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International Practice in Regulating Liability for Illegal Migration

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Abstract

In the last several decades migration processes have become global in nature, involving a significant growth in both legal and illegal (illicit) migration. Insufficiently managed migration flows have become a serious security threat for many countries. Illegal (illicit) migration, which poses a threat to national security and is frequently potentially associated with conflict, crime and violence, has been included in the list of modern global challenges and threats, thus requiring not only improvement of international and national legal mechanisms, but also development of joint measures and actions on the part of the whole global community. Virtually all nations in the world are involved in this process either as host countries, countries of origin, or countries with mixed migration flows.

The authors argue that migration in general, and its illegal component creates for the economy as the benefits and losses. However, the gross loss to the economy can be minimized provided the adequate implementation of the migration policy. The author points out that clever use of foreign labor could become an objective good for the country with a negative reproduction and growing needs, it is important only to find the resources to manage this sometimes spontaneous process.

Keywords: migration, regulation, liability, international practice, transnational organized crime.

JEL Classification: K37, K33, K14.

Introduction

In recent years, illegal migration has spread beyond the borders of individual countries and transformed into a global problem, which poses a real threat to public safety, contributes to a growing crime rate, propagation of dangerous diseases and expansion of the black labour market. The wide scope of illegal migration requires an immediate and professional response on both the national and international level. Joint efforts are much more effective than isolated actions taken by individual countries.

It should be emphasized that international cooperation is becoming increasingly important in the matter of combating illegal migration. Cooperation among nations in this context targets the areas of interest where common interest in preventing and combating illegal migration translates into both joint efforts and extensive use of international mechanisms.

1. Literature review

Vinogradova A. with this process often associates such phenomena as the criminalization of society, the increase of nationalist sentiment, diasporization individual labor niches. Whereas the correct approach to the management of migration processes, migrants have become a source of replenishment of the labor force in developed economies, which tend to narrowed reproduction of the population (Vinogradova 2016, 814).

Stereotypes migration assessment from the perspective of its negative impact on society, primarily linked Méndez F., Sepúlveda F., Valdés N. (2016, 752). On the negative image of migrants, which is created in the media, and the phenomenon of illegal migration often the result of information isolation of immigrants, their legal insecurity and tightening immigration regimes. Migration amnesty is the process of legalizing the status of illegal immigrants. During a certain period in the country are beginning to act facilitated the conditions for obtaining the status of legal migrant workers. When applying deemed Dell'Aringa C., Lucifora C., Pagani L. illegal bear minimal losses and gains legal basis for employment (2015, 8). At the end of this period takes place tougher measures for illegal residence and illegal employment.

The main problems, which carries migration according to Ngo H.V., Calhoun A., Worthington C., Pynch T., Este D., related to its illegal component. Once the worker receives legal status in their country of residence, he begins to perform duties in accordance with its legislation, and thus acquire the right to the realization and protection of these rights and freedoms to the same extent as the nationals (Ngo *et al.* 2016, 21). Raising awareness of the potential and actual migrants about the current migration legislation and the possible consequences of illegal status. Often, potential migrants are not aware of the possible consequences of illegal stay in the country and those who have broken the law and are aware of it, are also often exaggerate the possible consequences and are just afraid to disclose their status authorities. This creates a kind of vicious circle. Raising public awareness on the measures, legislative regulation of migration, migrant outreach work in the environment would help to reduce the costs of the prosecution of illegal immigrants.

Nunziata L. considering possible ways to neutralize the negative impact of migration on the economic stability of society, there are ways to combat illegal migration (2015, 724). After analyzing the possible methods of combating illegal migration, it is possible to reduce them to the following formulation - to effectively combat illegal migration need to minimize the costs of the legalization of the status of migrant workers, thus increasing the costs of their illegal status.

2. Cooperation of CIS countries in solving the problem of illegal migration

For the purposes of effective prevention and combating of transnational organized crime, the United Nations Convention against Transnational Organized Crime and its supplementary Protocols were adopted by the General Assembly in its resolution 55/25 of 15 November 2000. Of special significance is the Protocol against the Smuggling of Migrants by Land, Air and Sea, supplementing the Convention and specifically dealing with the issues of combating illegal migration. Before this Protocol was adopted, there had been no universal document regulating all aspects of migrant smuggling. The primary purpose of this Protocol is to prevent and combat the smuggling of migrants.

