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**State Support for Compatriots:**  
improving kazakhstan Legislation

**Apoio do Estado aos**  
**compatriotas:** melhorando a  
legislação do Cazaquistão

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# State Support for Compatriots: improving kazakhstan Legislation\*

## Apoio do Estado aos compatriotas: melhorando a legislação do Cazaquistão

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### Abstract

In the context of the changes in the migration process taking place in the world, the support of compatriots, the protection of their rights and freedoms are becoming one of the key priorities of Kazakhstan's foreign policy. In the context of world migration processes, a state needs to construct new approaches to diasporas regarding its own experience in solving problems in this area and an international experience. Return migration as a specific type of migration that sometimes takes the form of ethnic repatriation. Kazakhstan is only going to adopt a special act aimed at the repatriation and state support of the ties of foreign Kazakhs with their historical homeland. The methodological basis for clarifying the definitions contained in legal acts was the laws of formal logic; the analysis of normative legal acts was carried out. The general scientific methods - logical, structural and system analysis, synthesis, comparison, abstraction, induction and deduction, modeling, special techniques, methods of studying phenomena and processes (specifically historical, dialectical, formal-logical, structural-functional, method of comparative jurisprudence) were used in this study. The purpose of the study is to study the legal aspects of supporting compatriots in accordance with the legislation of such countries as the Russian Federation, the Federal Republic of Germany and the Republic of Korea, to determine the main directions of development of the relevant Kazakh legislation. The experience and legislation of Germany, Russia, and South Korea were studied, since they have special laws regulating the repatriation and state support of foreign compatriots. The study examined the legal acts of the Russian Federation, the Federal Republic of Germany and the Republic of Korea on repatriation. There were analyzed provisions of the legislation of Germany, Russia and Korea on state support for repatriates - these are adaptation measures, the right to receive medical care, educational services, the opportunity to work or do business, assistance in learning the state language and granting citizenship.

**Keywords:** compatriot; diaspora; repatriation; migration process; state program; Draft Law.

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## Resumo

No contexto das mudanças no processo de migração ocorrendo no mundo, o apoio aos compatriotas, a proteção de seus direitos e liberdades estão se tornando uma das principais prioridades da política externa do Cazaquistão. No contexto dos processos migratórios mundiais, um Estado precisa construir novas abordagens para as diásporas considerando sua própria experiência na resolução de problemas nessa área e uma experiência internacional. A migração de retorno como um tipo específico de migração que às vezes assume a forma de repatriação étnica. O Cazaquistão vai apenas adotar uma lei especial destinada ao repatriamento e apoio estatal aos laços dos cazaques estrangeiros com sua pátria histórica. A base metodológica para esclarecer as definições contidas nos atos jurídicos foram as leis da lógica formal; procedeu-se à análise de atos jurídicos normativos. Os métodos científicos gerais - análise lógica, estrutural e de sistemas, síntese, comparação, abstração, indução e dedução, modelagem, técnicas especiais, métodos de estudo de fenômenos e processos (especificamente histórico, dialético, formal-lógico, estrutural-funcional, método de comparação jurisprudência) foram utilizados neste estudo. O objetivo do estudo é estudar os aspectos legais do apoio aos compatriotas de acordo com a legislação de países como a Federação Russa, a República Federal da Alemanha e a República da Coreia, para determinar as principais direções de desenvolvimento da legislação cazaque relevante. Foram estudadas a experiência e a legislação da Alemanha, Rússia e Coreia do Sul, uma vez que possuem leis especiais que regulam a repatriação e o apoio estatal de compatriotas estrangeiros. O estudo examinou os atos jurídicos da Federação Russa, da República Federal da Alemanha e da República da Coreia sobre repatriação. Foram analisadas disposições das legislações da Alemanha, Rússia e Coreia sobre o apoio estatal aos repatriados - trata-se de medidas de adaptação, direito a receber cuidados médicos, serviços educativos, oportunidade de trabalhar ou fazer negócios, assistência na aprendizagem da língua oficial e concessão cidadania.

**Palavras-chave:** compatriota; diáspora; repatriação; processo migratório; programa de estado; Projeto de Lei.

## 1 Introduction

Migration of the population is a reality of the modern development of the Republic of Kazakhstan.

Current migration trends in the Republic of Kazakhstan indicate that migration is an important factor in the socio-economic, demographic, cultural and political development of the country.

According to the Bureau of National Statistics of the Agency for Strategic Planning and Reforms of the Republic of Kazakhstan (hereinafter referred to as the Bureau of Statistics), in 2019, 1,173.2 thousand people participated in migration processes in the Republic of Kazakhstan with a change of permanent residence, including 1,115.7 thousand people resettled within the country, 57.5 thousand people became international migrants<sup>1</sup>, which means an increase compared to 2015 in the number of internal migrants by 2, 5 times and the number of international migrants per quarter.

The political stability and economic growth of the 2000s changed the nature of international migration in the Republic of Kazakhstan compared to the previous decade. From 2004 to 2011, the country experienced a positive migration increase.

According to the Bureau of Statistics, negative net migration has developed with the Russian Federation (hereinafter referred to as the Russian Federation), the Federal Republic of Germany, and Belarus.

At the same time, the influx of migrants from the states of Central Asia, the People's Republic of China (hereinafter referred to as the PRC), Mongolia and a number of other countries increased. This was facilitated by the state program to promote the resettlement of ethnic Kazakhs from abroad to their historical homeland.

Starting from 2012, the negative balance of external migration began to grow again in the Republic of Kazakhstan. Changes in the trend were primarily due to a reduction in the influx of candace to their historical homeland.

<sup>1</sup> KAZAKHSTAN: Extended Migration Profile 2014-2019. Almaty: Mission of the International Organization for Migration (IOM) in Kazakhstan. Subregional Coordinating Office for Central Asia, 2020. Available at: <https://publications.iom.int/books/kazakhstan-advanced-migration-profile-2014-2019-russian>. Access on: 29 jul. 2022.

Currently, the migration situation in the Republic of Kazakhstan is characterized by the following indicators and trends in the field of internal and external migration:

- 1) emigration, the main trends of which are “brain drain” and the departure of part of the population;
- 2) immigration associated mainly with the influx of ethnic Kazakhs - kandas;
- 3) internal migration - the flow of the population from the village, small and single-industry towns to large cities and megacities;
- 4) labor migration and migration transit from the countries of Central Asia.

The Republic of Kazakhstan is an active participant in international migration flows.

The 1990s were dominated by “forced migration” associated with the collapse of the Soviet Union and the sovereignization of new states.

Since 2000, economically motivated migration has become the dominant vector of external migration, mainly due to the level of economic development of countries, social security and the level of wages of the population. Since mid-2004, the balance of external migration became positive for the first time since the independence of the Republic of Kazakhstan.

The current stage of development of migration processes in the Republic of Kazakhstan, which began in the mid-2010s, is characterized by the fact that at this time, the decrease in the balance of external migration, which has been growing since the late 2000s, becomes a steady trend and in 2012 in the Republic of Kazakhstan for the first time after the crisis of 1990- In the 1990s, a negative balance of migration was formed (minus 1.4 thousand people).

In the future, this trend continues to grow both in absolute terms and in relation to the total population of the country.

In 2019, the negative balance of migration amounted to 33.0 thousand people, which amounted to 0.18% of the population (*data for 2020 significantly distorted existing migration trends as a result of severe restrictions on cross-border movements introduced as an anti-epidemic measure, which artificially reduced the mobility of people around the world*).

In 2019-2020, 74.3 thousand people left the Republic of Kazakhstan for permanent residence abroad. (in 2013 this number was 24.4 thousand people).

According to the Bureau of National Statistics in 2019 and 2020, the main countries of destination for emigrants from the Republic of Kazakhstan were the Russian Federation - 64.9 thousand people (87.3% of those who left), the Federal Republic of Germany - 5.0 thousand people and the Republic of Belarus – 589 people. According to the Boston Consulting Group (BCG) 2020 global talent market analysis<sup>2</sup>, 64% of the population of Kazakhstan is considering moving abroad. This figure increased by 3 percentage points compared to the same study in 2018 (61%). Nevertheless, in the same Italy or Sweden, this figure reaches 90% and 86%, respectively, which reflects the relevance of the issue of labor migration for developed countries as well.

