



Journal Website:
<https://theusajournals.com/index.php/ijlc>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

ENSURING ADMINISTRATIVE LIABILITY FOR VIOLATION OF THE LEGISLATION ON CITIZENSHIP OF THE REPUBLIC OF UZBEKISTAN

Submission Date: June 20, 2023, Accepted Date: June 25, 2023,

Published Date: June 30, 2023

Crossref doi: <https://doi.org/10.37547/ijlc/Volume03Issue06-13>

Karimov Ruslan Qayum Ugli

Trainee Of The Division Of Master's Degree Of The Academy Of The Ministry Of Internal Affairs Of The Republic Of Uzbekistan

ABSTRACT

In recent years there has been a tendency of growth in migration processes in Uzbekistan. Of course, this situation is directly related to a number of factors. Such factors include social, economic and other similar ones. According to the State Statistics Committee, 758,046 people immigrated to the Republic of Uzbekistan in 2015-2020. At the same time, 870,113 people left the country for permanent residence abroad. These figures confirm that the processes of internal and external migration in the country have intensified. The need to guarantee the rights of migrants, including their rights to citizenship, has increased.

KEYWORDS

Statistics Committee, 758,046 people immigrated to the Republic of Uzbekistan in 2015-2020.

INTRODUCTION

Moreover, Uzbekistan has the highest share of stateless persons in the region (about 80 percent of the total number of stateless persons in Central Asia). According to information provided by the Uzbek government to the UN High Commissioner for Refugees in November 2020, it was officially reported that 69,761 stateless persons were living in the country. The Office of the UN High Commissioner for Refugees confirmed that there were 88,117 stateless persons in Central Asia at the end of 2020.

The author conducted an analysis of theoretical and practical materials on the definition of the legal status of a person. In addition, the results of a survey conducted among specialists leads to the conclusion that one of the important areas is the improvement of national legal norms. It should be noted that the main purpose of improving the national legal norms regulating the conduct of citizenship cases in the Republic of Uzbekistan is to create legal mechanisms to guarantee the requirements of the legislation on citizenship.

The issue of creating legal mechanisms to guarantee fulfillment of the requirements of the legislation on citizenship of the Republic of Uzbekistan is one of the pressing problems of our time. Currently, in practice we can observe the following cases (acts) committed in connection with violations of the requirements of the legislation on citizenship

- assumption of citizenship of another country by a person having the citizenship of the Republic of Uzbekistan without relinquishing the citizenship of the country in accordance with the established procedure;
- concealing the fact of acquiring the citizenship of a foreign country from the State authorities of the Republic of Uzbekistan or failing to inform them of this fact
- illegal use of a passport of (biometric) citizenship of the Republic of Uzbekistan or an identity card for the loss of Uzbek citizenship
- provision of deliberately false information to the state bodies in order to obtain a permanent residence permit in the Republic of Uzbekistan, acquisition of citizenship or its restoration by a foreign citizen or stateless person, etc.

The main reason for such cases is the lack of a mechanism for applying legal measures to these acts. And also the fact that legal documents do not provide liability for such acts. This situation, of course, negates the statistical record of these acts in practice.

It should be noted that in recent years the national legal framework has seen a number of additions and amendments aimed at eliminating the analyzed legal gap. For example, in part two of Article 21, Law № 632-XII of July 2, 1992 “On Citizenship of the Republic of Uzbekistan” the following norm was included based on Law № O’RQ-411 of September 23, 2016 “On

Amendments and Additions to Some Legislative Acts of the Republic of Uzbekistan”. According to the introduced additions, the legislation contains a norm that “a person who has acquired the citizenship of a foreign state is obliged to inform the internal affairs bodies of the Republic of Uzbekistan or consular offices abroad about such a fact within thirty days”. With the adoption of the Law “On Citizenship of the Republic of Uzbekistan” this norm, together with the previous version of the law, became null and void.

At the same time paragraph 3510 of the “Provisions on Passport System in the Republic of Uzbekistan” approved by the Presidential Decree № PF-4262 dated January 5, 2011 is expressed in the following way. While the enshrined norm stipulates that “a person who has lost Uzbek citizenship is obliged to surrender his passport to the body of internal affairs at the last place of residence or to a diplomatic mission or consular institution of the Republic of Uzbekistan abroad at the place of residence”. The administrative legislation of the Republic of Uzbekistan does not define a regulated mechanism to guarantee the fulfillment of the requirement of the law.

In addition, there are no legal mechanisms for the practical application of the following norm “Persons guilty of violating the legislation on citizenship of the Republic of Uzbekistan shall bear responsibility in accordance with the established procedure”, stipulated in Article 54 of the Law “On Citizenship of the Republic of Uzbekistan”. In particular, what action or inaction is considered a violation of the requirements of the legislation on citizenship. In what order and what punishment can be applied to the perpetrators of such actions, the legislation does not mention.

According to the Consular Legal Department of the Ministry of Foreign Affairs, a total of 767 people lost their citizenship (passport) of the Republic of Uzbekistan (484 in 2019, 25 in 2020, 258 in 2021). All of them acquired citizenship of the Russian Federation without relinquishing Uzbek citizenship in accordance with the procedure established by law.

Dual citizenship leads to situations that contradict the provisions of Article 21 of the Constitution of the Republic of Uzbekistan. This article states that a single citizenship is established in the entire territory of the Republic of Uzbekistan. And Article 12 of the analyzed law – the existence of foreign citizenship of a person who is a citizen of the Republic of Uzbekistan is not recognized in the Republic of Uzbekistan. At the same time, this situation means that there are sufficient conditions for individuals to reside on a valid passport of Uzbekistan, being a citizen of another country.

