

Migration Policy in Russia and its „Domino Effect” Towards Migrants

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Abstract: *Since the collapse of the Soviet Union, migration policy has always been an all-important issue for Russian authorities. It is one of the major migrant-receiving countries in the world and according to some assessments, international migrants constitute up to 25 per cent of total workforce in the country. After becoming an independent state, the authorities quickly realized that the Soviet-style immigration laws had to undergo huge changes in order to regulate the incoming massive migration effectively. This article presents a general overview of Russian immigration law at different stages of its development. It also elaborates on how toughening migration policy has produced reverse effect by creating more illegal migrants in the country, in addition to resulting in "domino effect" towards migrants.*

Keywords: *migration policy, Russia, domino effect, Central Asian migrants, FMS*

INTRODUCTION

Russia, after the United States of America, Saudi Arabia and Germany, is the fourth largest host country of international migrants in the world with over 11 million migrants residing in the country in 2017.¹ Majority of them come from the former Soviet countries, especially from Central Asia.² Generally, the nationals of those countries can come to Russia under the visa-free regime. However, once they arrive, they are subject to draconian immigration laws and regulations which usually compel many of them to stay and work illegally.³ According to statistics from 2015, about three million foreign citizens residing in Russia had already violated the legal terms of their residence.⁴

If the USSR would still exist, majority of the migrants in Russia today would not be regarded as international migrants and their conduct would also be regulated by ordinary Russian internal legislation. Moreover, the collapse of the Soviet Union has changed the statuses of people by turning former citizens of one country into foreign citizens in relation to each other. In turn, it resulted in changing attitudes among those people and created completely new ways of viewing migration. All these processes took place simultaneously with other huge transformations in the post-Soviet area: transition from planned economy to Western-style market economy and from a multinational and multicultural country to building nation-states. Under the circumstances, a number of questions arose

¹ UN DESA, 2017. International Migration Stock. [Online]

Available at: <http://www.un.org/en/development/desa/population/migration/data/estimates2/estimates17.asp>
[Accessed 25 March 2019].

² Russian Ministry of Internal Affairs, 2018. Statistics and Analytics. [Online]

Available at: <https://xn--b1aew.xn--p1ai/Deljatelnost/statistics/migracionnaya/item/15851053/>; Chochia, A., & Popjanovski, J. (2016). Change of Power and Its Influence on Country's Europeanization Process. Case Study: Georgia. In *Political and Legal Perspectives of the EU Eastern Partnership Policy* (pp. 197-210). Springer, Cham.
[Accessed 25 March 2019].

³ Urinboyev, Rustamjon. 2016. „Migration and Parallel Legal Orders in Russia.“ ALEKSANTERI INSIGHT (Aleksanteri Institute, University of Helsinki).

⁴ Russian Federal Migration Service, 2015. Russian Ministry of Internal Affairs. [Online]

Available at: https://xn--b1ab2a0a.xn--b1aew.xn--p1ai/upload/site1/document_file/Itogovyy_doklad_na_19.02.16.pdf
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in the post-Soviet Russia about the regulation of vast inevitable mobility processes and whether this mobility is beneficial and desirable or negative and even dangerous. The answers to those questions — which have been constantly changing over time — led to another set of equally complicated questions: what institutions and rules should control and regulate the process and its actors.

An ongoing debate on this issue has always been accompanied by constant changes in the migration policies of Russia. Meanwhile, available research on migration in Russia suggest that the policies are highly inconsistent, cynical and dependent on conflicts between various lobbyists i.e. liberals, nationalists and neo-imperialists.⁵⁶ They also point out the existence of strong ideological division on this subject.⁷ Undoubtedly, all of these factors inevitably lead to controversial and frequent changes, which deserve sound research not only from a domestic perspective, but in a comparative context as well.⁸ In the first section of this research paper, I aim to give a brief description of changes and developments in Russia's migration policy, namely early stages of its development and the concept of "compatriot" developed during that stage. Further, I will present my analysis on the main directions and results of the recent changes in the immigration laws. In the second section, I will suggest that high number of illegal migrants in Russia largely has to do with the "domino effect" of its immigration laws where breaking one law makes it inevitable to break another which finally pushes a migrant out of an inner circle of legality without any right of return. I will use a case study derived from my daily conversations with Uzbek migrants when I was in Uzbekistan in May 2018. At the end of the second section, I will try to present my analysis on what factors resulted in "domino effect" and possible solutions to this issue. The last section of this research paper will summarize all the important points before coming to a logical conclusion.

