

Legal Regulation Of The Participation Of Non-Governmental Organizations In The Field Of Migration In Uzbekistan Within The Context Of Covid-19

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Abstract: *The article considers the procedure for regulating the activities of private employment agencies, as participants in the migration process, analyzes the participation of civil society institutions and association of compatriots living abroad in protecting the rights and legitimate interests of citizens of Uzbekistan within the context of COVID-19, and puts forward proposals for improving legislation in this area.*

Keywords: *migration process, migrant, private employment agency, non-governmental non-profit organizations, victims of human trafficking and forced labor, compatriots.*

1. INTRODUCTION.

In the effective management of the migration process, the integration and coordination of the state, civil society institutions, and the private sector play a pivotal role in protecting human rights and freedoms in this area. It is known that the main subject of the migration process is the migrant himself. Naturally, in these processes, the migrant uses the services of state and non-state organizations.

This includes entry and exit visas, employment and recruiting, permits and other information and consulting services, medical examinations, training and retraining, arrivals at destination, accommodation supply, insurance, money transfers. other related services.

According to the International Labour Organization, the growth of the world labour market over the past twenty years and the transition thereof to a nomadic form leads to the development of private employment agencies (hereinafter - PEA).

In addition to filling the labour market, PEAs serve as a catalyst for the development of human resource management services that can make a significant contribution to improving working conditions in the future.

ILO Convention No. 181 of June 19, 1997 on Private Employment Agencies remains valid now. The Convention sets out key indicators for regulation, employment and labour force recruitment by these agencies. The Convention calls on member states to assist in the development of effective policies, legislation and implementation mechanisms for the registration and licensing of PEA.

This Convention provides assistance for public employment services and private employment agencies in their cooperation aimed to ensure the efficient functioning of the labour market, while retaining the power of public employment services to formulate market strategies.¹

In this regard, Manolo I. Abella in his book "Sending Workers Abroad" teaches that it is necessary to create an effective private employment system as one of the government's activities to support employment abroad.

The state works closely with private employment agencies as part of its extensive management system in the implementation of the national employment policy. Manolo I. Abella also lists a number of benefits of involving the private sector in this area:

taking into account the insufficiency and limitedness of the state budget, the possibility of transforming the state into a producer of skilled labor with the involvement of private sector funds;

private firms are more flexible than government agencies and organizations;

private initiatives are more useful in identifying and developing new markets, applying new forms of migration, providing various types of services;

it recognizes that private employers often prefer to work with private firms².

It should be noted that the role of private employment agencies in the labour market of Uzbekistan is increasing. Private employment agencies assist in the implementation of public employment policy by providing the following services. In particular, the selection of work for applicants on the territory of the Republic of Uzbekistan; recruiting for employers; Employment of persons seeking job outside the Republic of Uzbekistan; providing information and consulting services in this regard.

Over the past period, the country has created the legal and regulatory framework necessary to regulate the activities of private employment agencies and strengthen their legal basis. In particular, the Law of the Republic of Uzbekistan "On Private Employment Agencies", the Resolution of the President of the Republic of Uzbekistan "On measures to further strengthen the guarantees of protection of citizens of the Republic of Uzbekistan and their families working abroad" and the Resolution of the Cabinet of Ministers "On measures to further improve and radically revise the system employment" serves as an important legal basis.

According to the Ministry of Employment and Labor Relations, as of October 2, 2020, 103 private employment agencies are included in the register, 28 of which have licenses to employ people looking for work outside the Republic of Uzbekistan. The number of organizations whose licenses have been revoked is 47³.

At the same time, since Uzbekistan is one of the largest suppliers of labour force to the external labour market, there are a number of problems in providing its labour migrants with stable and well-paid jobs, as well as their social and legal protection. In particular, in the past, some private employment agencies seriously infringed the rights and interests of citizens due to the lack of practice in the employment and labour relations authorities of

registering contracts for the provision of services by private employment agencies, which made it difficult to monitor and control the sector.

For example, the employees of “Human xususiy bandlik agentligi” LLC, promising to send 1198 citizens to work in Germany, the Czech Republic, Japan, Turkey and Bulgaria from November 30, 2018 to September 13, 2018, appropriated total 1 billion 670 million 500 thousand soums, depending on the type of work they offer⁴.

This was due to the presence of gaps in the legislation in the regulation of relations associated with the activities of existing private employment agencies. Thus, the Law of the Republic of Uzbekistan No. O’RQ-632 of August 13, 2020 amended the procedure for issuing licenses for the employment of persons seeking work outside the Republic of Uzbekistan. Pursuant to it, applicants must contribute eight thousand five hundred times of the base amount to the Fund for Support and Protection of the Rights and Interests of Citizens Working Abroad under the Ministry of Employment and Labour Relations of the Republic of Uzbekistan.

In our opinion, in order to implement effective mechanisms for the further development of private employment agencies in our country, it is advisable to consider the issue of joining the aforementioned ILO Convention No. 181 of June 19, 1997 "On Private Employment Agencies". This, in turn, serves to support the citizens of our country working abroad and to protect their rights and interests.

It is of particular importance for government agencies and civil society institutions to cooperate in protecting the rights and freedoms of migrants in the course of migration.

