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SOME ASPECTS OF ADMINISTRATIVE-LEGAL REGULATION OF REPATRIATION IN RUSSIA

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The article provides a critical analysis of the migration policy in modern Russia. Here are noted some disadvantages of the state program of voluntary resettlement of compatriots in Russia compared with foreign experience, including in the context of the constraints imposed on its participants.

The author criticizes insufficiently active nature of repatriation policy in modern Russia and proposes expansion of the list of benefits and compensations to participants of the state program, such as exemption from payment of state fees, provision of material assistance to migrants moving outside of the program.

Keywords: repatriation, repatriation policy, migrants, compatriots, demographic development of Russia, voluntary resettlement of compatriots.

One of the many problems facing the modern Russian state is worsening of demographic situation. Overcoming of demographic decline depends on many factors, including sustained economic growth, decrease in income differentiation, the development of human capital and creation of an effective social infrastructure,

affordable housing market, and flexible labor market, improvement of sanitary-epidemiological and environmental conditions. However, these factors will contribute to the improvement of the situation in the long term. So now the most important factor is the improvement of migration management, because only migration management can create the conditions for demographic growth not in future perspective, but now.

The objectives of population policy can be achieved by reducing the emigration and increase in immigration, but, first of all, the objectives of population policy can be achieved through the skillful management of the process of repatriation (voluntary return of compatriots to their homeland).

So, in the state program of assistance to voluntary resettlement to the Russian Federation of compatriots living abroad, adopted June 22, 2006 [3], had been identified three objectives, each of which meets the interests of Russia's demographic development:

- a) promotion and organization the process of the voluntary resettlement of compatriots for permanent residence in the Russian Federation;
- b) assistance to socio-economic development of the regions;
- c) solution of demographic problems, primarily in the territories of priority peopling.

Under compatriots Russian legislator understands persons born in one state, who live or used to live in it, and having signs of a common language, religion, cultural heritage, traditions and customs, as well as of their descendants. The notion of "compatriots abroad" (countrymen) includes:

- Russian citizens living permanently outside the Russian Federation;
- persons who had citizenship of the USSR;
- native (immigrants) of the Russian state, Russian Republic, RSFSR, Soviet Union and the Russian Federation, which used to have an appropriate nationality and become citizens of a foreign country, or have a residence permit, or have become stateless;
- the descendants of the mentioned persons.

Let's note that the approach to the definition of the category of compatriots in the domestic legislation is broad enough. Unlike some foreign countries (Germany, Kazakhstan), the legislator applies both ethnic feature and other features to the concept of compatriot. This group includes representatives of non-titular groups of neighboring countries, as well as titular groups as long they retain elements of the so-called "Soviet identity", which greatly expands the range of potential compatriots.

The implementation of the state program of voluntary resettlement of compatriots in Russia has become one of the priorities of Russia's migration policy to counter the negative trends in the reduction of the country's population, to socio-economic development of the regions, to providing the country economy with labor and human resources. However, the results of the policy of repatriation remain modest. So, for the time of the above program (from 2006 to the present) on the territory of the Russian Federation have arrived about 65,000 persons [10].

Undoubtedly, the adoption of the program (and the subsequent extension of the validity in the new edition up to 2015) is one of the most important steps of the state towards the solution of many problems related to the demographic crisis and the migration of the population as a whole. However, in our opinion, legal regulation of repatriation does not sufficiently meet the demographic interests of the state, since during the implementation of the program for a long time failed to eliminate many of its shortcomings. We have to admit that the Program provides for many restrictions imposed on its participants, while international practice demonstrates the creation of unprecedented benefits for returnees.

Special attention should be paid to the legal norms relating to the providing various services of compensatory nature.

Program participants are eligible for a variety of compensation:

a) compensation from the federal budget the costs of relocation to the future place of residence, including travel and transportation of personal things in accordance with section VII of the State program;

b) compensation from the federal budget the expenditure on the payment of a State fee for the registration of documents that define the legal status of displaced persons in the territory of the Russian Federation;

c) to receive installation allowance from the federal budget;

d) to receive from the federal budget a monthly allowance in the absence of income from labor, business and other activities not prohibited by the legislation of the Russian Federation in the period prior to the acquisition of citizenship of the Russian Federation (but not longer than six months). The amount of allowance is determined on the base of the subsistence level fixed in an appropriate constituent entity of the Russian Federation.

However, these compensatory guarantees are not provided to all participants of the Program, for example, "installation allowance" shall be paid only to the participants of the program moving to the territories of categories "A" and "B", and monthly allowance is paid only to persons moving to the territories of the category "A" [4].

At the same time the types of assistance provided to the Program participants are compensatory in nature and do not provide for the creation of preconditions for stimulating the process of repatriation. In general, the Russian legislation provides significantly smaller financial assistance to returnees than in many foreign countries. In such circumstances, the major factor influencing the migration process is poor living conditions in the countries of origin of compatriots. Thus, the policy of repatriation in modern Russia is not active enough in nature, since to date have not been created any essential prerequisites for attracting returnees for permanent residence in Russia. For this reason, it seems necessary to extend the list of benefits and compensations in respect of the participants of the state Program, which will create some mechanisms to encourage this migration process.