1. DEVELOPMENTS IN RUSSIA'S MIGRATION POLICY

After the collapse of the Soviet Union, a newly independent Russia became a destination for millions of international migrants. With its very little experience in managing large-scale migration processes, Russia had to quickly set up its policies and institutions to regulate the situation. Soon, it became obvious that its Soviet-style immigration laws needed to be updated and had to undergo huge transformations.

1.1. Refugees and Issues of Displacement

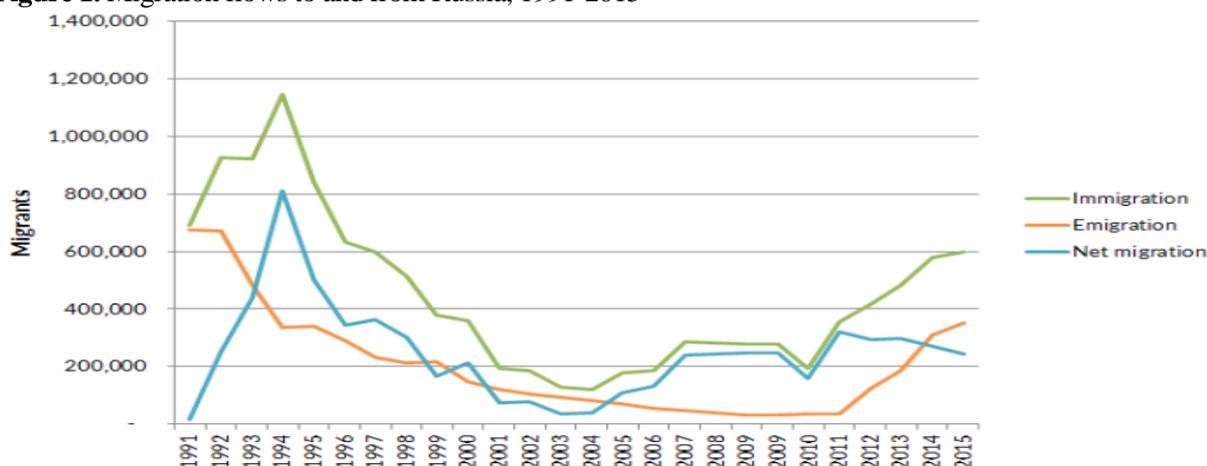
The early 1990s was marked by a massive resettlements of Russian-speaking migrants who were previously living in other Soviet republics. It was largely due to various upheavals and political reforms taking place in those republics including civil war in Tajikistan, armed conflicts in Moldova and Caucasus, and laws that gave the status of official state language to languages other than Russian. It resulted in huge flows of refugees and displaced people from various ethnic groups.

⁵ Mukomel. 2005. „Migratsionnaya politika Rossii: postsovetские konteksty.“ (Moscow: Dipol'-T.).

⁶ Zaionchkovskaya, Zh., N. Mkrtchyan and E. Tyuryukanova. 2009. „Rossiya pered vyzovami immigratsii“. Postsovetские transformatsii: otrazhenie v migratsiyakh.“ Monteerinud: Zh.

⁷ Mukomel'. 2008. „Novaya migratsionnaya politika Rossii: izderzhki ideologii“.“ Moldoscopie (Probleme de analiza politica) 93-110.

⁸ On the general need for the study and teaching of comparative law in central and Eastern Europe see Hoffmann, T., Reflections on Opportunities for Comparative Private Law in Academia: Central and Eastern Europe. Review of Central and East European Law, 39 (2014), p. 1–17.

Figure 1. Migration flows to and from Russia, 1991-2015

Note: Immigration figures refer to inflows of migrants who stay in Russia longer than one year.
 Source: Federal State Statistics Service (Rosstat), "International Migration," updated April 19, 2019, available online (in Russian).