The Protocol defines the key terms related to this offence. Thus, smuggling of migrants is defined as the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a state party of which the person is not a national or a permanent resident.

Article 6 of the Protocol stipulates that each state party shall adopt such legislative and other measures as may be necessary to establish as criminal offences the smuggling of immigrants, enabling the smuggling of immigrants, producing fraudulent travel or identity documents, procuring, providing or possessing such documents, enabling a person to remain in the state without complying with the necessary requirements for legally remaining in the state (United Nations Convention against Transnational Organized Crime, 2000).

In addition to this international convention, a number of documents were adopted within the framework of the International Labour Organisation with regard to migration and migrant rights. Thus, the Migration for Employment Convention No. 97 (1949) stipulates that any person who promotes clandestine or illegal immigration shall be subject to appropriate penalties (ILO Migration for Employment Convention No. 97, 1949). ILO Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers (1975) provides for penal sanctions, including imprisonment, in respect of the organisation of illegal movements of migrants for employment and illegal employment of migrant workers (ILO Convention No. 143 concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers, 1975).

Within their jurisdiction, states have undertaken to suppress such offences and to prosecute their perpetrators whatever the country from which they exercise their activities. Cooperation among the migration services of the member states of the Commonwealth of Independent States is based on the Agreement on Cooperation among the CIS Member States in Combating Illegal Migration of 6 March 1998, as well as the following documents adopted in furtherance thereof:

- Framework for Cooperation among the CIS Member States in Combating Illegal Migration, approved by the resolution of the Council of CIS Heads of State of 16 September 2004 in Astana (Framework for Cooperation among the CIS Member States in Combating Illegal Migration, 2004);
- Programme of Cooperation among the CIS Member States in Combating Illegal Migration for the period 2006-2008, approved by the resolution of the Council of CIS Heads of State of 26 August 2005 in Kazan (Programme of Cooperation among the CIS Member States in Combating Illegal Migration for the period 2006-2008, 2005).

The Programme of Cooperation among the CIS Member States in Combating Illegal Migration for the period 2009 – 2011 was developed in 2008. At present, the CIS and CSTO Councils of the Heads of Migration Authorities are in operation, focusing on tackling the issue of combating illegal migration.

The meeting of the heads of agencies from the Collective Security Treaty Organization and the Eurasian Economic Community member states on combating illegal migration and on migration policy, security council offices and relevant committees from the CSTO and the EurAsEc member states' parliaments, held in Moscow on January 30, 2009, as well as the 4th meeting of the Coordination Council of the heads of competent agencies from the CSTO member states on combating illegal migration, resulted in the development of specific measures aimed at enhancing the coordination and effectiveness of cooperation among the competent agencies to alleviate the problem, minimize the negative effects of a potential aggravation of migration processes, and ensure proper legal, social and economic status for migrant workers; it was resolved that a hotline should be set up between the competent agencies of the CSTO and the EurAsEc member states to enable prompt information exchange concerning aggravated situations in the areas of high migrant worker concentration (population) and their employment.

In addition, the MIA has developed draft interdepartmental agreements on cooperation with the migration authorities of Armenia, Azerbaijan, Belarus, Georgia, Kyrgyzstan, Moldova, Russia, Turkmenistan, Tajikistan, Ukraine, Uzbekistan and the PRC, which were forwarded to the counterparties through the Ministry of Foreign Affairs of the Republic of Kazakhstan after the completion of the relevant national procedures.

The draft agreements provide for cooperation between the Parties in the area of combating illegal migration, information exchange about naturalized citizens of the parties, passport surrender, as well as inquiry handling procedures.

The international contractual framework pertaining to cooperation in combating illegal migration is constantly being expanded. The Republic of Kazakhstan has concluded Readmission Agreements with the Republic of Uzbekistan, the Republic of Belarus, the Swiss Confederation, the Hungarian Republic, the Republic of Lithuania and the Russian Federation.

Readmission Agreements with the Republic of Latvia, the Benelux countries, the Federal Republic of Germany and the Czech Republic are currently pending before the Parliament of the Republic of Kazakhstan; Readmission Agreements with the Kingdom of Norway and the Republic of Moldova are going through the relevant national procedures.

