

# LEGAL ASPECTS OF REGULATING INTERNAL MIGRATION IN KAZAKHSTAN AND FOREIGN COUNTRIES

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## ABSTRACT

*The article considers the state of migration legislation as a mechanism for regulating internal migration in Kazakhstan in the modern period.*

*From this point of view, regularities, trends, features of the legal support of the internal migratory movement of the population of Kazakhstan are studied. The ways for the migration legislation improvement are proposed.*

*The article also discusses the migration situation in Kazakhstan, Russia, the European Union, the reasons for migration, and the problems arising in connection with this process. Methods and mechanisms of migration regulation, levels of migration regulation are considered. The conditions for successful regulation of migration are determined.*

**Keywords:** Migration Legislation, Population, Internal Migration, Social Economic Development, Legal Regulation, Globalization, Integration.

## INTRODUCTION

In Kazakhstan the internal migration legal regulation improvement is one of the main tasks of the state migration policy.

Under conditions of increasing investment attractiveness of Kazakhstan, the internal migration regulation issue is becoming especially relevant.

In order to take into account the geopolitical interests and tasks of the country's socio-economic development, it is necessary to create effective legal mechanisms for internal migration regulation, taking into account the possible change in the priorities of trade and economic cooperation, including for the import substitution development.

The goal of the research is to identify patterns, features of the development of the internal migration legislation and legal support of migratory movement, to determine the factors and directions of legal regulation, to develop mechanisms for migration legislation improvement in Kazakhstan.

The Concept of the migration policy of Kazakhstan designed for 2017-2021 adopted by the Decree of the Government of the Republic of Kazakhstan from September 29, 2017 (hereafter the Concept) determines the strategic goals, objectives and directions of the migration policy of the Republic of Kazakhstan in connection with the expected prospects for economic, social and demographic development of the Republic of Kazakhstan, integration processes within the framework of the Eurasian Economic Union and global trends of globalization.

The Concept was developed in accordance with the Constitution of the Republic of Kazakhstan, international law and international obligations of the Republic of Kazakhstan in the field of migration, as well as with the goals of sustainable development for the period until 2030, adopted in the resolution of the United Nations General Assembly in September 2015, and the Message from the President of Kazakhstan (Ministry of Labor, 2019).

## METHODS

The internal migration processes analysis was carried out within the comparative, historical and formally logical approach.

A holistic view of the internal migration processes character can only be made using historical, structural analysis associated with the basic research of all theoretical categories. The whole research was carried out within the historical and comparative method.

## RESULTS AND DISCUSSION

### The Migration Experience Analysis

It is advisable to analyse the migration experience using the data of the Russian Federation as the example due to the fact that the topic of internal migration has regularly arisen in the Russian public space in the last decade. One of the most common reasons for referring to it is various large economic projects and projects for the territories development, during the implementation of which an additional redistribution of the labour force and the resident population between regions is expected (Akhiezer, 2018).

Often plans for such redistribution are discussed without assessing the real migration resources of the country, without taking into account the scale and nature of internal Russian migration processes today. This often gives rise to misconceptions about how large the internal migration resource, which the country's economy can count on, and whether government measures to stimulate interregional migration can significantly increase population mobility in the interests of economic development.

Based on this, it seems important to assess the real scale of internal spatial mobility in the country, primarily temporary labour migration and interregional relocation to permanent residence, to identify the main existing directions of migration flows, as well as possible barriers limiting the migration processes.

On the basis of official statistics, it can be concluded that the level of interregional migration in today's Russia is rather stable.

The internal migration directions, despite the changing economic conditions, have remained more or less constant in recent decades, and the attempts to change the migration situation by administrative methods have failed in the main.

At the same time, studies show that in most donor regions of labour migration within Russia, there are no special opportunities to significantly increase migration flows. Both labour and interregional long-term migration to the labour force concentration places leads to a reduction in the developed space in other regions, as well as to a reduction in labour resources in small Russian cities.