According to the Boston Consulting Group (BCG) 2020 Global Talent Market Analysis<sup>3</sup>, 64% of Kazakhstan’s population is considering moving abroad. This figure increased by 3 percentage points compared to the same study in 2018 (61%). Nevertheless, in the same Italy or Sweden, this figure reaches 90% and 86%, respectively, which reflects the relevance of the issue of labor migration for developed countries as well.

The main goals of moving abroad are most often mentioned by Kazakhstani as the opportunity to gain work experience and receive a higher salary, the availability of greater career opportunities, as well as a much higher standard of living and the prospects for enriching personal experience.

The Republic of Kazakhstan is currently pursuing a strategy to encourage and support long-term permanent migration of ethnic Kazakhs arriving in the country.

Thanks to these measures, there have been significant changes not only in numbers, but also in the ethnic composition of the population.

The number of persons of Kazakh nationality has increased from 7 million people. (42% of the total population) in 1992 to 13.0 million (69%) by the beginning of 2021.<sup>4</sup>

<sup>2</sup> BCG. ‘The Network proprietary web survey and analysis’. (2020).

<sup>3</sup> BCG. ‘The Network proprietary web survey and analysis’. (2020).

<sup>4</sup> BUREAU OF NATIONAL STATISTICS OF THE AGENCY FOR STRATEGIC PLANNING AND REFORMS OF THE REPUBLIC OF KAZAKHSTAN. *Main socio-economic indicators*. Available at: <https://stat.gov.kz/>. Access on: 29 jul 2022.

May 13, 2020. The President of the Republic of Kazakhstan Tokayev K.K. a law was signed on the regulation of migration processes, according to which the Republic of Kazakhstan approved the change of the term “oralman” (returner, repatriate) in relation to the Kazakhs who returned to their historical homeland to the term “kandas”, which means “tribesman”, which expanded the circle of people of the Kazakh nationality, regardless of whether they intend to return to their historical homeland or not.<sup>5</sup>

In accordance with the Law of the Republic of Kazakhstan dated July 22, 2011 “On Migration of the Population”, kandas and members of their families, after obtaining the appropriate status, are entitled to obtain citizenship of the Republic of Kazakhstan in a simplified (registration) procedure.

The ethnic migration management system is constantly being improved, however, a number of problems in the implementation of the repatriation of kandas remain relevant today. Problems in employment, uneven settlement in the regions of the republic without taking into account the need for labor resources, as well as insufficient elaboration of issues of complex, comprehensive integration of kandas, combining socio-economic and cultural-educational components, require further improvement of the ethnic migration management system. Due to the fact that the main problems of the integration of ethnic migrants are manifested at the local level, an important condition for improving this area of migration policy should be close interaction between central and local executive bodies, as well as civil society institutions and non-governmental organizations, primarily in the regions where kandas are received.

In the modern world, the position of countries in the international arena is determined not only by their economic, military, and scientific resources. The importance of “soft power” as a complex means of realizing one’s interests with the help of information and cultural influence is also growing. Today, diasporas as one of the phenomena of the migration process act not only as guardians of cultural traditions but also as active par-

ticipants in politics and economics that have significant potential for promoting the international image of their states.<sup>6</sup> The events of recent decades show that diasporas can be one of the main actors in the integration policy.<sup>7</sup> This makes state authorities rethink approaches to the formation of diasporic policy.<sup>8</sup>

Today there are about five million Kazakhs in fifty countries; and the number of the Kazakh Diaspora abroad is growing.<sup>9</sup>

In Kazakhstan’s legislation, the term “compatriots living abroad” was first used in the context of return migration and then this term was transformed into “oralman”<sup>10</sup>, which means

[...]an ethnic Kazakh who permanently resided outside the borders of the Republic of Kazakhstan when the country acquired sovereignty, and his children..., who arrived in the Republic of Kazakhstan for the purpose of establishing permanent residence... and received the corresponding status[...]<sup>11</sup>

It should be noted that the term “oralman” (returnee) in the legislation of Kazakhstan was replaced by the term “kandas” (blood relative, consanguineous). This replacement of the term was associated with the negative perception of the majority of ethnic Kazakhs moving to Kazakhstan for permanent residence, meaning of the term “oralman”, in connection with which the Law of the Republic of Kazakhstan “On migration of the population” was amended accordingly.<sup>12</sup> So, the re-

<sup>5</sup> LAW OF THE REPUBLIC OF KAZAKHSTAN. “On amendments and additions to certain legislative acts of the Republic of Kazakhstan on the regulation of migration processes”. May 13, 2020 No. 327-VI. Available at: [https://online.zakon.kz/document/?doc\\_id=37013745](https://online.zakon.kz/document/?doc_id=37013745). Access on: 29 Jul 2022.

<sup>6</sup> TORREALBA, Alfredo A. ‘Three main approaches of diaspora diplomacy in foreign policy’. *Actual Problems of Economics and Law*. v. 2, n. 2, p. 154-69, 2017.

<sup>7</sup> MOLODIKOVA, I.; LYALINA, A.; EMELYANOVA, L. ‘Contacts with diasporas and diaspora organizations as a key to a successful migrant integration policy in the EU’. *Baltic Region*, v. 10, n. 3, p. 58-79, 2018.

<sup>8</sup> SHUPENKO, T. ‘The state policy of the Republic of Belarus in relation to Belarusians abroad’. Higher Attestation Commission of the Republic of Belarus, 2018. Available at: [https://vak.gov.by/sites/default/files/2018-06/k\\_Shupenko.pdf](https://vak.gov.by/sites/default/files/2018-06/k_Shupenko.pdf). Access on: 14 Sep. 2020

<sup>9</sup> BERMUKHAMEDOVA, Galiya; ABILOVA, Madina. ‘How many Kazakhs are there in the world?’. *InterConf.*, v. 1, n. 34, p. 249-52, 2020.

<sup>10</sup> JAMPEISOV, Duman; RYAZANTSEV, Sergey; PEREMYSHLIN, Sergey; JAMPEISOV, Dauren. ‘Managing ethnic repatriation experience: Central Asian states and Russian Federation’. *Central Asia & the Caucasus*, v. 21, n. 1, p. 124-36, 2020.

<sup>11</sup> On migration of the population, Law No.477-IV, 22 July 2011 (Republic of Kazakhstan) Available at: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/90208/103851/F1877117326/KAZ90208.pdf>. Access on: 14 Sep. 2020.

<sup>12</sup> Law No.477-IV, 22 July 2011 (Republic of Kazakhstan). Available at: <http://www.ilo.org/dyn/natlex/docs/ELECTRONIC/90208/103851/F1877117326/KAZ90208.pdf>. Access on: 14 Sep. 2020.



patriation policy of Kazakhstan includes the country as the homeland of the Kazakh diaspora, status, ethnic Kazakh and children of Kazakh nationality.<sup>13</sup>

As a result of this repatriation policy, 101,375 people returned to Kazakhstan for permanent residence from 2016 to February 2020. According to the Ministry of Labour and Social Protection of the Population of the Republic of Kazakhstan, as of March 06, 2020, 2,504 families or 4,921 ethnic Kazakhs returned to Kazakhstan and received the status of “oralmans” (since 1991 – 315.8 thousand families or 1,062.2 thousand people). The majority of oralmans came from China – 63% (1,375 families or 3,101 people), the Republic of Uzbekistan – 23% (745 families or 1,146 people), Turkmenistan – 7% (184 families or 331 people), Mongolia – 4% (93 families or 189 people), the Russian Federation – 1% (26 families or 35 people), and 2% (81 families or 119 people) from other countries.<sup>14</sup> The potential of compatriots from abroad wishing to move to Kazakhstan for permanent residence is over one and a half million people.<sup>15</sup>

However, the repatriation processes in the Republic of Kazakhstan revealed some issues with an adaptation of oralmans and with contradictions in the laws. The development and improvement of legislation can set an effective vector for the state’s migration policy in relation to diasporas.<sup>16</sup>

In the context of world migration processes, a state needs to construct new approaches to diasporas regarding its own experience in solving problems in this area and an international experience. Return migration as a specific type of migration that sometimes takes the form of ethnic repatriation is used by such countries as Israel, Japan, Poland, Germany, and others.<sup>17</sup>

Analyzing the scientific archive of the journal Brazilian Journal of International Law (RDI), it is worth noting a number of publications that are indirectly relevant to this scientific study. Thus, the article by Maiquel Angelo Dezordi Wermuth<sup>18</sup> analyzes the manipulation of criminal law by the countries of the European Union in order to combat illegal immigration. This study also describes the social and economic reasons underlying the creation of illegal immigrants as “risk citizens”. The author argues that this context can create an environment of mixophobia (fear of mixing it up) towards immigrants, which provokes a major concern of workers: the impact of mixophobia on how the criminal law is used. control over migration flows from the countries of the European Union.

