Directions of Reformation of Migration Legislation at the Federal and Regional Levels

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Abstract: Development of such mechanism of labour migration management can be implemented already today in the bounds of applicable migration legislation. This scheme of regulation of labour migration processes in Primorye territory is being formed during last three years with the active participation of Asian-Pacific Institute of migration processes and Primorye Institute of governmental and municipal management. Article is devoted to the analysis of experience of state regulation of processes of migration in France, Germany, Great Britain and Australia. The author considers the international legal acts regulating processes of migration in these countries.

Key words: Migration flows • Demography • Demographic processes • Migration policy • Difficulties in adaptation of migrants to new conditions of accommodation • Country safety • Qualified labor

INTRODUCTION

The relevant task of present days is the foundation of legal mechanism, ensuring the receipt of the maximal profit and benefits by entry, stay and working activity of foreign citizens by subjects of the Federation of the FEFD and by state in whole. Such mechanism has to act not only in the conditions of crisis, but also as recovery from recession [1].

Its development and functioning is impossible without consolidation and coordination of efforts of the government, civil society and socially responsible business.

Efficient functioning of the mechanism of management of labour migration processes presupposes to involve the system of nongovernmental, non-commercial and public organizations along with the state authorities. Their main task is ensuring the responsibility and rights of working migrants in consolidation with economic interests of local self-government bodies and Russian employers with governmental services, who regulate the migration processes [2].

It will contribute to removal of the reasons of inter-ethnic and inter-confessional tension, manifestations of national and religious intolerance, extremism prevention.

From this side, exactly institutes of civil society could take the role of balance-wheel, giving the positive direction to the management of migration processes and to balance the centrifugal force, linked with breaking the rights and absence of social protection of migrants.

Construction of such scheme of management can be realized within the bounds of system of state-private partnership, which is being developed by the International association “Labour migration” and Fund “Migration XXI century”.

The idea is to create a mechanism of labour migration management on the principles of division of functions. The government reserves the issue permits, definition the quotas and mechanism of quota system, control over the issue permits for use of migrants, over their stay. While the development of the mechanism of attraction of labour migrants, recruitment, assignment of qualification level of worker, location, accommodation, health care etc. is lied upon private, non-commercial organization [3].

The structures, mentioned above, take active part in preparation and holding of the International Forum “Labour migration in Euro-Asian region: trends, problems and ways of cooperation”, taken place in 2008 and organized on the initiative of the Authorities of the Primorye territory. The ideas of creation of the model of labour migration management on the principles of
state-private partnership became the subject of discussions and were included into Recommendation, accepted there.

Business contacts are kept with the University centers of Japan, China and South Korea, within the bounds of which legal and organization bases of foundation of the united labour market of the countries of North-Eastern Asia are discussed [4].

In terms of practical implementation of the plans, in the region, there was established Public Advisory Council under the Federal migration service of Russia over Primorye territory. Its membership includes the heads of the majority of ethnic diasporas, whose compatriots go to the territory as migrant workers. In 2008, thanks to the intervention of the Council the explosive situation was prevented, which arose as a result of the absence of quotas for issuing work permits for citizens of the countries of the CIS.

On the meeting of the Public Advisory Council on the March, 19 2009 the plan of measures was confirmed, which supposes the creation of the mechanism of labour migration management and incentives of Russian citizens’ mobility on the base of system of state-private partnership (extract from the minutes of the meeting of the PAC is supplied) [5].

According to the decision of the Council in Vladivostok on the base of non-commercial Fund of legal support the Public Chamber on the issues of migration was opened, today the branches are founded in towns Artem and Nakhodka. In the current year the Public Chamber has hold consulting of enterprises and organizations, giving applications for quotas for attraction of foreign specialists for the year 2010. It is organized informing of potential migrants about the situation on the labour market of the Primorye territory in the conditions of economic recession and about measures that are taken for migrants who is already staying in the Primorye territory searching for work.

In the response to the changed situation on the labour market, caused by the massive release of Russian labor resources, on the initiative of the Fund of legal support in Vladivostok on April 20, 2009, the Information and personnel service (IPS) began to work (registered on April 3, 2009, the beginning of the work of April 20, 2009).

Information and personnel service (IPS) has appeared as the answer to changed situation on the labour market, caused by the massive release of Russian labor resources [6]. IPS has no analogues of work in the region by using approaches to work organization. It is successful symbiosis of employment service and information help with the union data base and web site, which are constantly updated and easily available as for jobseekers (Russian and foreign) as well as for employers. The main principle of the work of the IPS: data base of jobseekers is free of charge for any employer.

