of Uzbekistan dated December 26, 2018 under No. PP-4079[6], starting from 2021, a system for processing and issuing identification cards (ID-cards) is to be introduced instead of the biometric passport (sample of 2011) of a citizen of the Republic of Uzbekistan.

In accordance with the Decree of the President of the Republic of Uzbekistan dated September 22, 2020 under No. UP-6065, citizens of the Republic of Uzbekistan, foreign citizens and stateless persons permanently residing in the Republic of Uzbekistan can apply to any divisions of migration and registration of citizenship of the internal affairs bodies for obtaining and replacement of the identification ID-cards, for replacement - also to public service centers, for issuing an ID card to a newborn at the discretion of his parents, guardians (trustees) after registration by the registry office and the provision of a birth certificate without its mandatory issuance.

### Improving the procedure for granting citizenship.

The new version of the Law "On Citizenship of the Republic of Uzbekistan" adopted on March 13, 2020 simplified the recognition of citizenship of the Republic of Uzbekistan in relation to a stateless person. So, if during the period 1991-2016 482 stateless persons permanently residing in the Republic of Uzbekistan have been granted citizenship, from 2016 to 2019 this number increased up to 8 054. At the same time, 95 857 stateless persons living in the country, with the adoption of this Law, will able to obtain the citizenship of the country in which they live on a permanent basis.

Furthermore, this Law specifically establishes the types of admission to citizenship of Uzbekistan: in a general, simplified and exclusive order. The general procedure provides for continuous residence for five years on the territory of the Republic of Uzbekistan from the date of obtaining a residence permit for a stateless person until the day of applying for the citizenship of the Republic of Uzbekistan. At the same time, the period of residence in the territory of the country is considered continuous if the stateless person traveled outside its borders in aggregate for no more than one hundred and eighty-three days



within one year. The simplified procedure provides for the presence of one relative in a direct ascending line, living in the territory of the Republic of Uzbekistan and being a citizen of the Republic of Uzbekistan. The exceptional procedure provides for admission to citizenship based on the national interests of the country. The new Law is specific with a prerequisite for these three types of admission to citizenship which is the knowledge of the state language within the limits necessary for communication.

The adoption of the new law was a new step in bringing Uzbekistan's legislation closer and in line with the UN conventions, in particular the Convention on the Reduction of Statelessness.

### Streamlining the system of external labor migration

Provides for a radical revision of the forms of employment of citizens abroad, ensuring the protection of the labor and social rights of citizens leaving for work outside the republic, expanding the involvement of labor migrants who have returned from abroad in business and labor activities.

### Implementation of this direction of Uzbekistan's migration policy:

A number of measures were taken to streamline the processes of external labor migration, conclusion of international agreements on the organized recruitment of citizens for labor activities abroad, creation of favorable conditions to ensure their safe passage to the place of work outside the republic.

To achieve these goals, the Agency for External Labor Migration has been established under the Ministry of Employment and Labor Relations of the Republic of Uzbekistan[7]. The activities of the established Agency are aimed at effective management and control over the processes of organized recruitment, training, adaptation measures and employment abroad, assistance in the employment of citizens who have returned from labor migration, interaction with the competent authorities of foreign states on the regulation of the processes of employment of citizens of the Republic of Uzbekistan abroad and ensuring their labor rights.

In addition, under the Ministry of Employment and Labor Relations of the Republic of Uzbekistan, a Fund has been established to support and protect the rights and interests of citizens working abroad[8]. The Fund finances events on the provision of legal and social protection, material assistance to citizens who have been subjected to violence, forced labor and discrimination, violation of labor and other rights, those who have found themselves in a difficult financial situation and left without identity documents, means of subsistence during the period of employment abroad, etc.

### Improvement of mechanisms for attracting foreign labor.

It should be noted that in most developing countries the attraction of foreign labor is important for solving two important issues: first, the attraction of qualified specialists to the demanded (new) areas and spheres of public relations, second, a shortage of labor resources (most often associated with demographic regression and / or disproportion in the location of the population in the regions).

The country's migration policy in this direction is based on a selective approach to the inflow of foreign migrants, primarily aimed at attracting qualified foreign specialists, which contribute to a greater increase in gross domestic product in comparison to the



inflow of foreign investment. The criteria for the designation of "highly qualified specialists", "qualified specialists" were defined in order to create favorable conditions for the implementation of labor activities by qualified foreign specialists, to increase the investment attractiveness of the Republic of Uzbekistan and raise it to a completely new level, as well as to stimulate the attraction of competitive human resources. In addition, starting from December 1, 2018, the requirement to obtain (extend) permits to attract foreign labor to the Republic of Uzbekistan in terms of highly qualified and qualified foreign specialists has been canceled. The extension of the validity period of working visas issued to highly qualified and qualified specialists is carried out without the need for them to leave the territory of the Republic of Uzbekistan for the duration of the labor or civil law contract, but for no more than 3 years in each case[9].