Another publication is a study by Lutiana Valadares Fernandes Barbosa, Ana Luisa Zago de Moraes<sup>19</sup>, about the model of the International Convention on Mobility in the context of the inter-American system of human rights reflection on the principle of non-criminalization. This article aimed to provide an inter-American reflection of the Model International Mobility Convention (MIMC) and proposed some additions to the MIMC regarding the principle of non-criminalization of migration, based mainly on Brazilian law and the jurisprudence of the Inter-American Court of Human Rights.

In general, the study analyzed the experience of the Russian Federation, Germany, and the Republic of Korea both because of the similarity of the problems of returning compatriots to their homeland, and because of the special approach of each of these countries to

<sup>13</sup> JAMPEISOV *et al.* ‘Managing ethnic repatriation experience: Central Asian states and Russian Federation’. v. 1, n. 21; ZHANBOSSINOVA, Albina S.; KARIBAEV, Maxat; ATANTAYEVA, Bakyt; KULSHANOVA, Arman; SHAIMERDENOVA, Mendygany. ‘Socio-cultural adaptation of repatriates of East Kazakhstan and migration attitudes of the Kazakhs of Mongolia’. *Space and Culture*, India, v. 7, n. 1, p. 154-69, 2019.

<sup>14</sup> Ministry of Labor and Social Protection of Population of the Republic of Kazakhstan. *Ethnic migration*. 06 March 2020. Available at: <https://www.gov.kz/memleket/entities/enbek/activities/193?lang=en>. Access on: 20 August 2020.

<sup>15</sup> SABEKOV, Serik. ‘Potentsial repatriatsii nashikh sootchestvennikov iz-za rubezha sostavlyayet svyshe 1,5 mln chelovek – uchenyy’ [The potential for the repatriation of our compatriots from abroad is over 1.5 million people – scientist]. *Kazinform*, 2020. Available at: [https://www.inform.kz/ru/potencial-pereseleniya-nashih-sootchestvennikov-iz-za-rubezha-sostavlyayet-svyshe-1-5-mln-chelovek-uchenyy\\_a3711582](https://www.inform.kz/ru/potencial-pereseleniya-nashih-sootchestvennikov-iz-za-rubezha-sostavlyayet-svyshe-1-5-mln-chelovek-uchenyy_a3711582). Access on: 27 Oct. 2020.

<sup>16</sup> ZHANBOSSINOVA *et al.* ‘Socio-cultural adaptation of repatriates of East Kazakhstan and migration attitudes of the Kazakhs of Mongolia’. v. 1, n. 7; KIM, E. ‘Vam zdes’ ne rady: Neudobnaya pravda or Repatriantakh Kazakhstana i ikh budushchem’ [You are not welcome here: An inconvenient truth about the repatriates of Kazakhstan and their future]. *LA REGNUM*, 2019. Available at: <https://regnum.ru/news/polit/2803951.html>. Access on: 20 Dec. 2020.

<sup>17</sup> JAMPEISOV *et al.* ‘Managing ethnic repatriation experience: Central Asian states and Russian Federation’. v. 1, n. 21.

<sup>18</sup> WERMUTH, M.A.D. ‘Criminal law and illegal immigration into the European union: the “indifference” to the “excess” in a punitive mixofobia environment’. *Brazilian Journal of International Law*, v. 8, n. 2, p. 167-204, 2011.

<sup>19</sup> BARBOSA, Lutiana Valadares Fernandes; MORAES, Ana Luisa Zago de. ‘Model international mobility convention: an inter-american system of human rights reflection on the non-criminalization principle’. *Brazilian Journal of International Law*, v. 19, n. 2, p. 102-116, 2022.

the formation of migration policy, when the issues of regulating diaspora relations were resolved through the adoption of laws. Each country solves repatriation tasks in its own way, which is evidenced by numerous studies, reflecting various positions on migration phenomena and their consequences.<sup>20</sup>

Countries pass through outstanding historical events, and some of these events are connected with separation and migration that led to specific diaspora processes. Turning to international experience, we both studied legislation and held meetings with representatives of state bodies and public organisations of these countries that are directly involved in the implementation of this work.

The experience of the legislation of their countries regarding the support of repatriates was told in Germany by the deputy of the Bundestag of Germany, Mr. Heinrich Certik, director of the adaptation camp for migrants in Friedland, Heinrich Hertscheimer; in Russia, these are official representatives of the Federal Agency for CIS Affairs, Compatriots Living Abroad, and International Humanitarian Cooperation (Rosso-trudnichestvo), in Korea, this is the head of the Overseas Koreans Foundation. These are just some of the meetings that took place in Germany, Russia and Korea. Each country, thanks to the legislative regulation of the issues of support for repatriates, was able to facilitate the return of compatriots to their historical homeland. It should be particularly noted that Germany and Russia have effective legislation aimed at supporting repatriates, moreover, they encourage the return of their compatriots, whereas Korean legislation provides for the support of Koreans in the countries where they live.

At present, the support for compatriots can create a new impetus for the development of Kazakhstan. In this regard, we believe that it is advisable in Kazakh

legislation to provide a new type of legal relationship between the state and compatriots abroad.

The countries studied were not chosen by chance. In the course of this scientific work, the experience and legislation of Germany, Russia, and South Korea were studied, since they have special laws regulating the repatriation and state support of foreign compatriots. For example, the German Federal Law “*On the Affairs of Exiles and Refugees of German nationality*”<sup>21</sup>; The Federal Law of Russia “*On the State Policy of the Russian Federation in relation to Compatriots Abroad*” (1999)<sup>22</sup>, the Laws of the Republic of Korea “*On Migration*” (1963), “*On Foreign Compatriots*” (1988). All the listed countries, applying their legislation, were able to achieve certain positive results.

It should be noted that during the study of the legislation of Germany, the Russian Federation and Korea, we have learned the main experience – for effective state support of foreign compatriots and repatriation, a legal act, a special law, which is not yet available in Kazakhstan, is necessary. The studied international experience was put forward by us for discussion in a variety of audiences: deputies of the Parliament of Kazakhstan, scientists, public organizations, state bodies. Now the Kazakh authorities and the public understand that it is necessary to adopt a special act following the example of countries with advanced experience in repatriation issues. Our research was mainly aimed at proving the need to adopt a law aimed at supporting repatriation by the State.

Thus, we have analysed the provisions of the legislation of Germany, Russia and Korea on state support for repatriates - these are adaptation measures, the right to receive medical care, educational services, the opportunity to work or do business, assistance in learning the state language and granting citizenship.

Kazakhstan, unlike these countries, is only going to adopt a special act aimed at the repatriation and state support of the ties of foreign Kazakhs with their historical homeland, which was the reason for this study.