Readmission Agreements with the following neighboring and distant countries are being developed and are at various stages of the national approval process: Afghanistan, Bulgaria, Greece, Iran, Iraq, Canada, Cyprus, Korea, Kyrgyzstan, Pakistan, Poland, Tajikistan, and Ukraine.

The Government of the Republic of Kazakhstan has entered into international agreements on mutual visa-free travel for nationals with the Governments of the Russian Federation, the Republic of Belarus, the Kyrgyz Republic, the Republic of Tajikistan, the Republic of Azerbaijan, and Georgia; on mutual travel for nationals with the Governments of Turkmenistan, Ukraine, Uzbekistan, and the Republic of Moldova.

International agreements on regulating population migration processes have been concluded between the Government of the Republic of Kazakhstan, the Government of the Kyrgyz Republic, and the Government of the Republic of Uzbekistan.

The Republic of Kazakhstan and the Russian Federation have entered into an agreement on the residence procedure for the nationals of the Republic of Kazakhstan in the Russian Federation and the nationals of the Russian Federation in the Republic of Kazakhstan. Similar agreements have been concluded with the Governments of the Republic of Belarus and the Kyrgyz Republic.

The Republic of Kazakhstan and the Republic of Belarus have entered into an agreement on the simplified citizenship acquisition procedure for the nationals of the Republic of Kazakhstan arriving for permanent residence in the Republic of Belarus, and the nationals of the Republic of Belarus arriving for permanent residence in the Republic of Kazakhstan; an agreement has been concluded among the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic and the Russian Federation on the simplified citizenship acquisition procedure.

The above are just some of the examples of international cooperation in the area of combating illegal migration. On the whole, despite the growing negative effects of the global financial crisis, effective work is underway in a number of key areas, most notably, with regard to the implementation of migration legislation, the progressive nature of which has been convincingly proven in law enforcement practice. Much still remains to be done to improve the legal and organisational framework for combating illegal migration in the Republic of Kazakhstan.

3. International experience in combating illegal migration

Combating illegal migration is currently a priority for foreign countries, with the issue to be addressed both in the sphere of law-making and in the context of practical implementation of such legislation.

The legal framework in such countries as the United States, Canada, the UK, and Germany is of interest from the perspective of its potential use to improve legislation and practice.

In the United States and Canada migration processes have been subject to governmental regulation since the early days of their emergence as nations. By now, these countries have developed a managed migration paradigm, a full-scale conceptual and legal framework, a complex but effective system of quota and visa allocation, and a streamlined system of government agencies controlling migration processes and providing services to the parties involved therein.

It was not until fairly recently that the UK and Germany recognized themselves as countries of immigration. In view of the mass migration of unskilled labour and a significant inflow of humanitarian migrants they seek to offset the disadvantages and improve their migration systems.

The most rigorous procedures regulating deportation have been developed in the United States, where the immigration act effective as of 1997 provides for the 'expedited removal' of illegal aliens and criminal aliens. Since 1995, the US government has organized a series of broadcasts for the Latin American and Caribbean countries about penalties for illegal entry of aliens into the United States, including, but not limited to, imprisonment. One of the major priorities in preventing illegal migration has been using mass media to raise public awareness, in the countries of origin of illegal immigration, of the information on sanctions applied in, for example, the United States, Canada, or Germany, to illegal migrants.

The British Nationality, Immigration and Asylum Act (2002) contains quite rigorous provisions aimed at combating illegal immigration. Thus, persons guilty of harbouring illegal migrants are to be sentenced to a period of imprisonment of 14 years, rather than 6 months, which used to be the penalty before the Act was passed into law. In addition, the Nationality, Immigration and Asylum Act 2002 contains measures aimed at 'decriminalizing

the immigrant community'. However, the record of such legalization initiatives demonstrates that, on the whole, they fail to achieve the objective of reducing illegal migration.

The German model of immigration policy is a model of opposition to integrating foreigners into the German nation rather than an integration model.

Its set of measures aimed at regulating migration processes mainly came down to three components, with the most important one involving multiple revisions of migration legislation to toughen its provisions. For example, in the FRG 'preparation of aliens for repatriation' has become one of the official objectives of the federal government since 1960.

The new policy involved restrictions imposed on the entry of new migrant workers; on family reunification (in particular, lowering the age limit for children eligible to accompany their parents); on preparation for repatriating some of the immigrants settled in the country; as well as assistance in integrating certain categories of aliens residing in the German community.