The North Caucasus, where in some regions the population migration to other constituent entities of the Russian Federation does not lead to a reduction in the labour force and to the stagnation of the local economy, differs somewhat from the country as a whole in terms of the interregional migration peculiarities. First of all, this situation has demographic roots and is associated with significant differences in the regions of the North Caucasus in terms of the age structure of the population. However, it is difficult to say how stable this situation is in the long term because of the variable fertility dynamics in this part of Russia (Federal State Statistic Service, 2020).

At the same time, the peculiarities of the North Caucasian labour market lead to a larger share of the migrant rural population experiencing special difficulties in adapting to the labour market of the host regions.

This is what largely predetermines the "enclavic" character inherent in migration from the North Caucasus. The increase in the internal migration data is shown in Table 1.

<b>Table 1</b>			
<b>INTERNAL MIGRATION IN THE RUSSIAN FEDERATION</b>			
<b>Years</b>	<b>Migrants within Russia</b>	<b>Including Moving</b>	
		<b>Within the Region</b>	<b>Between Regions</b>
Number of arrivals in 2018-2011, average	100.0	100.0	100.0
2012	165.2	167.8	162.1
2013	204.1	199.1	210.3
2014	216.9	206.8	229.2
2015	220.2	204.2	239.3
2016	223.5	202.0	249.6
2017	223.2	200.9	250.4
2018	226.1	197.4	261.0
2019	234.8	202.8	237.7

**Source:** Authors' Compilation

In fact, it is not known in such cases whether the person made a return migration, completed a new registration outside the place of permanent residence, or stayed there without registering. This category has become especially noticeable when considering the reasons for migration.

### **Legal Mechanisms of Internal Migration in Kazakhstan**

Currently, it is relevant to study modern migration processes, analyse the scale, directions and factors that determine them, as well as study various legal aspects of migration processes in Kazakhstan. Migration is an effective condition for economic growth and business activity of economic entities and the formation of a single internal economic space, harmoniously integrated with the world economy.

Migration policy is a system of legal, financial, administrative and organizational measures of the state and non-state regulatory authorities of migration processes from the perspective of migration priorities, the quantitative and qualitative composition of migration flows, and their social, demographic and economic structure.

Internal migration is the main factor in the development of the capital of the Republic of Kazakhstan, the city of Nur-Sultan and the megalopolis Almaty, which at the same time will negatively affect the development of the country as a whole: a decrease in the birth rate in the villages is predicted and, as a consequence, a worsening of the demographic situation.

In Kazakhstan, the main load in migration processes regulation falls on the Law of the Republic of Kazakhstan "*On population migration*". It undoubtedly played a great role in the regulation of internal migration relations (Ministry of Internal Affairs, 2020).

The nature of the relationship between migrants and law enforcement agencies most clearly characterizes the legal statehood development level in the country, since it determines the reality of the fundamental rights of migrants, legal guarantees for their protection, the possibility of law enforcement agencies participation in solving the policy goals in migration and demography (Skrypniuk et al., 2020). Consequently, the problem of the relationship between migrants and the executive authorities of the Republic of Kazakhstan requires an in-depth and comprehensive study. The Constitution of the Republic of Kazakhstan recognizes and legally secures rights and freedoms for citizens, and guarantees their real implementation. It confers on that everyone who is legally present on the territory of the Republic of Kazakhstan has the right to free movement on its territory and free choice of the residence place (clause 1 of article 21 of the Constitution of the Republic of Kazakhstan). The exercise of human and civil rights and freedoms should not violate the rights and freedoms of others, encroach on the constitutionally established state order and public morality (clause 5 of article 12 of the Constitution of the Republic of Kazakhstan). Human and civil rights and freedoms can be restricted only by laws and only to the extent necessary in order to protect the constitutionally established state order, protect public order, human rights and freedoms, the populations' health and morality (clause 1 of article 39 of the Constitution of the Republic of Kazakhstan).

The state policy in the field of population migration in the Republic of Kazakhstan is based on the following basic principles:

1. Recognition and guarantee of 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 ensuring national security;
3. A combination of interests of the individual, society and the state;
4. Transparency of regulation of migration processes on the basis of updating and reuse of information used;
5. A differentiated approach of the state to the regulation of various types of immigration (Ministry of Labor, 2021)

## Legal Analysis of the Process of Internal Migration in the Republic of Kazakhstan

The Law of the Republic of Kazakhstan "*On population migration*" was amended in 2017.