<sup>20</sup> KIM, G. ‘Migration or repatriation to South Korea’. *Goryeo Saram*, 2017. Available at: <https://koryo-saram.ru/migratsiya-ili-repatriatsiya-v-yuzhnyu-koreyu/>. Access on: 15 Apr. 2020; APRYSHCHENKO, V. ‘Modern migration processes and the model of «convergence»’ (2018) 4 *Izvestiya Vysshikh Uchebnykh Zavedeniy. Severo-Kavkazskiy Region. Obshchestvennye Nauki* 26-30; SLUKA, Nikolai; KOROCHKOV, Andrei; IVANOV, Pavel N. ‘The Chinese diaspora in the EU countries’. *Baltic Region*, v. 10, n. 3, p. 80-95, 2018); SARGSYAN, Jacqueline. ‘Modern migration trends in France’. *Moscow journal*, 7, p. 302-11, 2019; GUSEJNOVA, Aitadzh; KOZLOVA, Elena. ‘Classical and modern theories of population migration’. *Innovacionnaja Jekonomika: Perspektivy Razvitiya i Sovershenstvovaniya*, v. 2, n. 36, p. 202-9, 2019.

<sup>21</sup> Bundestag (1953) *Gesetz über die Angelegenheiten der Vertriebenen und Flüchtling*. Available at: <https://www.gesetze-im-internet.de/bvfg/BJNR002010953.html>. Access on: 10 Sep. 2019

<sup>22</sup> On the state policy of the Russian Federation in relation to compatriot’s abroad, Federal law No. 99-FZ, 24 March 1999 (Russian Federation). Available at: [www.kremlin.ru/acts/bank/13875](http://www.kremlin.ru/acts/bank/13875). Access on: 8 Aug. 2020.

This article raises the question of the need for a separate special law in Kazakhstan dedicated to the legal regulation of repatriation and state support of foreign compatriots. At the same time, the issue of improving the current legislation in this area is being raised. This research topic is completely new for Kazakhstan.

The reason for this novelty is that until 2017 there were no initiatives on the need for a special bill from state bodies or public organizations.

In 2017, after the creation of the specialized organization “Otandastar Foundation” on behalf of the former President of Kazakhstan N. Nazarbayev, research began in the legal field regarding the stimulation and support of repatriation processes by the state. It was then that they turned to international experience to develop a draft special law in Kazakhstan.

In the process of legislative activity, the issue of the need for such a law was discussed in the Parliament of Kazakhstan, controversial discussions were held with the participation of various state authorities. The bill received huge support from public organizations, prominent legal scientists and politicians, scientific and research organizations, as well as deputies of the Parliament of the Republic of Kazakhstan.

At the same time, sharply negative positions were taken by law enforcement agencies represented by the Ministry of Internal Affairs, the Ministry of Foreign Affairs of Kazakhstan, as well as national security agencies. They saw in the existence of such a law in the country mainly negative aspects associated with an increase in the flow of migrants, respectively, work for them.

The authors of this article were the first developers of a special draft law in Kazakhstan, therefore, during the study of the problem, they turned to scientific publications of foreign colleagues for help.

## 2 Legal aspects of supporting compatriots abroad in Germany, Russia and Korea in the context of the development of the relevant Kazakhstani legislation

The objective of our research is to study the legal aspects of supporting compatriots abroad in Germany, Russia and Korea and to define the main directions for the development of relevant Kazakhstan legislation.

Tasks:

1. Study of international experience of legal regulation of state support of compatriots abroad and repatriation on the example of Germany, Russia and Korea.
2. Definition of the provisions of the legislation of these countries that may be useful in the development of the Kazakh legal act.
3. Development of a draft special act providing for measures of state support for compatriots abroad and repatriation, taking into account the national priorities of Kazakhstan (we have developed such a project and submitted it for discussion).

### 2.1 Method

When writing a scientific article, general scientific (logical, structural and system analysis, synthesis, comparison, abstraction, induction and deduction, modeling), special techniques, methods of studying phenomena and processes (specifically historical, dialectical, formal-logical, structural-functional, method of comparative jurisprudence) were used.

The methodological basis for clarifying the definitions contained in legal acts was the laws of formal logic; the analysis of normative legal acts was carried out.

On issues of state support for foreign compatriots, an analysis of the laws of different countries, whose experience we consider to be advanced, has been carried out. Logical, structural and system analysis, synthesis, comparison, abstraction, induction and deduction, modeling methods were used for this work.

During the study of country practice, various foreign state bodies and public organizations provided official information. In order to summarize all the materials, it was necessary to first analyze everything, hi-

highlight the main points, then eventually structure them by questions and get the final information that meets the objectives of the study.

### 3 Findings

#### 3.1 The Federal Republic of Germany: state and public support

In 2015, the largest number of foreign citizens in the European Union Germany hosted (seven and half million, 22 percent); this is one of the most attractive countries to migrants.<sup>23</sup> The main legislative act of Germany aimed at stimulating and facilitating the return of compatriots living abroad is the Federal Law of Germany “*On Cases of Exiles and Refugees of German Nationality*”.<sup>24</sup>

According to this, the decision to accept a repatriate is not limited to any period. This means that documents can be stored for 20 years or more without losing their strength. And, despite the time limitation, the knowledge of the German language is still pertinent. So, in the process of relocation to Germany, owners of old admission decisions issued back in the 1990s of the last century have to be prepared to test their current knowledge of the German language.

During a meeting, the director of the Friedland camp, Heinrich Hörnschemeyer, who has been working in this position since the summer of 1991, talked about the activities of the camp and also showed the conditions of stay of the late settlers. In recent years, according to H. Hörnschemeier, the flow of immigrants from the former post-Soviet republics has significantly decreased, but the influx of migrants from economically and politically disadvantaged countries has increased. A visit to the Friedland camp revealed some issues related to the relocation of ethnic Germans to Germany. However, within the framework of this article, the scope of this publication does not allow us to cover all the results.

<sup>23</sup> ŠKUFLIĆ, Lorena; KRPAŃ, Mira; ŽMUK, Berislav. ‘Migration and the economic crisis in the European Union member states: Cluster analysis’. *Entrepreneurship and Sustainability Issues*, v. 6, n. 2, p. 979-1000, 2018.

<sup>24</sup> Bundestag (1953) *Gesetz über die Angelegenheiten der Vertriebenen und Flüchtling*.

After registration, a certificate of a late repatriate is issued to the Russian German. Family members also receive a late repatriation certificate. The fact of issuing a certificate of a settler makes the “Russian German” a German citizen.

A ‘*Russian German*’ who has moved to Germany because of issuing a certificate becomes a person with dual citizenship, so an immigrant needs not to give up his original citizenship. The repatriate’s family members in Germany also have status. Persons with resettlement status live in Germany on the rights of foreign members of the family of German citizens. In some cases, after the resettlement has already taken place, it is possible to increase the resettlement status. This increase for the settlers in Germany is important for the amount of pension provision.

Also, it is important that innovation in the federal law, introduced in December 2011, does not require joint travel of all family members to Germany. Now, family members who wish to join the family have the right to apply for inclusion in the initial application of the head of the family, regardless of where he or she lives. The spouse, children, parents, and also other descendants of the repatriate are entitled to file such an appeal. The need to prove the existence of a “hard case” was also abolished. Knowledge of the German language corresponding to level A1 (the initial level of language knowledge) is the only condition for the spouse, children, parents, and other descendants of the repatriate.

All the latest amendments are aimed, first of all, at improving the laws of the Federal Republic of Germany in the field of state support of compatriots abroad. Their role is to strengthen the influence of all state structures involved in the implementation of this policy, including commissioners for exiled, immigrants, and late immigrants who are functioning at the ministry level in all federal states of Germany.