The most important stipulation for a modern and adequate state response to changes in the migration situation is the interaction of these state structures with NGOs. On the one hand, NGOs carry out these tasks with low material costs, assuming part of the state obligations, because they widely use the work of volunteers, direct non-state funding sources and have the opportunity to implement interesting ideas freely. On the other hand, NGOs take the initiative to help the state find solutions to problems that have left inattentive the authorities.⁵

Indeed, the social dialogue of NGOs with the public, along with civil society institutions, can provide great practical assistance in the implementation of the state migration policy. In turn, government support for these organizations is beneficial to both parties and society.

NGO activities dealing with social problems of the state, including those with migrants, were formed many years ago. Particularly in Germany, social work was previously supported and funded by charitable associations and organizations. Later, after the First World War, state structures were created in Germany to provide social assistance to the population. In this country, cooperation with charitable organizations and legislative bodies is carried out in cooperation with each other in the formation of social legislation, although this is not expressly specified in the legislation. The reason is that the deputies of the legislative assembly are members of charitable organizations and are directly familiar with the specifics of this sphere, therefore, they represent the interests of those in need of in the legislative body.⁶

Today, NGOs work with migrants mainly in the following areas:

analysis of migration processes;

providing legal assistance and legal advice to migrants;

methodological support of organizations working with migrants;

assistance to migrants whose rights have been violated, including victims of human trafficking and forced labor;

broad promotion of the principles of religious tolerance and interethnic harmony among the population of the host country;

adaptation of migration representatives to the host society;

humanitarian aid, including financial aid, food, personal hygiene items;

assistance to the state of origin, including repatriation, etc.

There is a legal basis in Uzbekistan for cooperation between government bodies and non-governmental non-profit organizations and other civil society institutions in the field of migration regulation.

Particularly, the Law of the Republic of Uzbekistan "On Non-State Non-Commercial Organizations" provides that non-state non-commercial organizations can be founded for socially useful purposes, and the state can also assist their socially useful programs⁷.

There are a number of duly registered NGOs which deal with migration issues in our country, most of which provide comprehensive assistance to Uzbek citizens abroad who became victims of human trafficking and forced labour.

Specifically, the Republican Social Information Centre "ISTIQBOLLI AVLOD", established in 2001, is engaged in the fight against human trafficking and other forms of violence, in the provision of assistance to victims of human trafficking and to those in need, in raising awareness of human trafficking and other forms of violence among risk groups, as well as in strengthening the capacity of volunteers to increase the share of young people in solving socially significant issues.

For almost 20 years, this NGO has been working with international organizations and competent state bodies. In particular, it is the initiator of the International Network against Human Trafficking and Other Types of Violence, it opened its regional offices in 9 regions of the country, and in 2019, the organization's hotline received 5,889 calls from citizens of Uzbekistan. 422 citizens of Uzbekistan were provided with assistance in returning to Uzbekistan from abroad, more than 1000 volunteers were involved in the activities of this organization⁸.

The Republican Social Information Centre ISTIQBOLLI AVLOD implements projects with the US Embassy in Uzbekistan, the International Organization for Migration, the Public Fund for Support of Non-Governmental Organizations and Other Civil Society Institutions under the Oliy Majlis of the Republic of Uzbekistan and the Republican AIDS Centre.

Moreover, it works with the National Commission on Combating Human Trafficking and Forced Labour, the Ministries of Internal Affairs, Foreign Affairs, Ministry for Support Makhalla and Family of the Republic of Uzbekistan.

In our view, it is expedient to include into the legislation of Uzbekistan regulating the activities of non-governmental non-profit organizations norms on strengthening state support for NGOs within the framework of social partnership (tax incentives, free rent of buildings and structures owned by the state, etc.)

In this respect, the material and moral support provided by associations of our compatriots living abroad to the citizens of Uzbekistan living as migrants in foreign countries, will have a positive impact on the effectiveness of the work of our country carried out in this area.

By the Resolution of the President of the Republic of Uzbekistan No. PQ-4829 dated September 15, 2020, the system of safe, orderly and legal labour migration was approved and, in accordance with that, the development of international cooperation in the field of external labour migration, strengthening of ties with foreign organizations and the Uzbek diaspora was noted as one of the main directions in the sphere⁹.

According to the Committee on International Relations and Friendship with Foreign Countries under the Cabinet of Ministers of the Republic of Uzbekistan, about 20 Uzbek diasporas live abroad today¹⁰. The Uzbek diaspora in these countries provides all possible assistance to our compatriots, including to those who come from Uzbekistan to these countries by helping them with studying the customs, culture, with employment, and other social issues.

In this regard, over the past three years, particular work has been done to regulate the system and mechanisms for organizing the entry and exit of citizens of the Republic of Uzbekistan abroad, foreign citizens and stateless persons into the country, as well as the development of labour bodies.

Particularly, foreign citizens or stateless persons who were born in Uzbekistan, who left the country and who are citizens of a foreign state living abroad and wishing to maintain comprehensive relations with Uzbekistan, received the status of "compatriots" and on preferential conditions have the right to work in Uzbekistan.

In our opinion, it is necessary to adopt a separate law in the national legislation, which will reflect the legal status of our compatriots, the main directions of state policy, fundamental rights and freedoms, socio-political, economic rights of our compatriots, furthermore the legal framework of the relationship of our compatriots with the state, citizens' self-government bodies and other public organizations, as well as such important issues as supporting their entrepreneurship in Uzbekistan.

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