The law provides for replacing the concept of "*oralman*" with the word "*kandas*". The word "*oralman*" means "*returned to their historical homeland*", "*repatriate*". In the 1997 law on migration, the term "*oralmans*" is defined as foreigners or person without citizenship of Kazakh nationality who permanently resided outside of Kazakhstan at the time of the sovereignty acquisition by the Republic of Kazakhstan and who arrived in Kazakhstan with the purpose of permanent residence. And the word "*kandas*" from the Kazakh language is translated as "*blood relative*", "*fellow tribesman*".

The main goal of the law is to improve migration legislation in pursuance of the Concept of Migration Policy of the Republic of Kazakhstan for 2017-2021 and the Activity plan for its implementation (Ryazantsev et al., 2017).

Now the right of ethnic repatriates to simultaneously apply for a permanent residence permit and the acquisition of Kazakhstan citizenship is enshrined in law. In addition, in order to provide a range of social services for accommodation, employment and adaptation of migrants, the functions of centres for providing adaptation and integration services will be expanded not only to oralmans, but also to migrants.

The goal of the amendments was striving to improve migration legislation: to create favourable conditions for ethnic repatriates and migrants in Kazakhstan, to build an effective system of labour migration, to create a favourable investment climate, to expand the legal framework in the field of migration processes regulation taking into account the international best practices, and also to suppress illegal migration.

Compulsory registration of citizens at the sojournment place is provided in Kazakhstan. Such amendments were enshrined in law. In other words, a change of residence for a period exceeding 10 days must now be legalized. Non-observance in a month will result in an administrative fine.

The migration legislation of Kazakhstan is changing, constantly improving the migration processes regulation, taking into account the international best experience, as well as improving the business climate in the country. Before the start of the coronavirus pandemic, a number of relaxations of the rules came into force, and the migration regime in Kazakhstan was significantly simplified.

The Republic of Kazakhstan population accounting and the analysis of the migration flows dynamics are carried out when registering citizens at the residence place and the sojournment place. The internal migration monitoring shows that about 88% falls on intra-regional and up to 12% on inter-regional migration.

To date, the demographic situation in the regions of Kazakhstan is varied and will develop under the influence of the existing trends of natural reproduction and migration. The

territorial concentration of production, capital and human resources in the highly urbanized zones of the republic, to which the policy of the territorial and spatial development of the country is oriented, depends largely on migration processes.

It should be noted that during the State of Emergency period in the country, due to the temporary closure of Public Service Centres (from March 26, 2020), the introduction of a quarantine regime in almost all regions, the capital and cities of republican status, which provides for a number of measures and temporary restrictions, including on the entry and exit of people from the territory of the city, region, indicators of internal migration for 6 months of 2020 decreased, and that's why the listing of the registered citizens decreased by 40%.

So, for 6 months of 2020, more than 835 thousand citizens of the Republic of Kazakhstan were registered at the residence place, among them permanently 722.5 thousand and temporarily 112.5 thousand citizens of the Republic of Kazakhstan.

The largest number of the registered citizens of the Republic of Kazakhstan over 6 months of 2020 falls on the city of Almaty (102.5 thousand), the Turkestan region (92.5 thousand), the city of Nur-Sultan (89 thousand), the Almaty region (87.3 thousand), the Karaganda region (52.6 thousand), the city of Shymkent (50.5 thousand), the East Kazakhstan (47.6 thousand) and the Zhambyl (44 thousand) regions.

Due to the introduction of the State of Emergency in the country from March 16 to May 11, 2020, citizens of Kazakhstan who did not timely register at the residence place and the sojournment place are not subject to administrative liability under Article 492 of the Code of Administrative Offenses (residence without registration at the residence place and the sojournment place), taking into account the principle of fault absence, provided for in Part 1 of Article 11 of the Code of Administrative Offenses (a person is subject to administrative liability only for those offenses to relation of which his guilt is established).