The study of German experience in the field of return and state support of ethnic Germans showed that in addition to the support from the government, immigrants also enjoy the support of a number of public organisations, in the life and work of which the state plays the most active role:

- *The Otto Benecke Foundation*, which has been operating since 1965. It was created at the initiative of the Berlin Technical University. The Fund finances the state and therefore has connections with the best education-

nal institutions in Europe. The Fund helps young professionals—repatriates and their families to retrain and find a job. Immigrants meet with representatives of the foundation in Friedland for the first time, before being distributed across the lands and highlands of Germany;

- *Gerhard-Hauptmann House* (German language courses, employment, counselling, social assistance, etc.);

- *The Christian branch of the Bonn Bible Seminar*, formed by repatriates in 1946. This is an educational organization that prepares theologians for undergraduate and graduate programs to work in the system of Christian organizations. The head and most of the workers of this institution are late repatriates. These repatriates are able to create a library about the history of repatriates in Germany. The bulk of not only staff but also students are children of late repatriates and migrants;

- *The international trading company Internationale unternehmensgruppe Monolith*. This company specializes in the production and sale of goods, cooperates mainly with the Commonwealth of Independent States (CIS) countries, mainly with the Russian Federation and Kazakhstan. It has more than 500 branches in Germany. Employees are mainly from CIS countries. The company's orientation is the employment of persons who have moved to Germany;

- *Berlin Centre for Migrant Assistance (Centre for the Adaptation of Repatriates)*. It is a building with infrastructures that are supported by the state budget. The building has rooms for living, equipped with furniture, domestic premises, a hall for physical education, a meeting room with relatives, a library, a children's room, etc. The center provides its residents with the necessary information on employment, adapting to new conditions, advises on important social issues, and provides assistance in the organization of leisure and social conditions;

- *Federal Youth Organization of Russian Germans in Germany*;

- *Berlin integration house "Lira e.V."*, registered as a non-profit organisation at the Berlin Employment Centre, and others.

### 3.2 The Republic of Korea: the way to openness

The following legislative acts regulate relations between the South Korean state and the diaspora in the Republic of Korea: Emigration Law (1962), the Act

on the Immigration and Legal Status of Overseas Koreans (1999), the Overseas Compatriots Act (Compatriots Abroad Act of 2 September 1999 Law on Foreign Compatriots) (1999), and others.<sup>25</sup>

The Overseas Compatriots Act (1999) gave compatriots an opportunity to conduct financial transactions and acquire real estate in the country, as well as receive special visas for ethnic Koreans without any restrictions. This practice greatly facilitates the process of employment in the Republic of Korea. When the law was adopted, the concept of "foreign compatriot" included persons with South Korean citizenship and permanently living abroad, as well as former citizens of the Republic of Korea who received the citizenship of any other country. It was made because of exceptions to Korean law, according to which not all ethnic Koreans can be recognised as "compatriots abroad". So, the Koreans in the Commonwealth of Independent States (CIS) and China were excluded and no state support was possible for such immigrants.<sup>26</sup> In 2005, amendments according to which ethnic Koreans were not classified as foreign compatriots were adopted to the Overseas Compatriots Act. Persons who renounced South Korean citizenship in order to avoid military service, as well as ethnic Koreans who left the country before the formation of the Republic of Korea, that is, until 1948, and their descendants.

South Korean legislation is still being improved. For the Koreans in the CIS countries, the opportunity to work or settle in Korea opened in 2007.<sup>27</sup> Amendments to the 2009 Law "On Elections", gave 'foreign compatriots' the right to participate in elections held in the Republic of Korea for the first time.

The Law on Citizenship, adopted in 1997, was also aimed at supporting ethnic Koreans. On May 04, 2010, the law was amended to stipulate the admissibility of

<sup>25</sup> WETHERALL, William. 'ROK's compatriots abroad act: 'Nationals Abroad' and 'Alien Nationality Compatriots'. Yoshua Bunko, 18 June 2007. Available at: [http://www.yoshabunko.com/nationality/ROK\\_compatriots\\_law.html](http://www.yoshabunko.com/nationality/ROK_compatriots_law.html). Access on: 14 Sep. 2020.

<sup>26</sup> YOUNGOK, Jang. 'Jews and Koreans in the USSR: Patterns after the dissolution of the Soviet Union'. *Diaspora Research*, v. 13, n. 2, p. 81-114, 2019. Available at: <https://www.kci.go.kr/kciportal/ci/sereArticleSearch/ciSereArtiOrteView.kci?sereArticleSearchBean.artiId=ART002531210>. 20 August 2020

<sup>27</sup> YOUNGOK, Jang. 'Jews and Koreans in the USSR: Patterns after the dissolution of the Soviet Union'. *Diaspora Research*, v. 13, n. 2, p. 81-114, 2019. Available at: <https://www.kci.go.kr/kciportal/ci/sereArticleSearch/ciSereArtiOrteView.kci?sereArticleSearchBean.artiId=ART002531210>. 20 August 2020.

dual citizenship for a certain category of people. The current version of this law defines two types of naturalisation in the Republic of Korea: general and special. General naturalisation is applied to ordinary foreign citizens. Special naturalisation is applied to persons who have special services to the Republic of Korea, including their direct ancestors and descendants, and who make a significant contribution to the development of the country, ensuring national security and protecting the national interests of South Korea.<sup>28</sup>

In accordance with the Law on Citizenship, the largest group of citizens who can apply for Korean citizenship without leaving their other one, are ethnic Koreans living abroad who have received permission from the Ministry of Justice of the Republic of Korea. In the law, this procedure is defined as the restoration of citizenship. It also implies a refusal to position oneself as a foreigner in the territory of Korea.

### 3.3 The Russian Federation: totally state support

Among the directions of solving the demographic issues, there is the voluntary resettlement to the Russian Federation of compatriots living abroad. The ablest to adapt and include into the host community and into the positive social ties system are compatriots who are brought up in the environment of Russian culture, know the Russian language, and are willing to keep in touch with Russia, as Ryazantsev et al.,<sup>29</sup> Alekseyenko,<sup>30</sup> Aydinbekov,<sup>31</sup> and Morozova<sup>32</sup> point out. Federal Law “*On the State Policy of the Russian Federation with respect to compatriots abroad*”, defines the goals of the state policy of the Russian Federation regarding compatriots as follows: to provide state support to compatriots, inclu-

ding providing legal protection of their interests, as well as the conditions under which they could live as equal citizens in foreign states or return to the Russian Federation.<sup>33</sup>

The State Program on Assisting the Voluntary Resettlement of Compatriots Living Abroad to the Russian Federation<sup>34</sup> provides an intersectoral coordination, as well as gaining the possibility of a conscious choice by migrants of their future place of living, work, and education. The three-year action plan for implementation of this State Program includes:

- a) legal support;
- b) organisational and managerial measures for implementation;
- c) analytical and methodological support for implementation;
- d) information support for implementation;
- e) analysis and evaluation of the obtained results in accordance with the established criteria. Such criteria for evaluating the effectiveness include:

- the amount of finance of federal budget necessary to ensure the implementation of the State Program;
- target indicators;
- criteria for evaluating the effectiveness of the implementation of the State Program established by the government of the Russian Federation, taking into account the socio-economic situation and resource support of the State Program.

Financial support for the implementation of the Program is carried out at the expense of the federal budget, as well as the financial participation of legal entities and individuals.<sup>35</sup>

<sup>28</sup> Kim, ‘Vam zdes’ ne rady: Neudobnaya pravda or Repatriantakh Kazakhstana i ikh budushchem’ [You are not welcome here: An inconvenient truth about the repatriates of Kazakhstan and their future] (2019) *LA REGNUM*.

<sup>29</sup> RYAZANTSEV, Sergey; PISMENNAYA, Elena; KHRAMOVA, Marina. ‘Formation of the migration potential of compatriots in the countries of Central Asia’. *Narodonaselenie*, v. 4, n. 70, p. 58-67, 2015.

<sup>30</sup> ALEKSEYENKO, M. ‘Sovremennoe sostoyanie rossiysko-kazakhstanskikh otnosheniy v oblasti migratsii’. *Vestnik of Orenburg State University*, v. 5, n. 205, p. 88-91, 2017.

<sup>31</sup> AYDINBEKOV, Elmar. ‘Migration policy: The practice of resettlement of compatriots’. *Vlast*, v. 4, p. 67-71, 2017. Available at: <https://www.jour.fnisc.ru/index.php/vlast/article/view/5056>. Access on: 10 Nov. 2020.