Therefore, unsurprisingly, the first migration legislation in the post-Soviet Russia was devoted to the issue of refugees and displaced people.⁹ This legislation explained the difference between refugees and displaced people. According to it, foreign citizens arriving in Russia were defined as refugees and Russian citizens who obtained their citizenship outside of Russia were defined as forcibly displaced people. In this sense, this period of immigration policies in Russia is considered to be the most liberal from the political point of view as it mainly aimed to regulate the influx of unprecedented number of migrants — majority of whom were ethnic Russians — to resettle in their "homeland".¹⁰

1.1.1. "Compatriots"

Later in 1995, Russian government adopted a 'Declaration on Support for Russian Diaspora and on Patronage for Russian Compatriots' according to which anyone coming from former USSR, Russia and their direct descendants thereof, who do not hold a Russian citizenship but want to maintain ties and stay loyal to the Russian Federation are defined as "compatriots". Further, in 1999, the newly adopted "Act on the Russian Federation's State Policy toward Compatriots Abroad" strengthened the concept.¹¹ Generally, the concept of "compatriot" was very broad and *de facto* included anyone who lived in the post-Soviet area. Subsequently, all policies concerning the "compatriots" were built around the idea of supporting them abroad and even more importantly, assisting those who wanted to move back to Russia permanently. Moreover, simplified procedures for getting Russian citizenship were in place for them.

1.2. The Toughening of the Russia's Migration Laws

The next milestone in the development of Russia's migration policies dates back to 2000s. Given the threats of both internal and international terrorism, Russian authorities decided to reorient

⁹ Zakon 'O bezhentsakh', No. 4528-I and Zakon 'O vyzhdenykh pereselentsakh', No. 4530-1.

¹⁰ Meilus, L. 2013. „Challenges in Migration Policy in Post-Soviet Russia.“ (Illinois Wesleyan University.) 17.

¹¹ On details of this act in the context of Russian foreign policies see Hoffmann, T. & Chochia, A. (2018). The Institution of Citizenship and Practices of Passportization in Russia's European Neighborhood Policies. In: A. Makarychev, T. Hoffmann (Ed.). Russia and the EU Spaces of Interaction (223–237). Routledge, Taylor&Francis Group.

the existing migration policies and turn it into a fight against the illegal migration.¹² The authorities started seeing illegal migrants as one of the main sources of instability inside the country and ultimately, as a threat to the national security.¹³ One of the first steps on this way was "drawing a clear line between "ours" and "aliens" and between "preferred" and "non-preferred"". For this reason, "Federal Law on Legal Status of Foreign Citizens in the Russian Federation" was adopted in 2002. Along some other changes, this law also laid out certain cultural requirements for compatriots and migrants who wanted to become Russian citizens. Initially, as mentioned above, the concept of "compatriot" included anyone who was a citizen of the USSR and their direct descendants. Therefore, it was open for anyone from the post-Soviet area regardless their national, ethnic and cultural origin. However, it gradually became a word to describe someone with plan's to move to Russia.¹⁴ According to the new law adopted in 2002, all migrant workers who entered the territory of Russian Federation were classified as "temporary staying foreigners" and had a right to stay in Russia for 90 days. They were also obliged to register at the City Department of Interior of Russian Federation within 3 days of their arrival to Russia. For that to be done, migrants needed either a written agreement with the perspective employer or a rental contract with a landlord and a migrant. In order to change their status from "temporary staying foreigner" to "temporary staying resident", migrants had to find a job and get proper work permit within those 90 days.

However, in reality, for migrant workers, it was extremely hard to register within three days of their arrival due to the following reason: neither employers nor landlords are willing to make a formal written contract with migrants. The paramount motive behind it is to evade the taxes.¹⁵ Since majority of landlords do not provide leasing contracts easily, migrants have no other choice than working without proper documents. In turn, it makes them extremely vulnerable to violations of their rights by employers and the police.