This allows the company to work with state enterprises as well, the budgets of which usually don’t cover the recruitment expenses. Data base of jobseekers, belonged to “IPS”, is the most reliable among all existing in the regions, because people turn to the Service if only they are really searching for the job. While the majority of jobseekers, who register in the data base of Employment Centers, has the goal not to find a job, but to be registered as unemployed citizen and to receive unemployment benefit. In perspective the further development of IPS supposes the creation of multifunctional centers for hosting of migrants, rendering all migration services: registration of documents, work permits, bank transfers, health-care service, etc.

Creation of Information Personnel Service in the proposed format is extremely relevant today, however, it should be noted that the successful functioning of this structure, as an integral part of the system of state private partnership in many respects depends on the organizational support of the bodies of state administration at both Federal and regional levels. At the present time just this determines the problems of formation of system of labour migration regulation on the principles of state-private partnership. They are the following.

On the one hand, principles of this system are supported by the top levels of the authorities, namely by the State Duma of the Russian Federation [7].

So, the State Duma Committee on the CIS Affairs and relations with compatriots has developed a draft law "On the fundamentals of activity on rendering services in the sphere of employment of foreign migrant workers". If the document is approved, the private employment agencies will be able to recruit foreign workers to Russian employers legally.

On the other hand, the idea of state-private partnership is completely rejected by the authorities of the FMS of Russia.

“The head of the FMS Konstantin Romadanovskiy said to the State Duma in previous Friday that, his department already prepares the proposals to the
Government on creation of the Federal State Unitary Enterprise under the FMS that would take the functions of agency of employment for migrants. In the opinion of Romodanovskiy, this would allow to remove the institute of brokers. The Head of the FMS believes that the situation on the employment of migrant workers should be completely "in the management of the state and not private individuals and structures, which they represent, such as private employment agencies". “Sure, the Government and business should work together. But, nevertheless, the process of management should belong to the Government. This is our firm position, this is the direction, we are going to”, - Romodanovskiy emphasized.

Study of this initiative of the FMS of Russia by publications in the mass media, survey of employers and migrants themselves showed that this nationalization will further aggravate the problem of corruption and «does not kill the intermediary shadow market, formed for decades», and even more will drive it into the shadow. This idea is set forth rather clear in the interview of spokesman of the FMS of Russia K. Poltoranin, who suggested to give the emergency powers to the Federal state unitary enterprise in relations with state bodies of Executive Authorities, and in a range of others, noteworthy publications [8].

It is rather easier to withdraw the intermediary from the shadow by the adoption of the draft law of the State Duma Committee, developed in accordance with international standards and which actually can become effective instrument of the fight against corruption, would allow to set in motion the potential of non-governmental institutes in full.

Creation and support to non-governmental specialized organization, targeted to rendering the complex humanitarian, social and legal assistance for labour migrants can become the first step in the establishment of efficient migration regulation in the region, and not on the budget funds, but by the way of attraction of resources from regional communities.

Their main task is the ensuring the rights of working migrants in pairing to economic interests of Russian employers and state bodies, regulating migration processes.

The public formation could be trusted to the solution of such problems as:

- Foundation of the recruitment system of attraction of foreign specialists of required qualification from abroad, when the recruitment abroad is made by the applications of Russian employers according to eligibilities, given by employers;
- Professional training and professional education of migrants with the purpose of their adaptation for work in Russian conditions and therefore increase in efficiency of their use in economy of the territory.

Unfortunately, to the present day existing legislation doesn’t provide the participation of non-governmental organizations (private recruitment services, exchanges and so on) in the processes of labour migration regulation. As mentioned above, new normative legal acts related to their activity are on the stage of development and the periods of their adoption are not defined due to the absence of unified point of view to this issue.

The lack of multi-level system of regulation of labour migration processes corresponded to Russian normative acts, in the conditions of uneasy state of labour market, constitutes a serious menace for economic, social, public and sanitary-and-epidemiologic security of the territory [9].

Firstly, mass spontaneous attraction of guest migrants doesn’t promote the development of the territory. The social infrastructure is unnecessary, because there is no one, whom to build and develop for, if the outflow of native population remains.

Secondly, there is the decline in employers’ motivation for appliance of labour-saving technologies; the decrease in prices of goods and services, including the amount of unpaid taxes to budgetary fund due to illegal labour of foreign citizens, their cost is decreasing, the labour is devaluing.

And, thirdly, in the close future we may face the complete dependence on import of manpower resources, as it has become with food resources.

In this situation the main efforts of the Legislative and Executive Authorities at the Federal and regional levels should be directed to keeping migration flows into the legal bounds and placing them at the service of geopolitical and economic interests of region.