Section 234a of the German Criminal Code, 'Causing a danger of political persecution through use of force, threats or deception', stipulates the following: 'Whosoever by deception, threat or force transports another into a territory outside the Federal Republic of Germany or causes him to go abroad, or prevents him from returning from abroad and thereby exposes him to the danger of being persecuted for political reasons and, in violation of the principles of the rule of law, of suffering harm to life and limb through violence or arbitrary measures, of being deprived of his freedom or of being seriously prejudiced in his professional or financial circumstances shall be liable to imprisonment of not less than one year'. In less serious cases the penalty is a term of imprisonment from three months to five years, and the penalty for preparing the commission of such an offence is imprisonment for a term not exceeding five years or a fine (Shestakov 2003, 384).

The country sometimes resorted to the practice of the so-called group deportations, which was one of the policy methods used to force the aliens settled in the country and not authorised to reside therein under migration management legislation out of the country. However, this practice did not come into widespread use, as searching for potential deportees within strong established communities was extremely difficult, the deportation itself generated a wide media response, and, above all, its results on the nationwide scale were insignificant. The current migration situation in Germany and in the EU as a whole is bringing about a certain shift in their migration policies.

Various issues related to creating the necessary conditions for combating illegal immigration, especially organized crime in the immigration sphere, are thoroughly addressed in the Spanish legislation, which was the first to categorize smuggling of immigrants into the country as a criminal offence. The Aliens Law establishes a criminal penalty for such offences as aiding the formation or participating in criminal organisations involved in smuggling illegal immigrants into Spain or using the country as transit territory (Article 50).

Chapter 8 'Crimes against Activities of Government Bodies and Public Organisations', Section 1 'Crimes against Administrative Order', Article 279 of the Criminal Code of the Republic of Bulgaria states the following: 'A person who exits or enters the country without a permit from the competent authorities or, though with a permit, but not through the places designated for that purpose, shall be punished by imprisonment for a term not exceeding five years and by a fine of up to thirty BGN'.

Repeated offences are punishable by imprisonment for a term of one to six years and a fine of up to fifty BGN. The court may, at its discretion, impose confiscation of the whole or part of the culprit's property instead of a fine. Preparation for this offence is punishable by imprisonment for a term not exceeding two years or by community service. Persons exercising the right to asylum are not held liable for illegal entry into the country.

Article 280 of the Criminal Code of Bulgaria prescribes liability for moving a person or a group of persons across the border of the country without a permit from the competent authorities or, though with a permit, but not through the places designated for that purpose, and provides for punishment in the form of imprisonment for one to six years and a fine from five hundred to one thousand BGN.

If the person moved across the border is less than 16 years of age; if the person has been moved across the border without his/her knowledge; if the person moved across the border is not a Bulgarian national; if a motor vehicle, an aircraft or other means of transportation has been used for movement; if the movement has been carried out by an organised group or organisation or with the participation of an official abusing his or her office, the Criminal Code of the Republic of Bulgaria provides for punishment in the form of imprisonment for one to ten years, a fine from one thousand to three thousand BGN, as well as confiscation of the whole or part of the culprit's property (Lukashov 2001, 198).

Chapter 2 'Offences against the State' of the Special Section of the Criminal Code of the Republic of Estonia contains provisions regulating migration processes: Article 81.1 'Illegal Crossing of the State Border or

Temporary Border Line of the Republic of Estonia', Article 81.2 'Illegal Movement of a Person across the State Border or Temporary Border Line of the Republic of Estonia'; Article 82 'Violation of International Air Traffic Rules'.

Article 81.1 of the Criminal Code of the Republic of Estonia establishes liability for illegal crossing of the state border or temporary border line of the Republic of Estonia, committed in disregard of a stop signal or order given by a border patrol officer (part 1), with such offences punishable by a fine or a custodial arrest.

If this offence is committed by a group of persons, or involves violence or threat of violence against the person attempting to thwart the offence, or is committed using a means of transportation in a location not intended for that purpose, it is punishable by a fine, or a custodial arrest, or by one to five years' imprisonment.

The description of acts constituting an offence contained in Article 81.2, part 1, of the Criminal Code of the Republic of Estonia establishes liability for illegal movement of a person across the state border or temporary border line of the Republic of Estonia (part 1), with such offences punishable by imprisonment for a term not exceeding one year.

