



THE IMPORTANCE OF ADMINISTRATIVE AND LEGAL REFORMS IN REGULATING MIGRATION

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Annotation. The article reflects an analysis of administrative and legal norms regulating certain social relations in the field of migration in our country, as well as conclusions about the prospects for their improvement.

Key words: migration, migration process, administrative legislation, rules of the passport system, Code of Administrative Responsibility, sanction, administrative penalty, fine.

In the process of global migration, international policy in this field is primarily focused on ensuring economic growth, innovation, and sustainable development. Secondly, it aims to prevent conflicts between individuals, society, and the state, particularly the abuse and exploitation of migrants. Thirdly, it is concerned with modernizing the organizational and legal frameworks that protect the rights and legitimate interests of migrants.

In accordance with the priorities of the Strategy of Actions for the Further Development of the Republic of Uzbekistan in 2017-2021 [1] and the Development Strategy of New Uzbekistan for 2022-2026 [2], the further improvement of state management in the field of migration and its legal foundations has become one of the important areas of legislative practice in the process of administrative reforms.

The peculiarity of administrative reforms in this area lies in the fact that they are based on the great principles of "human interests are above all," "the state bodies should serve the people, not the other way around," and "for the sake of human dignity." Firstly, these reforms are significant in relation to socio-economic spheres aimed at further guaranteeing citizens' personal rights to free movement, creating favorable conditions for their labor activities abroad, and shaping the investment climate through the development of domestic and foreign tourism. Secondly, they are important in terms of political aspects aimed at ensuring the security of individuals, society, and the state. Thirdly, they are significant in strengthening the legal foundations for liberalizing and optimizing administrative liability issues in regulating social relations.

In our opinion, among these factors in the regulation of all relations in the field of migration, first and foremost, the free movement of a person, migration from one place to another, stay in a certain territory and exit from it, permanent and temporary registration, as well as the strengthening of national legislative acts, in particular, the administrative and legal framework in the regulation of their actions and inaction in this regard, is of great importance.

This, on the one hand, serves the legal regulation of the aforementioned issues, and on the other hand, allows for the identification and elimination of conflicts and legal gaps in the use of punitive measures used by entities engaged in migration activities in law enforcement practice.

Legal scholars have studied the legal aspects of regulating this area, in particular, issues related to the international legal status of labor migrants (K. Aripov) [3], the protection

of their rights (S. Ishankhodjaev) [4], the provision of the passport system (J. Yuldashev) [5], organizational and legal foundations (L. Isakov) [6], problems of legal regulation (L. Maksakova) [7], or their impact on societal stability (D. Muydinov) [8].

These scientific and monographic studies have developed conclusions on the regulation of certain issues related to migration processes and have been introduced into law enforcement practice to a certain extent. However, in our view, within the framework of these social relations, there is a need for further improvement of legislation in this area from the perspective of revising certain administrative offenses and certain norms related to the application of its sanctions.

Before analyzing the significance of the issue under analysis or some problems encountered in law enforcement practice, it is first necessary to dwell on some changes in the legislation on migration processes introduced in our country over the past period.

Since the rules related to the passport system, which is one of the means of regulating migration processes, are directly regulated by dispositions and sanctions in administrative legislation, in our opinion, these norms have a greater legal impact on the regulation of social relations arising between the individual, society, and the state compared to other types of documents.

From this perspective, surveys conducted during the research revealed that in the legal regulation of migration processes, 43.8% of respondents emphasized the importance of laws (codes), 38.5% highlighted presidential and Cabinet of Ministers' sub-legislative documents, 13.5% noted international documents, and 4.2% pointed out departmental documents as being more significant [9].

The emergence of these approaches largely depends on the extent to which mechanisms for ensuring the principles of rule of law have been implemented in society. Consequently, if violations related to migration processes are not regulated by specific norms, the occurrence of violations and factors influencing them will become a natural phenomenon. In this case, not only citizens (including foreign citizens and stateless persons), but also employees of state and non-state organizations and institutions are required to unconditionally obey the norms of the law.