It should be noted that the draft Law "On the Legal Status of Foreign Citizens and Stateless Persons in the Republic of Uzbekistan" is currently under discussion in the country's parliament. The draft law contains norms defining the legal status of foreign citizens and the procedure for foreign citizens to pass administrative and civil procedures on the territory of the Republic of Uzbekistan.

## Improvement of mechanisms for prevention, warning, detection and suppression of violations of migration legislation.

The Ministry of Internal Affairs of the Republic of Uzbekistan and its territorial divisions have been tasked in this direction with strengthening preventive measures among employees of migration and registration of citizenship departments, eradicating manifestations of corruption and abuse of authority in the provision of public services to the population, as well as improving the system of prevention, detection and suppression of violations of the rules of the passport system, facts of illegal migration on the basis of a comprehensive study of the reasons and conditions that contribute to them.

The tasks indicated are performed by the divisions of migration and registration of citizenship of the internal affairs bodies. In particular, monitoring compliance with the rules of the passport system, identifying persons inclined to violate the established procedure for crossing the State Border of the Republic of Uzbekistan, as well as organizing preventive conversations with citizens of the Republic of Uzbekistan and with stateless persons who have returned on the basis of a return certificate (migration certificate), while applying for a new passport (residence permit) to replace the lost one, etc.

In addition, there are measures applied to open and organize the activities of representative offices of the competent authorities of the Republic of Uzbekistan in the field of migration on the territory of foreign states, primarily with the largest number of staying citizens of the Republic of Uzbekistan. So, on April 5, 2017 in Moscow, the Government of the Republic of Uzbekistan and the Government of the Russian Federation signed an agreement on the mutual establishment of representative offices of competent authorities in the field of migration. The representative offices carry out their activities under the general guidance of the heads of diplomatic missions of their states in the host state. Consulates General of Uzbekistan have already been opened in such cities as Moscow, St. Petersburg, Novosibirsk and Rostov-on-Don.

Development of international cooperation in the field of migration.



International cooperation in this area primarily provides for the conclusion, if necessary, of international treaties, taking into account the main directions of the migration policy of the Republic of Uzbekistan and ensuring mutual interests between states.

In this sphere, a number of implemented measures were aimed at enhancing cooperation, exchange of experience with foreign states in this area within the framework of concluded international agreements. In particular, agreements have been concluded with the nearest neighboring states providing for the conditions for mutual trips of citizens. For instance, the Republic of Uzbekistan concluded intergovernmental agreements on mutual trips of citizens with Turkmenistan, Tajikistan, Kazakhstan, Kyrgyzstan, etc.

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- 5. В научной литературе имеется различный подход определения термина «миграционная политика». Одни авторы отталкиваются от необходимости взаимодействия между государствами, т.е. вопросы въезда и выезда, а другие трактуют ее как внутреннюю систему мер государства. Проблемой миграции и миграционной политики занимались ученые экономисты, политологи, социологи и юристы. См. также: Хаммар Т., Брочман Г., Томас К., Файст Т. Международная миграция, Статика и динамика. Междисциплинарные перспективы. Оксфорд, 1997; Геддес А. Миграционная политика и Иммиграция в Европе. Лондон, 2003; Основы миграционной политики / под общ. ред. И.Н. Барцица. М.: Изд-во РАГС, 2008.; Волох В. А. Формирование и реализация государственной миграционной политики Российской Федерации в сфере вынужденной миграции и предоставления убежища. Монография. // М.: Издательство «Спутник+», 2009 и др.
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- 7. Постановление Кабинета Министров Республики Узбекистан от 12 сентября 2018 года № 725 «О мерах по дальнейшему совершенствованию и коренному пересмотру системы организованного трудоустройства граждан Республики Узбекистан за рубежом» // <a href="https://lex.uz/docs/3903307">https://lex.uz/docs/3903307</a>.
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внешней трудовой миграции Республики Узбекистан» // <a href="https://lex.uz/docs/3811317">https://lex.uz/docs/3811317</a>.

9. Постановление Президента Республики Узбекистан от 7 ноября 2018 года № ПП-4008 «О мерах по созданию благоприятных условий для осуществления трудовой деятельности на территории Республики Узбекистан квалифицированными специалистами иностранных государств» // https://lex.uz/docs/4045557.