Legal regulation of migration processes is one of the most complex areas of state policy of any state. According to Article 3 Main types of immigration of the Law of the Republic of Kazakhstan No. 477-IV On Migration of the Population dated July 22, 2011, depending on the purpose of entry into the territory of the Republic of Kazakhstan and stay in the territory of the Republic of Kazakhstan, the following main types of immigration are distinguished: to return to their historic homeland; for the purpose of family reunification; in order to get an education; for the purpose of labour activity; for humanitarian and political reasons (Inshyn et al., 2019).

Kazakhstan as a dynamically developing country, actively implementing accelerated industrial-innovative policy, and today is also subject to urbanization and emigration. In Kazakhstan, as in other countries of the world, there is a certain difference between the standard of living of rural and urban residents, which tends to increase. Urbanization is caused by various socio-economic factors, poor infrastructure in rural areas, different climatic conditions, etc. It should be noted that not only internal but also external migration has a significant impact on the stabilization of the demographic situation in the country (Bodaukhan et al., 2018).

The relevant legal problems of interregional population migration within the country, relevant legislative issues of internal population migration in countries in the modern world.

Large-scale internal migration recorded in Kazakhstan is a serious phenomenon that significantly affects the development of large cities and regions of the country.

The migration process in Kazakhstan has much in common, especially the urbanization trend: the creation of attractive centres in deteriorated cities, villages that are part of the country's

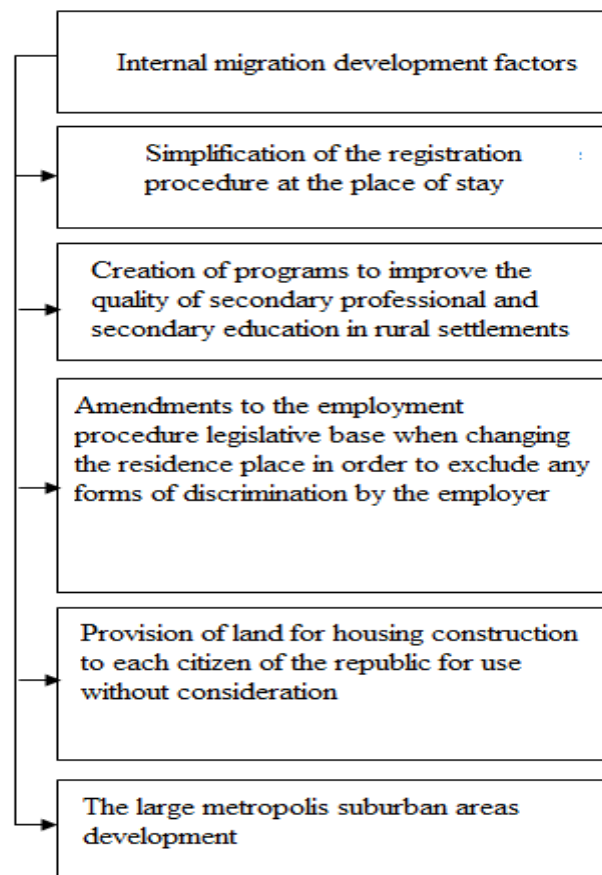
economy. At the same time, independent cities create certain workplaces gaps by attracting a number of spontaneous migrants from rural settlements.

Analysing the experience of other countries, it is necessary to conclude that the legal support of internal migration is subject to mandatory regulation in order to create effective mechanisms for the migrant's socialization within the country (Fedorako, 2018).

Countries that blundered away solutions to the issues of internal migration legal regulation have experienced unstable development and contradictory marginal environments in areas of growth points in the region.

### **Directions for the Internal Migration Legal Regulation Improvement**

Analysing the experience of many other countries, we can say with confidence: internal migration can and should be regulated, and the states that created in cities the effective mechanisms for the socialization of the population migrating within the country received additional development factors (Figure 1)



**FIGURE 1**  
**FACTORS CONTRIBUTING TO THE INTERNAL MIGRATION DEVELOPMENT**  
**(SOURCE: AUTHORS' COMPILATION)**

In any case, the administrative liability for the fact that citizens live without registration and in housing that doesn't belong to them are the most correct and justified sanction.

Despite this, law enforcement officers must do in a mandatory manner some work on the bylaws establishment.