However, the legislature does not specify what is meant by illegal movement of a person across the state border. These could be any acts allowing a person to stay in the Republic of Estonia without a required permit.

Aggravating factors include the following: if the offence is committed by a group of persons, or involves violence or threat of violence against the person attempting to thwart the offence, or is committed by an official abusing his or her office, with such offences punishable by one to three years' imprisonment.

In addition, Article 82 'Violation of International Air Traffic Rules' of the Criminal Code of the Republic of Estonia establishes liability for unauthorised entry into or exit from the air space of the Republic of Estonia, failure to adhere to the route, air gateways or flight altitude indicated in a permit, or other violation of international air traffic rules, with such offences punishable by a fine or imprisonment for a term not exceeding five years.

In this case, the legislature has established criminal liability for such illegal acts which could be used to organize illegal migration as unauthorised entry into or exit from the air space of the Republic of Estonia (Zapevalov 2001, 101).

Chapter 22 'Criminal Acts against Administrative Order' of the Criminal Code of the Republic of Latvia establishes liability for 'Violation of the State Border Regime' (Article 283), 'Illegal Crossing of the State Border' (Article 284), 'Illegal Movement of a Person across the State Border' (Article 285).

The description of acts constituting an offence contained in Article 283 of the Criminal Code of the Republic of Latvia establishes liability for a wilful violation of the state border, border area, border zone, border control point, or border crossing point regime, if repeated within one year, with such offences punishable by a custodial arrest, or community service, or a fine not exceeding thirty times the minimum monthly wage.

Illegal crossing of the state border (Article 284 of the Criminal Code of the Republic of Latvia) is defined as crossing the state border without a travel document or a permit issued by the competent authorities and is punishable by imprisonment for a term not exceeding three years, or a custodial arrest, or a fine not exceeding sixty times the minimum monthly wage.

Repeated commission of the same offence is an aggravating factor and is punishable by imprisonment for a term not exceeding five years or a fine not exceeding one hundred and twenty times the minimum monthly wage.

Article 285 of the Criminal Code of the Republic of Latvia establishes liability for illegal movement of a person across the state border in violation of border crossing procedures, with such offences punishable by imprisonment for a term not exceeding five years.

Repeated offences or offences committed by a public official abusing his or her office are punishable by imprisonment for a term not exceeding seven years, with or without confiscation of property.

A major aggravating factor identified in Article 285 is movement across the state border of a large number of persons, to wit, more than five persons at one time, with such offences punishable by imprisonment for a term of five to ten years, with confiscation of property (Lukashov 2001, 265).

At the same time, the laws of certain European countries do not establish liability for similar offences, e.g. Denmark (Belyaev 2001, 112) France (Golovko 2002, 312), Switzerland (Golovin 2000, 98).

It is noteworthy that not all countries in the Asia-Pacific region have incorporated into their criminal law liability for organizing illegal migration. Thus, for instance, no such provisions are contained in the laws of Japan or Korea. In the Asia-Pacific region such matters are comprehensively regulated in the laws of the PRC. Article 318 of the Criminal Code of the PRC stipulates criminal liability for organizing illegal crossing of the state border by another person. This article is contained in the chapter dealing with offences against public order and administrative order, with offences against the state border regime detailed in a separate section. Organizing

illegal crossing of the state border by another person is punishable by imprisonment for a term of two to seven years; a fine may also be imposed as an accessory penalty.

The Criminal Code of the PRC establishes stricter liability in the form of imprisonment for a term of seven or more years or life imprisonment, as well as a fine or confiscation of property as an accessory penalty, for any of the following:

- ringleaders who organized illegal crossing of the state border by a group of other persons;
- repeatedly organizing illegal crossing of the state border by other persons or organizing illegal crossing of the state border by a large number of other persons;
- use of violence, threats, or resistance to a search;
- large illegal income;
- other major aggravating circumstances.

Criminal offences specified in part 1, resulting in homicide, injury, rape, abduction, fraud with intent to sell, or other criminal acts with regard to the organized person, or homicide, injury or other criminal acts with regard to personnel conducting a search, are punishable in accordance with the provisions establishing penalties for multiple crimes.