<sup>32</sup> MOROZOVA, E. ‘The role of Rossotrudnichestvo and organizations of Russian compatriots in the Republic of Kazakhstan’. *Post-sovetskie Issledovaniya*, v. 2, n. 8, p. 1612-9, 2019.

<sup>33</sup> On the state policy of the Russian Federation in relation to compatriot’s abroad, Federal law No. 99-FZ, 24 March 1999 (Russian Federation)

<sup>34</sup> On the implementation of the State program to assist the voluntary resettlement to the Russian Federation of compatriots living abroad, Decree of the President of the Russian Federation No. 1289, 14 Sep. 2012 (Russian Federation) Available at: [http://www.consultant.ru/document/cons\\_doc\\_LAW\\_135348](http://www.consultant.ru/document/cons_doc_LAW_135348). Access on: 14 Sep. 2020

<sup>35</sup> GERASIMOVA, V. ‘Russian compatriots abroad’. *Postsovet-skie Issledovaniya*, v. 2, n. 1, p. 904-22, 2019. Available at: [https://e46c205d-83c7-4e8c-bb4b-8df266fba81.filesusr.com/ugd/0206eb\\_30b6f38873cb416281085a2e8edbe544.pdf](https://e46c205d-83c7-4e8c-bb4b-8df266fba81.filesusr.com/ugd/0206eb_30b6f38873cb416281085a2e8edbe544.pdf). Access on: 8 Aug. 2020.

Compatriots who reach the age of 18 years, have the legal capacity, and meet the requirements established by the State Program can take part in the State Program. A certificate of a participant in the State Program confirms the participation of a compatriot in the Program. Proficiency in Russian is considered a prerequisite.

The government of the Russian Federation determines the list, the status of “territory of priority settlement”, and the procedure for assigning the territory of the Russian Federation. The territory of the settlement is the territory of the Russian Federation or a part of it, where the Program participants are involved in the resettlement projects.

A repatriate participating in the State Program is limited in the choice of a constituent entity of the Russian Federation for resettlement. Moving is allowed only to those regions that take part in the placement of immigrants.

Help to immigrants in 2019 largely depended on which subject of the Russian Federation the person moved to. Currently, the most significant support measures are provided by the authorities of the Siberian and Far Eastern regions, who need the workforce and improving the demographic situation. If the repatriate chooses one of the priority regions, he or she will be given significant help in the form of a relocation allowance. Such subjects of the Russian Federation are Buryatia, Transbaikal Territory, Primorsky Territory, Khabarovsk Territory, Kamchatka Territory, Irkutsk, Magadan, Sakhalin, Amur Regions, and Jewish Autonomous Region. When moving to other regions, the relocation allowance makes up 20 thousand RUB per applicant and 10 thousand RUB for each member of the repatriate’s family.

A participant in the State Program and members of his family may receive state guarantees and social support depending on the chosen territory of the settlement, including:

a) compensation for expenses from the federal budget for moving to a future place of residence, including travel and belongings;

b) for compensation at the expense of the federal budget for the costs of paying the state duty for the execution of documents defining the legal status of immigrants in the territory of the Russian Federation;

c) to receive relocation allowance from the federal budget;

d) to receive at the expense of the federal budget a monthly maintenance allowance in the absence of income from employment, business, and other activities not prohibited by the legislation of the Russian Federation in the period before acquiring Russian citizenship (but not more than within six months).<sup>36</sup> In this case, the size of the maintenance allowance is determined, taking into account the subsistence level established in the relevant subject of the Russian Federation.

Relocation allowance as a maintenance allowance for the arrangement of program participants is a cash payment provided to program participants and members of their family after moving for accommodation. The amount of payment is 240 thousand RUB per applicant and 120 thousand RUB for each member of his family. The government of the Russian Federation determines the procedure for paying the relocation allowance.

Migrants who formalise their stay in the Russian Federation receive the right to receive pension payments. The pension is available to all immigrants, except those who have received temporary asylum. Issues related to assistance in finding employment and housing, the arrangement of their families, allocation of housing for immigrants for temporary accommodation for at least six months, social security and medical assistance, as well as the provision of land plots are resolved at the level of regional resettlement programs. Voluntary and internally displaced persons can apply for all the bonuses and maintenance allowances provided for by the federal and regional laws of Russia in relation to Russian poor families.

All the above measures of state support of foreign compatriots in Russia are effective and contribute to the active process of resettlement of persons falling under this Program. As of January 1, 2021, 80 subjects of the Russian Federation in 8 federal districts participated in the implementation of the State Program. Only in the fourth quarter of 2020, 10.6 thousand certificates of the State Program participant were issued (for 26.3 thousand people together with family members). At the

<sup>36</sup> On measures to assist the voluntary resettlement to the Russian Federation of compatriots living abroad, Decree of the President of the Russian Federation No. 637, 22 June 2006 (Russian Federation). Available at: <https://base.garant.ru/189653/>. Access on: 14 Sep. 2020.

same time, 67% of compatriots moved to the regions located in the Central, Siberian and Privolzhsky Federal Districts; among the subjects of the Russian Federation, the largest number of immigrants were Tula district (1539 people), Kaluga district (1184 people), Chelyabinsk district (1003 people), Novosibirsk district (774 people), Kaliningrad district (664 people). 19.4% of compatriots chose the territories of settlement in rural areas as their permanent place of residence.

In this analysis there is evidence that the main countries of exodus of migrants are Kazakhstan (37.6%) and Tajikistan (34.6%).<sup>37</sup>

The consequences of ethnic repatriation affect the country's domestic policy, which is aimed at even distribution and favorable adaptation of ethnic migrants and other migrants. Budget expenses and adoption of regulatory legal acts aimed at state support of returnees are amplified with an active work abroad with representations of Russian organisations to ensure the adaptation of ethnic returnees.

In the Russian Federation, the main work on state support of compatriots abroad is carried out by state structures.<sup>38</sup> The largest Russian organization operating in the field of state support for compatriots in the Federal Agency for CIS Affairs, Compatriots Living Abroad, and International Humanitarian Cooperation.<sup>39</sup>

The scale of the work of this federal structure with repatriates and compatriots abroad can be judged by the following data: 77 deputy groups for relations with 105 countries, 68 groups in foreign parliaments; 180 related city pairs and 820 partner city pairs in 77 countries; it unites 25-30 million compatriots; 92 national coordination councils were created; 73 associations of graduates have been created, uniting one million people in 173 countries of the world; Rossotrudnichestvo has 422 national associations of Russian language specialists, whe-

re 110 thousand teachers from 66 countries work; 87 friendship societies were created, uniting 50,000 people from 70 countries. At the same time, Rossotrudnichestvo implements projects within cultural and humanitarian lines.<sup>40</sup>

Along with Rossotrudnichestvo, another major Russian organisation, is the Foundation for the Support and Protection of the Rights of Compatriots Living Abroad (hereinafter referred to as the Fund). On the basis of international standards, the Fund provides its compatriots with organisational, financial, or humanitarian support. The areas of the Fund's activities include monitoring the rights of compatriots, protection of the rights and legitimate interests of compatriots abroad, and legal literacy programs.

The Fund monitors the fulfilment of obligations regarding national minorities by the countries of their residence, such as equal treatment and non-discrimination, effective participation in public and political life, preservation of cultural, linguistic and religious identities, equal protection by the law, and protection against hate crimes. Also, the Fund supports the Russian language as one of the most important components of a person's identity. The Fund takes part in creation of special legal applications and sections, consultations on current issues, the work of the site, and others.

To organise effective work with compatriots abroad, the Foundation initiated the creation of the Association of Russian-speaking lawyers in foreign countries. In total, in 2019, 38.9 thousand certificates of the State program participant were issued to compatriots (for 92.0 thousand people), of which 51.4% were issued abroad (20.0 thousand for 53.3 thousand people).<sup>41</sup>

Thus, the international experience of state support of compatriots abroad in the above countries is valuable for Kazakhstan in matters of developing the legislative framework and state program in this area.