### Foreign Legislation Regulating the Migration Process

The study of internal migration legislation will be considered on the example of the PRC, since this issue occupies an important place in the study of trends and the national economies sustainable growth mechanism. In total, 9 stages of the internal migration legislation development can be distinguished (Table 2).

<b>Table 2</b> <b>STAGES OF THE INTERNAL MIGRATION LEGISLATION DEVELOPMENT IN THE PRC</b>	
<b>Stages</b>	<b>Features</b>
I Stage " <i>Migration Origin</i> " (1949-1954)	The " <i>General program of the Chinese people's political consultative conference</i> " (1949) and the first constitution of the PRC (1954) was created and determined the citizen's freedom of residence and migration
II Stage " <i>The introduction of the system of residence permits</i> " (hukou) (1955-1977)	The statute concerning the PRC population registration was approved, which introduced urban registration for the urban residents and rural registration for the rural residents
III Stage " <i>Migration Restriction</i> " against the background of its growth (1978-1988)	The house contract system development in agriculture has become the determining factor
IV Stage " <i>Migration Permission</i> " (from 1984-1988)	The policy of leaving the land not to leave the village was pursued by document No. 1 of 1984
V Stage " <i>Migration Slowdown</i> " (1989-1991)	The 1989 guidelines for restricting rural labour migration were created. This document prohibited rural migrants from leaving their place of residence.
VI Stage " <i>Migration Flows Management</i> " (1992-1999)	Registration " <i>With a Blue Stamp</i> " (Lanyin Hukou) has become widespread. It allowed the local authorities to admit migrants to certain cities and provinces
VII Stage " <i>Migration Support</i> " (2000-2007)	" <i>Document No.2</i> " has been approved, defining the labour migrants as " <i>The Working Class Representatives</i> "
VIII Stage " <i>Migration Regulation Amid the Global Financial Crisis</i> " (2008-2010)	The government campaign to " <i>Return to the Village to Build a New Village</i> " has been announced with simultaneous introduction of vocational training programs.
IX Stage " <i>New Migration Policy Formation</i> " (2011-present)	The national urbanization plan of a new type (2014-2020) was adopted, which provided for reduction of the social divide between residents of cities with and without registration; " <i>Proposals of the PRC State Council on Further Reform of the System of Residence Permits</i> " were released

Source: Authors' Compilation



One of the most important factors contributing to the outstanding results in the economic development of China is the internal labour migration, permitting to ensure the growth of industry and innovation with the labour resources.

### **Analysis of the Legal Regulation of Internal Migration in the Countries of the European Union**

Analysing the experience of internal migration legal regulation processes, we can say that the European Union has the most developed legal regulation system of the internal migration processes.

The legal regulation of migration policy in the European Union is carried out at two levels: the legislation of the European Union countries, and the statutory documents of the European Union.

The regulation of internal migration issues in the European Union is subject to the subsidiarity principles, that is, currently, a single migration system of the European Union has developed, united by the regularities of migration, which is constantly transforming.

The migration legislation of EU citizens has a complex relationship in the structure of EU law. Freedom of movement of a person is seen as an element of a common market, a space of freedom, security and justice, as a consequence of a single European citizenship.

It includes provisions on issues such as commorancy (residency) of EU citizens in the Union, movement of workers, including provisions on new members and family reunification.

Clause 1 of Art. 18 of the Amsterdam Treaty provides for the right of all citizens of the Union to move and reside freely in the territory of the member states, with the consideration of the conditions and restrictions set out in the treaty and legal remedies. Detailed information on the exercise of this right is disclosed in Council and European Parliament Directive 2004/38/EC on the right of Union citizens and their family members to move and reside freely in the territory of the EU member states.

The stay (residence) of EU citizens is regulated differently depending on the duration of stay in the territory of another EU member state. Short-term stay (up to three months) is free (Article 6 of the Directive). Long-term (lasting) residence (more than three months, article 7 of the Directive) is free for those who are not encumbered by the social system of the host country, namely:

1. For the self-employed citizens;
2. For those who have enough money to support themselves and their family, as well as have adequate health insurance;
3. For those who receive vocational education and have enough money, as well as health insurance;
4. For family members belonging to any of the above groups (Dzhunisbekova et al., 2017).