With regard to the fact that migration situation, taking place in Primorye territory, is typical for other subjects of the FEFD, conclusion about necessity of creation of unified system regulating the processes through all the district suggests itself. Work alone is meaningless here [10].
It is said about the complex target program of migration processes regulation on the basis of the strategy of socio-economic development of the Far East of Russia up to the year 2015.

Based on the state of demographic situation and migration processes in the FEFD, the program has to include cardinal measures, directed to reaching the following goals:

- Extended reproduction of labour resources by the improvement of demographic indexes;
- Creation of facilities for decent life of the native population;
- Regulation of number and structure of migrant inflow;
- Containment of intelligent emigration and stimulation of remigration of high skilled Russian citizens, working abroad.

The main tasks that should be solved by the program are:

- Optimization of economic migration, volume and structure of migration turnover in the interests of social and demographic progress of the region, including voluntary resettlement of compatriots and selective recruitment of foreign specialists for working in various areas of economy directly in donor-states.
- Thereupon special emphasis is put on the solution of the task on assistance for creation and development of state-private partnership in the states-members of the CIS, promoting mutual solution of the problems of employment of population of the countries-members of the CIS, on the one hand, and formation of balanced labour markets of the subjects of the Russian Federation with attraction of workers from the countries-members of the CIS on the other hand.

This is caused by the fact that in present time governmental regulation of labor migration processes doesn’t include the target approach to reduction of demands of employers and potential abilities of labour markets of the states – members of the CIS and the APR to the necessity of carrying out a range of actions, attendant to this approach. These are a solution of the issues of attestation of foreign workers, their professional and language training and retraining, health care insurance, housing provision, possible crediting of labour migrants etc. The solution of them implies creation of the Centers of social adaptation of migrants both on the territory of subject of the Russian federation and countries-donors of labour migrants (near and far abroad).

- Efficient measure of immigration regulation should include establishment of property and educational qualification in the relation to the migrants, particularly arriving for the permanent residence as it is adopted in a range of developed states. Along with it one of the obligatory aspects of governmental policy in relation with non-Russian-language migrants should be step-by step work on their assimilation, inurement to Russian language and culture.
- The specific place in the program should belong to Primorye territory. From the strategy of the development of the Far Eastern region, geographical position of Primorye territory makes it a pivot, round of which it is possible to develop other subjects of the Far East of Russia. Geopolitical position of the territory is the most suitable for the creation of a bridgehead for the mining of natural resources of the North by fly-in fly-out. By the way it is quite far-sighted stipulated in the Federal target program "Economic and social development of the Far East and Transbaikalia in 1996 - 2005 and up to 2010". The program determines that “The strategy of population fixing on the territory of the Far East and Transbaikalia has to be based on the principle that it is economically purposeful to fix native population on the southern territories of the region and it doesn’t need to block off the migration from the northern territories, where the life support is linked with rather significant expenses of the state”.
- Expansion of the cooperation with other subjects of the Russian Federation, foreign states and international organizations on the migration problems. Activation of the development of international collaboration in the field of migration is necessary first of all on the assumption of priorities of the Far Eastern region.

Here it needs to refuse from “discussion and consulting” forms of cooperation and to turn to mutual turnkey implementation of projects, oriented to further creation and development of the Far Eastern infrastructure and potential for solution of migration issues in the interests of all Pacific community.
In principle, this is about the fact, that the successful management of processes of labour migration needs to unite efforts and the potential not only of all the regions of the Far Eastern Federal district, but also the creation of a united labour market with its methods of regulation in the bounds of the Far Eastern Federal district, the EurAsEC and the Asia-Pacific region [11].

The success of development and implementation of the complex program will be determined by the clearness of long-term purposes of the progress of the territory, accuracy of formulated tasks and understanding of the sources and the instruments that will solve these problems. One of such task is design of mechanism and aggregate of elements of infrastructure of foreign labour force management. This task includes the development of the package of legislative acts, ensuring the legal order of functioning of this system. At the level of governments it should be consistent adoption of number of intergovernmental agreements, providing mode of selective formation of the migration flow. In the end, it will demand a large range of educational programs, ensuring social and cultural incorporation of the migrants into the environment of their stay, their adaptation to employment, and the possibility of use of the legal regulations that protect the rights and freedoms of migrants [12].

The solution of these tasks is out of the bounds of the FEFD, because large-scale development of the territory of the Russian Far East is competence of the Federal Center, and it requires the development of the state strategy of social and economic progress of this region. One of the key moments of this strategy, the lever of the accelerated socio-economic development of the region is efficient use of foreign labour force.

REFERENCES