So, due to those legal restrictions, many migrants turned to shadow economy. In this way, the number of illegal migrants in Russia grew dramatically since the introduction of the aforementioned draconian laws and regulations. It also initiated a growth in corruption related to the immigration industry.¹⁶ As a result, in 2007, Russian authorities were compelled to introduce some changes to previously existing laws. Due to those amendments, the 90-day period was extended to 180 days and 3-day deadline for registering was also extended to 7 days. Apart from that, there were several positive changes concerning the procedures of getting work permits. For example, based on the new amendments, migrants could apply for the work permit in any Federal Migration Service (hereafter: FMS) offices without being dependent on one particular employer. It meant more freedom to choose and to change their workplace.

However, what looked *de jure* good, was *de facto* hard to implement. Moreover, the compulsory medical exam that had to be done within 30 days cost about 500 USD which is extremely expensive for migrants. The amendments to the law also made it compulsory for migrants to take language test which was another huge obstacle on their way to legality. Above all, FMS failed to fully cooperate with other agencies when it comes to implementing new reforms. Therefore, this stage of development in Russia's migration laws were called by some academicians as "liberal-restrictive" due to its double standard approach.¹⁷

¹² Latsis, O. 2002. „Time for deportation again?“ The Russian Journal .

¹³ Igushev, A. 2003. „Tajikistan: Countering poverty, trying to stay in good terms with Russian and West.“ CACI Analyst.

¹⁴ Heleniak, T. 2001. 'Migration and restructuring in post-Soviet Russia'. Kd. 4,

¹⁵ Schaible, D. 2003. „Life in Russia's 'Closed City: Moscow's movement restrictions and the rule of law.“ New York University Law Review 76: 344-373.

¹⁶ Meilus, L. 2013. „Challenges in Migration Policy in Post-Soviet Russia.“ (Illinois Wesleyan University.) 17.

¹⁷ Tiplidou, S., & Uba, K. . 2014. The Russian Radical Right Movement and Immigration Policy: Do They Just Make Noise or Have an Impact as Well? Kd. 7. 66 kd.

1.2.1. Reforms of 2014-2015

As the massive migration flow continued throughout the following years, there was a need to revise previously existing immigration laws and to introduce further developments to it. Those developments came in 2014 and 2015. They had several important aspects and were aimed at solving particular tasks which I will describe in the next paragraphs.

Although the new concept *de jure* talked about attracting more migrant workers to Russia, the first amendments *de facto* had more restrictive nature rather than encouraging. The implementation of a three-month stay rule can be a salient example in this regard. According to it, a migrant coming from a country that has established visa-free regime with Russia can stay for three month with six month period. Previously, there was no six month limitation and therefore, many migrants used to cross and re-enter the nearest border (e.g. Kazakhstan, Ukrainian borders) and in this way, prolong their stay. With the new rule, Russian authorities removed this option for migrants. So, migrants had to either leave Russia in three month and return only after staying at least three month in their own home countries, or acquire proper documents. The latter option had its own nuances and obstacles.

Apart from the aforementioned change, there were some other significant changes in other aspects of immigration legislation. Previously, in order to work legally in Russia, migrants were obliged to get quota permits and work patents. Starting from 2015, a single patent system was introduced which was supposed to simplify the process of getting proper documents to work in the country. One should note that it was only for those countries that have visa-free regime with Russia and citizens of countries that do not fall under that category were still obliged to acquire permits and work patents. Except for simplifying the process, this development was also meant to solve the issue of social security of migrants by making it compulsory to get a health insurance.

Further and even more importantly, the new laws drew a line between those who were only invited to stay temporarily, and those who were encouraged to stay permanently and acquire Russian citizenship. For example, native Russian speakers, businessmen and experts in particular fields had a chance to get a residence permit and Russian citizenship easier than other ordinary migrant workers. The latter category was required to renew their patent after a year of their stay and leave Russia after 2 years.

The fourth significant amendment to the immigration laws had to do with the integration of migrants into the Russian society and culture. According to the new law, one of the requirements for acquiring residence permit and patent was passing an exam in Russian language, history and legal system. One more interesting thing to note about this legislation is that there was an examination fee to be paid by migrants. This law entered into force from 2015 and still stays active.