The Code of Administrative Responsibility of the Republic of Uzbekistan, which regulates social relations in the field of administrative responsibility (Chapter 16, Administrative Responsibility for offenses that encroach on the established order of management), introduced clear dispositions and sanctions for the application of administrative responsibility for certain offenses related to internal and external migration processes. Subsequently, liability for some offenses was liberalized, while for others, it was abolished.

In particular, following the terrorist attacks in Tashkent that threatened the country's stability (February 16, 1999), within the framework of public security reforms, the revision of liability issues for administrative offenses related to violations of passport system rules, based on an analysis of existing problems in the law enforcement system, served to some extent to legally regulate these issues at that time.

The Law of the Republic of Uzbekistan dated April 15, 1999 (No. 772-I) introduced amendments and additions to Articles 223-225 of the Code of Administrative Offenses, and existing dispositions and sanctions were revised based on the nature and consequences of the committed offenses.

Specifically, in part 1 of Article 223 (violation of passport system rules), administrative penalties were increased for citizens required to have a passport who live without a passport or with an invalid passport, without temporary or permanent registration, intentionally damage their passport, or carelessly store it resulting in its loss (from one to three times the base amount). Parts 2-4 increased penalties for using a passport for malicious purposes (from five to ten times), for persons responsible for compliance with passport system rules allowing individuals to live without a passport, with an invalid passport, or without registration (from three to ten times), or for officials hiring such individuals, confiscating or holding passports as collateral (from five to fifteen times the base amount).

With this law, the offense specified in Article 224 of the Code of Administrative Offenses (violation of the rules of entry into the border zone or residence in this zone) is classified more broadly, and the liability for violating the rules of entry into the border zone or residence in this zone is not limited to one, but the amount of punishment for violating the rules of entry and residence in the border zone, as well as in places where the entry and stay of citizens are temporarily restricted, is up to three times.

Also, according to part 2 of Article 225 of the Code of Administrative Offenses (violation of the rules of stay in the Republic of Uzbekistan), the amount of the current penalty for violating the procedure for receiving foreign citizens and stateless persons provided for in the rules of stay in the Republic of Uzbekistan is up to fifteen times, and in part 3 of the Code of Administrative Offenses, the amount of the fine for committing the offense specified in the disposition of this norm by a citizen who invited foreign citizens and stateless persons to the Republic of Uzbekistan on a private case

Subsequently, the determination of the amount of the sanction for the offense specified in Part 3 of Article 225 by the Law of the Republic of Uzbekistan dated December 15, 2006 (No. LRU-70) from ten to one hundred times served, firstly, to ensure the timely adoption of appropriate measures by a citizen who invited foreign citizens and stateless persons to the Republic of Uzbekistan on a private case (provision of housing, vehicles), and secondly, to prevent the emergence of various negative factors that threaten public and state security related to foreign citizens and stateless persons.

At the next stage, in connection with the approval of the list of categories of persons - citizens of the Republic of Uzbekistan subject to registration at the place of permanent residence in the city of Tashkent and Tashkent region by the Law of the Republic of Uzbekistan adopted on September 14, 2011 (No. LRU-296) on the basis of the Law of the Republic of Uzbekistan dated December 29, 2012 (No. LRU-345) amendments were made to the provisions of Article 223 of the Code of Administrative Offenses of the Republic of Uzbekistan in terms of technical characteristics (without registration at the place of stay).

By 2016, issues of administrative liability for internal migration offenses had been re-examined, individual norms and sanctions were strengthened for each act, and some contradictions encountered in the application of administrative practice in this regard were resolved.

In particular, in accordance with the Law of the Republic of Uzbekistan dated April 25, 2016 (No. LRU-405) for the violation of part 1 of Article 223 of the Code of Administrative Offenses, firstly, the amount of this sanction, which is applied from one to three times, is clearly defined as three times, and secondly, the practice of applying a fine in the amount of five times if the same offense is repeated within a year after the punishment is applied.

Also, some offenses provided for in this article have been individualized, and the norms of administrative legislation have been supplemented with new types of offenses, such as illegal use of passports (Article 223-1), violation of the rules of the passport system when hiring (Article 223-2) and illegal seizure of passports or pledge of passports from citizens (Article 223-3).