The program implementation is also complicated by a variety of procedural mechanisms. For example, the need for a mechanism of payment to Program participants compensation for the payment of state fee for registration of documents is not enough clear [5]. From the logic of the legislator can be assumed that the payment by a participant of the state Program of fee for registration of documents that define its legal status in the territory of the Russian Federation is a kind of guarantee of good faith participation in the implementation of its intentions to move to Russia. In case of successful realization of the intentions the expenditure on the payment of fees is compensated by the State within 15 days. For this, program participant must file an application. In our opinion, this procedure is unnecessarily complicated, creates undue difficulties for returnees to get spent money back, and partially complicates the process of repatriation.

As has already been noted, program participants are exempt from paying most of customs duties, in our opinion, this mechanism can also be applied to the tax legislation. It would be much easier to completely rid the program of payment of a fee. It would be much easier to completely relieve program participants from the payment of fee. So the Tax Code of the Russian Federation [1] in article 333.35 provides for benefits for certain categories of individuals and organizations in the payment of state duty. It seems perfectly logical to complement this list by adding to paragraph 1 article 333.35 the Tax Code of the Russian Federation, the following norm:

“16) individuals who are the participants of the state program to assist the voluntary resettlement to the Russian Federation of compatriots living abroad and members of their families for the actions associated with the preparation of documents defining the legal status of migrants in the territory of the Russian Federation”.

An important issue is also the implementation by a participant of the program and members of its family their main duties upon arrival to Russia, one of which is a military duty.

Domestic legislation does not provide for specific determent for persons subject to military conscription due to the recent migration to the territory of the Russian Federation and obtaining citizenship. Obviously, the most preferred category of returnees is exactly young families, spouse, or children of which may be called up for military service. So the question of deferment of such conscription seems to be an important impetus of repatriation policy, as it gives returnees the opportunity for social integration in Russia. Seems possible to include in paragraph 1 article 24 of the Federal law "On Military Duty and Military Service" [2] (deferment of conscription citizens for military service) the following norm:

"1) citizens participating in the Program of voluntary resettlement to the Russian Federation of compatriots residing abroad – for one year after obtaining citizenship of the Russian Federation".

In our view, these changes will allow, to some extent, extend social guarantees of Program participants, thereby stimulating the migration process of repatriation.

It is also important to note that the Program only applies to direct participants and ignores those persons who meet the criteria, but move to Russia on their own. It seems that for maximum effectiveness of migration process, the State must provide such migrants a certain minimum of social guarantees or, perhaps, even financial assistance.

Speaking about this migration process, more globally should be noted that encouraging of the return of compatriots to Russia cannot fully meet the demographic concerns of the State. For example, A. V. Topilin, estimating the size of Russian-speaking diaspora in the CIS and Baltic States, notes that since the collapse of the USSR this diaspora has considerably aged and become less mobile [6]. At the same time, the younger generation, which emerged in the period after the former Soviet republics gained independence, has significant ethno-social differences and other value system. Culturally more remote and less adapted migrants – a serious challenge to immigration policy that must take into account the ongoing changes [8]. That is why, determining the migration process of repatriation as the primary one the legislator should create some preconditions for implementation of immigration policy. V. I. Mukomel' notes that "immigration policy, policy of integration and naturalization policy are closely related, they can be considered as successive stages of the policy of admission, arrangement and transformation from an yesterday's migrant to a full-fledged member of a host society" [5, 258].

These circumstances greatly increase the relevance of integration events in respect of returnees, in the design of which must be taken into account the increasing socio-cultural distance between the citizens of the CIS countries – potential sources of returnees and immigrants. However, it must be said that at the current stage the policy of integration of immigrants in Russia is given a little attention.

It should be noted that the problem of integration of migrants in a host society has both political and cultural aspects. It appears that both of these aspects need to be considered equally during integration policy. We believe that integration policy should be based on linguistic, cultural and social adaptation, in which education plays a vital role. The process of acculturation is exercised primarily through language training, which is both a tool and an integral part of the integration of migrants into the culture of a host society, as a lowering the level of Russian language leads to a loss of interest in Russian culture not only in the country but all over the world.

Targeted conducting by the Russian state of the policy of immigration and repatriation increasingly requires the establishment the mechanisms of adaptation of immigrants, the main of which will be education, and language training.

Repatriation policy exercised by the Russian Federation is aimed at compatriots who have not lost social and cultural ties with Russia, what attaches to this direction a passive nature. A more preferable for the state, in our opinion, is an exercising a more active repatriation policy aimed at increasing the interest in Russian culture and Russian language in the countries of potential outcome of compatriots. When creating a strategy for migration policy of the Russian Federation, along with the political, legal and economic issues in it should be also included the issues of integration and socialization of immigrants, because the process of integration is the most important aspect of migration policy of any modern state.

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