1.2.2. Entry Bars

Since 2012, in order to regulate the vast migration process, Russian authorities introduced a practice of issuing entry bars to migrants who have violated the immigration laws. Initially, it used to be issued only to those migrants who had not left Russia within the thirty-day period after the expiry of their residence permit. However, it has experienced a serious shift in 2013-2014. According to the new law, entry bar is issued to any migrant who commits two or more administrative offences (i.e. crossing the road in wrong places, speeding or parking tickets) within a three-year period.¹⁸ Unlike many other laws, this one works retroactively and therefore, a migrant can get an entry bar not only for two or more administrative offences committed after this law was passed, but rather any three-year period of migrant's residence in Russia. Although the law does not imply it explicitly,

¹⁸ Russian Federation. 1996. „THE LAW ON THE RULES OF ENTRY AND EXIT FROM THE TERRITORY OF RUSSIAN FEDERATION, Art. 27, § 2.1.“

courts have *de facto* interpreted it accordingly.¹⁹ Issuing an entry bar makes a migrant effectively deportable and leaves no possibility to regularize his/her stay in Russia. As a result, the number of deportations increased significantly over the following years. According to the official statistics from FMS, 645, 000 migrants were deported in 2014 compared to 73, 000 in 2013. It is important to note that not all migrants who get an entry bar are deported by the authorities. In many cases, they are given a certain period of time to leave Russia on their own.

2. IMMIGRATION LAWS AND THEIR EFFECTS

Since 2000s, the migration policies of Russia towards migrant workers, especially from Central Asia, have become more and more restrictive and repressive. Although the laws do not imply it explicitly, it can be seen in the real life experiences of many migrants. Frequently changing rules and other inconsistencies in the law and in the institutions that regulate migration have led to the phenomenon of "domino effect" of immigration laws. In other words, it is a kind of a chain reaction which migrants can activate by committing a single offence and it does not matter how small it is. It is enough to cause the "domino effect".

2.1. A case study

Anvar is thirty-two years old migrant worker from Uzbekistan²⁰. He had arrived in Moscow several years ago to find a work in some construction site because it was a job for which he had received special training when he was in Uzbekistan. He found a job in a small construction site and he liked it. He also was advancing well in his career. Of course, as with everyone else, there were temporary delays in payments, but Anvar understood very well that it is a general condition for all migrants in Russia and therefore, accepted it. Moreover, he managed to bring his wife and his child to Russia, so they were all living together. In short, he was happy with his job and his life.

He was one day stopped in the metro by the police. During the check, the police officers asked for his passport and residence registration card. Having checked the documents, the officers accused Anvar of having fake registration. Subsequently, the officers kept him at a police station overnight. In next the morning, they took him to one of the district courts with the accusations of having a fake registration documents. Alongside him, the officers also took eighteen more migrants with the same accusations.

The court immediately accepted the charges brought by the police and found Anvar and other migrants guilty of violating administrative and immigration laws. It resulted in ordering a usual triple sentence: a five-year entry which had to be issued immediately by the FMS, expulsion order and a fine (5000 rubles). With various construction projects under way, his wife and a child living with him in Moscow, leaving Russia seemed impossible.

Moreover, Anvar was quite certain that his immigration documents were legit because they were given to him by his employer. Therefore, he hired an immigration lawyer. The lawyer recommended Anvar to go to the local FMS office and ask them to check the status of his registration from their database. It is important to note that the police does not have an access to the FMS database because of the division in their responsibilities and therefore, they are supposed to send an official request to FMS every time when they suspect someone of having false immigration papers.

¹⁹ Kubal, Agnieszka. 2016. „Entry Bar as Surreptitious Deportation?“ Journal of the American Bar Foundation (Law&Society Inquiry) 2 (2): 13.

²⁰ In order to keep the confidentiality of a migrant whom I talked to in Uzbekistan, I changed his name and some of his personal data. However, important facts of the case are unchanged.

However, as in the case of Anvar, the police often do not follow those procedures and file a case directly to the court.

Having waited in the long queue at the FMS office, Anvar was informed that his registration was on their database. The FMS officer issued a printout from their database certifying the validity of his registration. Based on this evidence, Anvar's lawyer filed an appeal with the Moscow City Court.

In turn, the court having received the evidences rejected the earlier decision of the District Court.

Justice seems to be served. However, what were the real effects of the decision made by the Moscow City Court which was supposed to bring Anvar back into legality?