According to the results of the study of the practice of application of the legislation the following can be noted. In addition to the above, several factors influence the non-compliance with the requirements to formalize renunciation of citizenship on the basis of the rules and conditions established by law. First, in most countries, such as Australia, Austria, Great Britain, Canada, Italy, Sweden, USA, France, in practice there is no application of the requirement of renunciation of citizenship of another country when obtaining the citizenship of these countries. Secondly, in the Republic of Uzbekistan the established procedure represents a certain complexity of conditions and procedures for renunciation of citizenship in our country.

The results of the study of experts' works on the analyzed issue revealed the following indicators. 37.9 percent of the respondents who took part in the

sociological survey on violation of the requirements of the legislation on citizenship pointed out the existing legal gaps and shortcomings in the regulatory framework. 25.8 percent indicate that there was insufficient outreach. 34.5 percent revealed the complexity of procedures for consideration of civil legal issues (duration of application review period). 1.8 percent indicated that they named other problems as the main reason.

On the analyzed issue the experience of Kazakhstan (Article 496) shows that the illegal use of the passport of a citizen and the identity document of the Republic of Kazakhstan by persons who have lost citizenship of the Republic of Kazakhstan is grounds for bringing to administrative responsibility. It is also established that failure to report this fact to the authorized public authorities within the prescribed period of time by persons who have acquired citizenship of another country entails administrative responsibility.

Russian legislation (Article 19.8.3 of the Code of Administrative Offences of the Russian Federation) provides for administrative responsibility for failure to report or provision of deliberately false information on obtaining the citizenship of a foreign country or obtaining a residence permit.

According to the Administrative Code of the Republic of Armenia (Articles 195(1), 195(2)), a) if a citizen resides abroad for more than 6 months and does not notify the Foreign Ministry (consular offices) of the Republic of Armenia, the minimum wage of 50% or a lump sum; b) if he does not inform the Armenian government about his acceptance of a foreign state citizenship, he will be fined 50 times the minimum wage.

Based on the above analysis, it is advisable to supplement the Code of Administrative Responsibility with a special norm of the following content:

“Article 2234. Violation of requirements of the legislation on citizenship of the Republic of Uzbekistan

Failure to notify about acceptance of foreign citizenship within the time limits established by the legislation of the Republic of Uzbekistan shall be punishable by a fine in the amount of two basic calculation units.

Failure by a person whose citizenship has been terminated to provide a passport or an identity card of a citizen of the Republic of Uzbekistan to the authorized state bodies or to use them shall be punishable by a fine in the amount of ten basic calculation units.

If the acts stipulated in parts one and two of this article are committed by persons in the civil service, as well as by persons performing the duties of representatives of authorities or performing organizational and administrative or administrative and economic functions in state bodies, – shall be punishable by a fine of fifty basic calculation units”.

Our opinion can be substantiated by the presence of responsibility for similar social relations in the Code of Administrative Responsibility of the Republic of Uzbekistan (Article 230 Violation of legislation on civil status acts). In addition, 71.9 percent of the experts who participated in the sociological surveys conducted during the study supported the author's proposal on the need to define administrative responsibility for such deeds.

As a result of the adoption of this legal norm: first, a legal gap in the consideration of issues related to the

citizenship of the Republic of Uzbekistan will be eliminated. Secondly, the responsibility of citizens of the Republic of Uzbekistan will be increased. Especially civil servants, by establishing responsibility for failure to report in time on acceptance of citizenship of a foreign state. Third, possible negative consequences associated with dual citizenship in the Republic of Uzbekistan are avoided. Fourthly, it ensures clarity and uniformity in the practice of applying the law on the ground.

REFERENCES

1. URL: <https://stat.uz/uz/180-ofytsyalnaia-statystyka-uz/6548-demografiya>, <https://www.gazeta.uz/uz/2021/01/19/leave/> (date of access: 25.08.2021).
2. Swider K. Comparative legal analysis of national legislation and law enforcement practices in the Republic of Uzbekistan and other countries of Central Asia in accordance with the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Provisions on the Reduction of Statelessness (UN QIB, 2021). — P. 7.
3. Note: Russian scientist S.D. Ivanov in his study argues that “revocation of decision on citizenship” is a special form of termination of citizenship, occurring without the will of the person (against his will). He also emphasizes that the assessment of the facts of acquisition of citizenship on the basis of the provision of knowingly false information should be carried out in court and entail liability established by law. [Ivanov S.D. Legislative regulation of the procedure for obtaining Russian citizenship and problems of its enforcement // URL: <https://moluch.ru/archive/143/40138/> (date of access 02.04.2020)].



4. The Right to Citizenship: Collection of Materials. – Moscow: New Justice, 2010. – P. 66.
5. Code of the Republic of Kazakhstan on Administrative Offences of July 5, 2014 № 235-V (with amendments and additions as of 10.02.2017) // https://online.zakon.kz/Document/?doc_id=31577399#pos=0;0 (date of access: 30.06.2023).
6. Code of the Russian Federation on Administrative Offences of December 30, 2001 N 195-FZ // <http://zakonbase.ru/koap/> (date of access: 30.06.2023).
7. Oganisyan M.S. Obtaining, acquiring citizenship and dual citizenship of the Republic of Armenia // Bulletin of Kemerovo State University. – 2010. – № 1. – P. 155.



OSCAR
PUBLISHING SERVICES