Our research group has been studying international experience in the field of legislation aimed at legal regulation of repatriation and state support of foreign

<sup>37</sup> Ministry of Internal Affairs of the Russian Federation, Monitoring the Implementation of the State Program to facilitate the voluntary resettlement of compatriots living abroad in the Russian Federation in the territories of the population of the Russian Federation in the III quarter of 2019 (2019) Available at: [https://mvd.pf/mvd/structure1/Glavnie\\_upravlenija/guvm/compatriots/monitoring/2019](https://mvd.pf/mvd/structure1/Glavnie_upravlenija/guvm/compatriots/monitoring/2019) Access on: 23 Aug. 2021.

<sup>38</sup> PRUDNIKOVA, T. 'The role of organizational maintenance of interaction of the Russian state with compatriots abroad'. (2014) 3 Vestnik Moskovskogo Universiteta MVD Rossii. Yuridicheskie Nauki 141-5.

<sup>39</sup> Morozova, 'The role of Rossotrudnichestvo and organizations of Russian compatriots in the Republic of Kazakhstan' (n. 2)(8)

<sup>40</sup> MOROZOVA, E. 'Legal Basis Russian-Kazakh Relations in the Field of Compatriots Support' *Postsovetские Issledovaniya*, v. 2, n. 6, p. 1439-49, 2019.

<sup>41</sup> Ministry of Internal Affairs of the Russian Federation, *Monitoring the Implementation of the State Program to facilitate the voluntary resettlement of compatriots living abroad in the Russian Federation in the territories of the population of the Russian Federation in the III quarter of 2019* (2019).



compatriots for the fourth year. Today, many countries have accumulated positive experience that can be useful for Kazakhstan. The Kazakh legislator is very cautious about the adoption of a special legislative act in this area. Today, there are legal acts in the country that provide for the repatriation and state support of foreign compatriots, for example, the Law on Population Migration, the Labor Code and others, but this is not enough. The experience of many countries in the world demonstrates the existence of special laws in the field of repatriation and diaspora cooperation.

We have studied the experience of more than 30 countries, including Germany, Poland, Italy, Romania, Bulgaria, Israel, South Korea, China, India, Mongolia, Iran, Mexico, Turkey, Russia, Uzbekistan, Turkmenistan, Kyrgyzstan, Armenia, Georgia, Azerbaijan, Latvia, Lithuania, Estonia and others. The legal framework for stimulating and facilitating repatriation has been studied for all the listed countries. Each of these countries has its own national experience, which is respected and which is associated with certain historical, political, and economic conditions of development.

The authors of the project consider it possible to reflect the following data. The study revealed that many countries, unlike Kazakhstan, have fixed the issues of support for repatriation and foreign compatriots in their basic laws – Constitutions, which indicates that they attach state importance to this issue. We will provide information on the settlement of the issue of repatriation and state support of compatriots in the Constitutions on the example of several countries (See Table 1):

**Table 1** - On the settlement of the issue of repatriation and state support of compatriots in the Constitutions

| No. | Countries           | Constitutional norms (extracts from the text of articles)   |
|-----|---------------------|---|
| 1   | Armenia             | <p><i>Article 19. Ties with the Armenian Diaspora</i></p> <p>1. The Republic of Armenia implements a policy with the Armenian Diaspora aimed at developing comprehensive ties and preserving the Armenian identity, and promotes repatriation.</p> <p>2. The Republic of Armenia, on the basis of international law, promotes the preservation of the Armenian language, Armenian historical and cultural values, and the development of Armenian educational and cultural life in other states.</p> <p><i>Article 47. The right to citizenship of the Republic of Armenia</i></p> <p>3. Armenians by nationality have the right to acquire citizenship of the Republic of Armenia from the moment of residence in the Republic of Armenia.</p> <p>4. Armenians by nationality acquire citizenship of the Republic of Armenia in a simplified manner prescribed by law.</p> |
| 2   | Georgia             | <p><i>Article 5. The Welfare State</i></p> <p>8. The State takes care of maintaining and developing ties with compatriots living abroad.</p>  |
| 3   | Poland              | <p><i>Article 6</i></p> <p>2. The Republic of Poland provides assistance to Poles living abroad in preserving their ties with the national cultural heritage.</p> <p><i>Article 52</i></p> <p>5. A person whose Polish origin is confirmed according to the law may permanently settle on the territory of the Republic of Poland.</p>  |
| 4   | Israel (basic laws) | <p><i>Message 6. The World Community of Jews</i></p> <p><i>Article 51</i></p> <p>All Jews by right of birth constitute the worldwide community of Jews. All Jews are a single people with a single history and a single culture.</p>  |
| 5   | Italy               | <p><i>Article 35</i></p> <p>The Republic recognizes the freedom of emigration, subject to the obligations established by law in the common interest, and protects Italian workers abroad.</p>   |
| 6   | Russia              | <p><i>Article 69</i></p> <p>3. The Russian Federation provides support to compatriots living abroad in exercising their rights, ensuring the protection of their interests and preserving the All-Russian cultural identity.</p>  |

| No. | Countries | Constitutional norms (extracts from the text of articles)  |
|-----|-----------|--|
| 7   | India     | <i>Article 8. Citizenship rights of certain persons of Indian origin residing outside India</i><br>Notwithstanding the provisions of article 5, any person who was born in India, or whose parents or grandparents were born in India, ... and who habitually resides in any country outside India, is considered an Indian citizen... |

Based on international experience, we are inclined to believe that our country also needs a separate special legislative act on issues of state support for foreign compatriots. The study revealed that most countries have significant experience in the field under study, especially Germany, Poland, Israel, Armenia and others, as they provide more rights and benefits to their foreign compatriots not only outside, but also inside the country. Here is how the legislation of individual countries in the field of repatriation and state support of foreign compatriots is presented (See Table 2):

Table 2 - Legislation of individual countries in the field of repatriation and state support of foreign compatriots

| Countries      | Main legislative and other acts   | Notes  |
|----------------|---|--|
| <i>Germany</i> | The main act - the German Federal Law «Gesetz über die Angelegenheiten der Vertriebenen und Flüchtlinge» (BVFG, 1953), is valid in a new edition from 13.09.2013. | The law regulates almost all aspects of repatriation, defines a list of measures of state support for Germans. |
| <i>Israel</i>  | 1. The Law “On Return” (1950).<br>2. The Law “On Entry into Israel” (1952).<br>3. The Law “On Aliyah Day” (2016).   | The most comprehensive legislation provides Jews with ample opportunities for repatriation.                    |

| Countries     | Main legislative and other acts  | Notes  |
|---------------|--|--|
| <i>Poland</i> | 1. Bilateral treaties concluded with 16 States and containing regulations on the protection of the rights of Poles.<br>2. Council of Europe Framework Convention for the Protection of National Minorities.<br>3. Legal provisions of the European Union concerning migrant workers.<br>5. The Law “On the Pole’s Card”.<br>8. The Law “On Repatriation”.<br>9. The Government program of cooperation with the Polish community and Poles living abroad. | A Pole Map has been introduced.<br>There is a separate Law “On repatriation”.  |
| <i>Turkey</i> | Turkish Law “On Foreign Turks and Related Communities” (2010).   | The legislation of the country mainly supports the investment inflow from repatriates and foreign Turks.   |
| <i>Korea</i>  | 1. The Law “On Migration” (1963).<br>2. The Law “On Foreign Compatriots” (1988).<br>3. The Law “On Elections” (2009).  | The issues of repatriation are in second place after the state support of Koreans abroad. Koreans are not called back, but they support the development of language and culture abroad.<br>The law “On Elections” gives the right to participate in government elections to Koreans regardless of citizenship. |