Provisions that are a potential deterrent to the organisation of illegal migration are contained in Article 319 of the Criminal Code of the PRC, which establishes liability for committing fraud in order to obtain a passport, visa, or other documents required to exit the country by deceptive means under the pretence of arranged employment, trade and economic exchange, or any other pretence, with a view to organizing illegal crossing of the state border by another person, with such offences punishable by imprisonment for a term not exceeding three years and a fine that may be imposed as an accessory penalty; under aggravating circumstances such offences are punishable by imprisonment for a term of three to ten years and a fine that may be imposed as an accessory penalty.

The above offence committed by an organisation is punishable by a fine, with the exception of the person directly in charge thereof, and other directly responsible persons, who are punishable in accordance with the provisions laid down in part 1.

Further to this provision, Article 320 of the Criminal Code of the PRC establishes liability for providing forged or altered passports, visas, or other documents required to exit or enter the country, to another person, as well as for selling a passport, visa, or other documents required to exit or enter the country. Such offences are punishable by imprisonment for a term not exceeding five years, and a fine may be imposed as an accessory penalty; under aggravating circumstances such offences are punishable by imprisonment for a term of five or more years, and a fine may be imposed as an accessory penalty.

According to Article 321, part 1, of the Criminal Code of the PRC, conveyance of another person for the purpose of illegal crossing of the state border is punishable by imprisonment for a term not exceeding five years, a custodial arrest, or supervision, and a fine may be imposed as an accessory penalty. Any of the following situations are punishable by imprisonment for a term of five to ten years and a fine that may be imposed as an accessory penalty:

- multiple offences related to conveyance, or conveyance of a large number of people;
- use of vessels, motor vehicles or other means of transportation not equipped with the required safety system, which may have resulted in grave consequences;
- large illegal income;
- other major aggravating circumstances.

Conveyance of another person for the purpose of illegal crossing of the state border, resulting in grievous bodily harm or death of the person conveyed, or involving use of violence, threats, or resistance to a search, is punishable by imprisonment for a term of seven or more years, and a fine may be imposed as an accessory penalty.

Criminal offences specified in parts 1 and 2, resulting in homicide, injury, rape, abduction, fraud with intent to sell, or other criminal acts with regard to the person conveyed, or homicide, injury or other criminal acts with regard to personnel conducting a search, are punishable in accordance with the provisions establishing penalties for multiple crimes.

Article 322 of the Criminal Code of the PRC establishes liability for illegal crossing of the state border in violation of legal provisions on the state border regime, with such offences punishable by imprisonment for a term not exceeding one year, a custodial arrest, or supervision; a fine may be imposed as an accessory penalty (Akhmetshin 2003, 362).

The criminal law of some countries does not in fact contain the term 'organisation of illegal migration'. When examining the issue of liability for organizing illegal migration, its scope in foreign legislation is described through specific criminal acts.

Criminal law in a number of countries (Israel, Japan, the FRG, the Republic of Belarus etc.) criminalizes actions aimed at organizing illegal movement of their own nationals into another country. The key circumstance here, the legally relevant circumstance, is the fact of illegal crossing of the state border of a country. In this context, various terms are used to designate the method of movement across the state border, with a broader scope of meaning than 'entry' ('exit'): 'conveyance' (the Criminal Code of Ukraine, the Criminal Code of the FRG), 'crossing' (the Criminal Code of the PRC), 'movement' (Israeli Penal Law).

Criminal law in certain CIS countries contains provisions establishing liability for organizing illegal migration which may, from a theoretical perspective, be classified into two categories:

- provisions which are directly related to this kind of criminal activity and are titled as such, in particular, Article 371 of the Criminal Code of the Republic of Belarus and Article 394 of the Criminal Code of the Republic of Kazakhstan;
- provisions which are indirectly related to organizing illegal migration, i.e. they establish liability for illegal conveyance (exit, crossing, movement) and other actions related to illegal movement of persons across the state border (the Criminal Codes of Ukraine, the Republic of Uzbekistan, the Republic of Azerbaijan, Georgia, Turkmenistan, Tajikistan and the Kyrgyz Republic) (Baiburina 2010, 38).

Conclusion

Analysis of the criminal law of Tajikistan, Uzbekistan, Georgia, the Republic of Azerbaijan, and the Kyrgyz Republic shows that the criminal codes of these countries do not contain any provisions establishing liability for organizing illegal migration. At the same time, they contain a fairly wide range of legal provisions regulating relations with regard to illegal crossing of the state border.