This, in turn, contributed to the early prevention of violations related to the rules of the passport system, in particular, residence without permanent and temporary registration. For example, if these violations increased by 85.1% in 2015 compared to 2014, then in 2017 this figure increased by only 1.2% compared to 2016 [9].

In addition, the punishment of expulsion from the Republic of Uzbekistan, previously applied to foreign citizens and stateless persons in accordance with part 1 of Article 225 of the Code of Administrative Offenses, was removed from the legislation, and a new norm (Article 2251) was introduced into the legislation on the issue of liability for non-compliance with the court decision on the administrative expulsion of this category of persons from the territory of the republic.

The new stage in this area was connected with the abolition of the procedure for issuing a permit (sticker) for traveling abroad within the framework of the Action Strategy for five priority areas in 2017-2021, further improvement of the passport-visa, foreign travel and entry system, introduction of an automated passport control system, as well as improvement of the passport system.

In particular, in order to further guarantee the rights and freedoms of citizens, the law of January 9, 2019 (No. LRU-514) introduced a system of non-application of punishment for allowing citizens to live with other documents confirming their identity (even if they are on permanent or temporary registration) by persons responsible for part 3 of Article 223 of the Code of Administrative Responsibility, while the issue of liability for this requirement established by the rules of the passport system when hiring was excluded from the administrative legislation (Article 223-2).

In accordance with the Law of November 5, 2019 (No. LRU-579), the conditions and types of liability for offenses related to internal and external migration processes were revised. The subject of Article 223 of the Code includes foreign citizens who have a residence permit in the Republic of Uzbekistan, and their residence with a non-valid residence permit, temporary or permanent residence without a residence permit, intentional deterioration of the residence permit, loss as a result of negligent storage became the basis for liability under this article.

Also, this norm establishes an incentive rule on not being held accountable for a person under the age of eighteen not receiving a passport on the occasion of their sixteenth birthday or a foreign citizen and stateless person permanently residing in the Republic of Uzbekistan not receiving a residence permit on the occasion of their sixteenth birthday.

In accordance with the fundamental reforms in the field of further development of investment and tourism, the aforementioned law established certain incentive norms in the legislation in relation to foreign citizens and stateless persons for violation of the rules of stay in the Republic of Uzbekistan (Article 225).

In particular, according to this norm, if a foreign citizen and a stateless person under the age of eighteen are not brought to administrative responsibility for violating the rules of stay in the Republic of Uzbekistan, in case of non-payment of the fine applied for certain

actions, the right to enter the republic is limited for one year and expelled from the republic. In case of repeated committing these actions within a year after the application of an administrative penalty, the right to enter the republic will be limited for three years, and measures of influence on expulsion from the territory of the republic will be applied.

In addition, in accordance with the New Uzbekistan Development Strategy, in accordance with the principle of "For Human Dignity," the process of norm-making in this area has been technically and legally modernized in order to guarantee confidence in the constitutional rights of the individual to freedom of movement.

In this regard, the Law of the Republic of Uzbekistan dated March 14, 2022 (No. LRU-759) introduced certain amendments and additions (from 2021) in connection with the introduction of a system for issuing identification ID cards instead of a biometric passport of a citizen of the Republic of Uzbekistan (model 2011) based on the infrastructure of the existing biometric passport system under Articles 223, 223-1, 223-3 and 225 of the Code of Administrative Offenses.

As a result, citizens of the Republic of Uzbekistan and foreign citizens and stateless persons permanently residing in the Republic of Uzbekistan were identified through the migration and registration of citizenship department of the internal affairs bodies and public service centers

It became important in this regard with the further increase in the level of human rights guarantees, with the possibility of obtaining and replacing ID cards.

Overall, further improvement of administrative and legal norms on migration processes in accordance with modern requirements will serve, firstly, to increase the level of guarantees of personal rights through the individualization of responsibility for offenses, secondly, to ensure openness and transparency in administrative and legal activities related to migration processes, and thirdly, to effectively ensure the early prevention and prevention of migration offenses.

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