Residence of citizens for at least five years, and in some cases this period is reduced, as a result of which the status of a permanent resident is granted (paragraph 1 of Article 16 of the Directive). However, the conditions associated with long-term stays are not applied.

Labour migration of EU citizens falls under common market elements. It includes the rights of workers of the Member States without discrimination on the basis of nationality with regard to recruitment, remuneration and other conditions of work and employment:

1. Agree with the actually proposed job;
2. Free movement on the territory of the member states for these purposes;
3. To engage in labour activity in one of the Member States in accordance with the legal, regulatory and administrative provisions governing the employment of its citizens;
4. To remain in the territory of one of the Member States after completion of work in that State under certain conditions.

These rights can also be restricted for the reasons of public policy, public safety and health, but not for economic reasons, and do not extend to civil servants.

### **Ways to Improve the Internal Migration Legal Regulation in Developed Countries**

It is taken for granted that migration is the most problematic of the demographic variables. Unlike the one-of-a-kind birth and death events that determine the human longevity, the migration event can be repeated many times. Its measurement depends entirely on how it is determined in time and space (Bekyashev, 2019).

Despite all the problems inherent in the internal migration legal regulation, significant progress has been made in recent years. The internal migration legal regulation has provided the basis for a more accurate measurement of the global international population movements.

### **Analysis of the Foreign Researchers' Works in the Field of Research of administration Issues, State Regulation of Internal Migration Processes**

The migration laws point out that long-distance migration are directed mainly to large commercial or industrial centres and the growth of large cities is more conditioned by the population migration than the natural growth in them. The key reason for the migration singles out precisely the economic one.

These approaches are still the basis for most migration theories. On their basis, many Western models of the migration theory were built and are being built (Grebnyuk, 2016).

## **CONCLUSION**

Kazakhstan as a dynamically developing country, which actively implements the forced industrial-innovative policy, today is also subject to urbanization and emigration. The territorial concentration of production, capital and human resources in the highly urbanized zones of the republic, on which the policy of territorial and spatial development of the country is oriented, largely depends on migration processes.

The internal migration directions, despite the changing economic conditions, have remained more or less constant in recent decades, and the attempts to change the migration situation by administrative methods have failed in the main.

The main load in the migration processes regulation falls on the Law of the Republic of Kazakhstan "*On population migration*".

The Law of the Republic of Kazakhstan "*On population migration*" was amended in 2017.

The goal of the amendments was striving to improve migration legislation: to create favourable conditions for ethnic repatriates and migrants in Kazakhstan, to build an effective

system of labour migration, to create a favourable investment climate, to expand the legal framework in the field of migration processes regulation taking into account the international best practices, and also to suppress illegal migration.

The Republic of Kazakhstan population accounting and the analysis of the migration flows dynamics are carried out when registering citizens at the residence place and the sojournment place. The internal migration monitoring shows that about 88% falls on intra-regional and up to 12% - on inter-regional migration.

It should be noted that during the State of Emergency period in the country, due to the temporary closure of Public Service Centres (from March 26, 2020), the introduction of a quarantine regime in almost all regions, the capital and cities of republican status, which provides for a number of measures and temporary restrictions, including on the entry and exit of people from the territory of the city, region, indicators of internal migration for 6 months of 2020 decreased, and that's why the listing of the registered citizens decreased by 40%.

The current demographic trends will have a significant impact on the flows and directions of internal migration processes and will require their controlled adjustment in accordance with the planned development. The level and success of regional development depends on economic specialization, which affects the level of GDP and wages, growth rates and the structure of employment, unemployment, and the number of self-employed people.

In the modern world, the problem of migration has a special place and requires constant attention of researchers. Scientists and Specialists Different branches of knowledge are actively developing a regulation model migration process, which includes the entire diverse spectrum this global problem (Prudnikova et al., 2015).

Analysing the experience of internal migration legal regulation processes, we can say that the European Union has the most developed legal regulation system of the internal migration processes.

Based on this, it is advisable to say that within the internal migration legal regulation in the Republic of Kazakhstan, it is necessary to focus on the foreign countries experience, in particular, on the European Union countries experience.

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