The CIS countries are both a corridor for and a source of illegal immigrants entering Europe. In view of this, it has been decided to bring migration processes in the CIS under 'international' control. The inclusion of the CIS countries into the framework of the Budapest process made it possible not only to draw on the European experience in combating illegal migration, but also to raise additional funds. However, the issue is difficult to tackle due to a lack of harmonization of the national legislation of the CIS countries regulating entry into, exit from and length of stay in the CIS member states for aliens and stateless persons.

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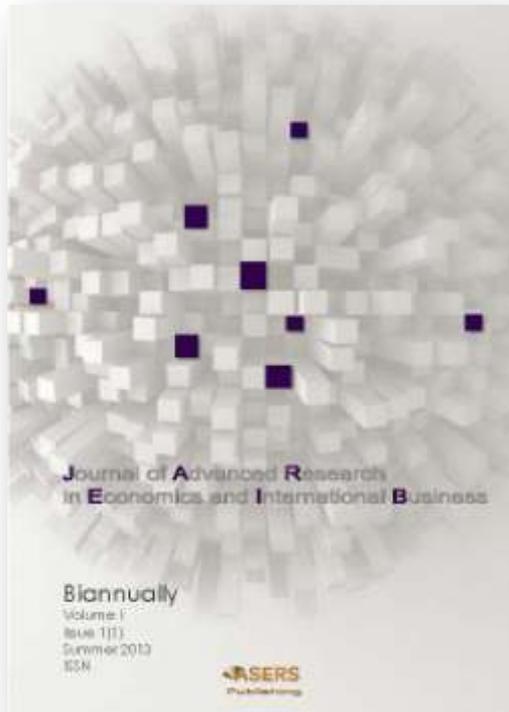
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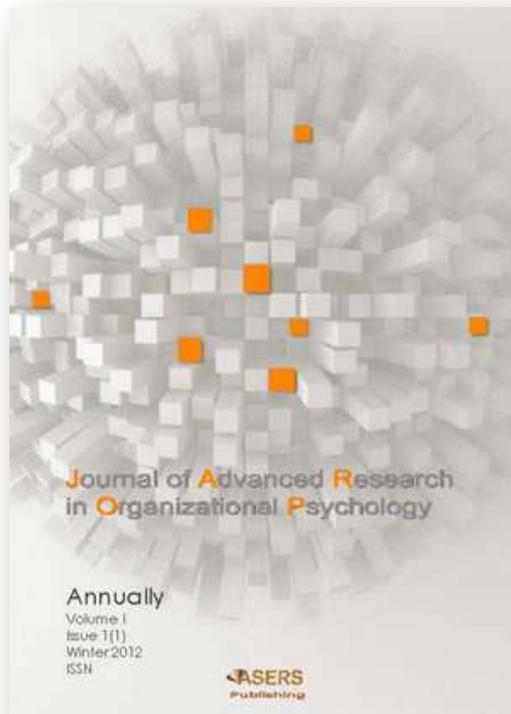
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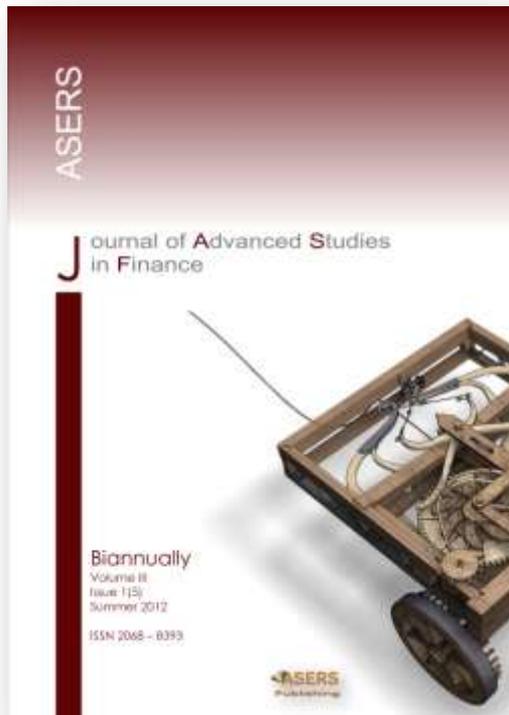
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