As mentioned above, Anvar was issued a triple sentence and one of them was issuing the five-year entry bar immediately by the FMS. So, the decision of the Moscow City Court was supposed to remove the entry bar. It was necessary for him in order to renew his patent. However, there was yet a bigger problem. Anvar's registration was soon going to expire and renewing it required the removal of his entry bar. The problem was that the formal long processing time of the Moscow City Court and equally, long processing time of FMS would make it impossible for him to renew the registration. Without registration, it is also impossible to renew his working patent which would push him back into illegality.

His lawyer advised Anvar to make a request at the FMS so that they would remove his entry bar as soon as possible and let him legitimise his stay in Russia. Subsequently, he filled an application at the FMS and attached the reference from the Moscow City Court. The FMS confirmed that it takes one month for FMS to remove his entry bar from the database. However, his registration expiry date was closer than that.

Did he win the case after all? After all, Anvar and his family were compelled to leave the Russian Federation and wait for the court and the FMS to process and lift his entry bar. In other words, despite the acquittal of the Moscow City Court, he had to leave.

2.2. "Domino effect": the reasons and the ways to eradicate them

Anvar's case represents many other cases and similar situations that migrants experience in Russia in their every day life. Breaking one law — or simply being accused— leads to breaking another law which, finally, pushes a migrant out of the inner circle of legality while offering very little or no chance to return. As Anvar told me: "If you do not fulfil one condition, pay the taxes on working patent a few days later, or FMS officer puts your name or your date of birth incorrectly, then the process starts. One thing leads to another and it continues until you find yourself in the court. After that, illegality becomes your only and only option."

I would argue that the more repressive the immigration laws are in Russia, the more illegal migrants will be produced as a result. The above presented data has shown that over the years, Russia's immigration policies has been getting tougher against the migrants and it was producing reverse effect: the number of illegal migrants has been increasing since then. Moreover, from my point of view, slight decreases in the number of migrants in the country have largely to do with the economic decline in Russia since 2014 due to the sanctions imposed by EU and USA. Therefore, the belief that the newly adopted policies have been effective might be questionable.

Taken into account the complexity of the migration process in Russia, it is impossible to offer any "quick fixes". However, there seems to be several ways how the overall situation could be improved. Above all, there is a need to revise the proportionality of the sanctions being imposed on migrants compared to the scale of an offence committed. For example, issuing an entry bar and expulsion of a migrant (who might have family ties in Russia) because of administrative offences seems to be against the principle of proportionality. Apart from that, taking into consideration the

financial situation of migrants and the capacity and the willingness of state agencies to implement the new laws is important step towards establishing better immigration legislation.

CONCLUSION

The aim of this paper was to analyze the development of migration policies in post-Soviet Russia and to examine the phenomenon of "domino effect" of its current immigration laws in relation to migrant workers, especially from Central Asia. As observed above, the migration policies in the country had more liberal character in its earlier stages. Its immigration laws were solely aimed at regularizing the vast migration process and accomodating millions of people fleeing to the country. Moreover, it was far less selective in terms of ethnicity and culture when deciding how to treat migrants. However, starting from 2000s, due to both external and internal factors, Russia started toughening its migration laws and treating particular type of migrants differently. Over time, it created a division between "preferred" and "non-preferred" migrants. The concept of "compatriot" – which initially was implemented as a very broad concept and included *de facto* everyone in the post-Soviet space — lost its initial significance and thus, its value.

Reforms in 2014-2015 which *de jure* were supposed to make migrants' lives easier produced reverse effects due to its impracticality and failure of legislating authorities to consider the everyday realities of migrants' lives and working style of its state agencies. Moreover, the practice of issuing entry bars, especially after the amendments to the legislation in 2014, started producing even more illegal migrants and ultimately, led to the above mentioned "domino effect". Due to the disproportionate sanctions, many migrants turned to shadow economy. In this respect, when making new amendments and revising the existing immigration policies as a whole, Russian authorities need to take these factors and results into consideration. There is a high need for further research into the lives of migrants in order to examine real "rules of the game" that migrants live by rather than formal legislation that do not usually operate as it is supposed to.

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