| Countries         | Main legislative and other acts  | Notes   | Countries        | Main legislative and other acts   | Notes  |
|-------------------|--|---|------------------|---|--|
| <i>Armenia</i>    | <ol style="list-style-type: none"> <li>1. The Law of the Republic of Armenia “On Foreign Persons” (2007).</li> <li>2. The National Security Strategy of Armenia (2007).</li> <li>3. The State Program of the Government of the Republic of Armenia for 2017-2022.</li> </ol> | <ol style="list-style-type: none"> <li>1. Armenia has a large Fund for the Promotion of Repatriation “Repat Armenia” (2012).</li> <li>2. According to the National Security Strategy of Armenia, the preservation of the Armenian identity and the development of the national identity of the Armenian people in Armenia and in the Diaspora are fundamental values of national security.</li> <li>3. The Government has the Ministry of Diaspora of Armenia.</li> </ol> | <i>Russia</i>    | <ol style="list-style-type: none"> <li>1. Federal Law “On the State Policy of the Russian Federation in Relation to Compatriots Abroad” (1999).</li> <li>2. State Program to Assist the Voluntary Resettlement of Compatriots Living Abroad to the Russian Federation (2006).</li> <li>3. UPRF “On the implementation of the State program to assist the voluntary resettlement to the Russian Federation of Compatriots Living Abroad abroad” (2012).</li> </ol>   | The legislation and the program are aimed at attracting not only Russians to the country, but everyone who wants to.   |
| <i>Georgia</i>    | The Law of Georgia “On Compatriots Living Abroad and Diaspora Organizations” (2011).   | The peculiarity of the law of Georgia is that compatriots living abroad are certified by the issuance of a special document called “certificate of a compatriot living abroad”.   | <i>Lithuania</i> | <ol style="list-style-type: none"> <li>1. The Law of the Republic of Lithuania on the Return of Compatriots (2019).</li> <li>2. The program “Global Lithuania (2011-2019)” was launched, during the creation of which the authors tried to integrate the experience of other countries that have a significant history of communication with their large foreign diasporas (Poland, Ireland, Israel, India). The program considers the diaspora “as a part of the Lithuanian nation living abroad, which consists of both Lithuanian citizens and persons of Lithuanian origin, as well as non-Lithuanian persons originating from Lithuania who associate themselves with Lithuania by historical, cultural, social, economic or political ties.” For the first time at the state level, along with Lithuanians, people of non-Lithuanian origin who, one way or another, associate themselves with Lithuania began to be recognized as a diaspora.</li> </ol> | The problem of the return of compatriots to their homeland is dealt with by the Department for National Minorities and Immigrants from Lithuania, the Information Center for the Return of Lithuanians to their Homeland, etc. |
| <i>Azerbaijan</i> | The Law of the Republic of Azerbaijan “On State Policy related to Azerbaijanis living abroad” (2002).  | By the decree of the President of Azerbaijan, the State Committee for Work with Azerbaijanis Living Abroad was established (2002). In 2008, it was transformed into the State Committee for Work with the Diaspora.   |                  |   |  |

| Countries | Main legislative and other acts  | Notes  |
|-----------|--|--|
| Romania   | The Law of Romania “On Providing Support to the Romanian Diaspora” (2007).   | There is a Ministry for the Romanian Diaspora Abroad. The Agency for Research, Strategy and Support of the Diaspora has also been established.           |
| China     | 1. The Law of China “On the Protection of the Rights and Interests of emigrants who have returned to their Homeland and relatives of compatriots living abroad.”<br>2. Resolution of the State Council “On the promotion of investments of Huaqiao and Compatriots from Hong Kong and Macao” (1999). | There are 7 official state organizations for Huaqiao (repatriates) in China. There are also 30 provincial and 62 city organizations for Huaqiao affairs. |

### 3.4 Support for compatriots of Kazakhstan: update process

Immediately from the first days of the existence of sovereign Kazakhstan, its first president, Nursultan Nazarbayev, appealed to all compatriots abroad to return to their historical homeland.<sup>42</sup> The state support for returning Kazakhs covers many areas: legal advice, free public health care, training in the languages functioning in the country, free transportation to the new place of residence in Kazakhstan (including the transport of property and livestock), vocational training, retraining and advanced training, education and social security and so on.<sup>43</sup> Today, more than 66 percent of returning working-age compatriots are employed.

The aforementioned data on immigration processes allow us to judge not only the scale of migration processes as a global phenomenon but also the need and importance of working in the field of state support for compatriots abroad. Of course, the Kazakh authorities are well aware of the seriousness of these processes,

<sup>42</sup> LAPTEV, A. ‘Vozvrashchenie rodiny’ [Homeland return] (2020) *Argumenty i Fakty Kazakhstan* [https://kzaif.kz/politic/vozvrashchenie\\_rodiny](https://kzaif.kz/politic/vozvrashchenie_rodiny). Access on: 15 Apr. 2020.

<sup>43</sup> LAPTEV, A. ‘Vozvrashchenie rodiny’ [Homeland return] (2020) *Argumenty i Fakty Kazakhstan* [https://kzaif.kz/politic/vozvrashchenie\\_rodiny](https://kzaif.kz/politic/vozvrashchenie_rodiny). Access on: 15 April 2020; NOWICKA, Ewa. ‘Kazakh homecomings: Between politics, culture and identity’. *Central Eastern European Migration Review*, v. 1, n. 16, p. 109-23, 2020.

which is why such investigations are being conducted. But they also understand that migration, as an objective phenomenon of the modern world, lends itself little to management and needs legal regulation.

How come the host countries of the compatriots allow the exodus states to cooperate with them, provide state support, finance diasporas, etc.? The answer to the question is in the legal field. The host countries are guided by the provisions of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.<sup>44</sup> Thus, according to article 1 of the Declaration, States protect the existence and identity of national or ethnic, cultural, religious and linguistic minorities in their respective territories and encourage the creation of conditions for the development of this identity. States shall take appropriate legislative and other measures to achieve these objectives. Article 2 of the Declaration establishes that persons belonging to minorities have the right to form their own associations and to ensure their functioning. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities. Also, they can maintain contacts across borders with citizens of other states with which they are connected by national, ethnic, religious or linguistic relationships.<sup>45</sup>

Today, against the background of migration processes, another trend has emerged in the regulation of state support for foreign compatriots. We are talking about granting citizenship.

Kazakhstan has always been and still remains an opponent of the institution of ‘dual citizenship’. However, the events in the world and global processes of recent years show that it makes sense to look more closely at this thesis. Today it is already a reality that some countries, and there are already many of them even among the CIS countries, see dual citizenship not only as a way to support repatriation but also as a solution of demographic problems. Even Russia has allowed itself to be weakened on this issue in order to promote the policy of resettlement.<sup>46</sup>

<sup>44</sup> UN, *Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities* (18 December 1992) resolution 47/135

<sup>45</sup> Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities (18 December 1992) resolution 47/135

<sup>46</sup> About changes into the Federal Law ‘On citizenship of the Rus-

Laws of a number of countries on citizenship provide for support measures for persons wishing to return to their historical homeland and obtain citizenship on the basis of nationality. For example, the laws of Armenia<sup>47</sup> and Georgia<sup>48</sup> provide for special or exceptional conditions for granting citizenship to persons who wish to obtain citizenship of the country on national grounds or by right of residence in the country in the past.

International experience shows that at the moment many countries, including large ones, are changing their attitude to the institution of “dual citizenship” and are trying to benefit from it. Taking into account the rapidly changing international migration policy, we consider it appropriate to review the provisions of the Kazakhstan law on citizenship in the direction of simplifying the admission to the citizenship of Kazakhstan.

Thus, in the Law of the Republic of Kazakhstan “*On Citizenship of the Republic of Kazakhstan*”, in article 3 ‘Belonging to the citizenship of the Republic of Kazakhstan’ there is a rule that is mandatory, since it clearly establishes the circle of persons who have the right to citizenship. It reads: ‘The Republic of Kazakhstan creates conditions for the return to its territory of persons who were forced to leave the territory of the Republic during periods of mass repression, forced collectivisation, as a result of other inhumane political actions, and their descendants, as well as for Kazakhs living on the territory of other states (excerpt).’<sup>49</sup> This rule significantly narrows the circle of former compatriots who could obtain citizenship of the Republic of Kazakhstan.

The most notable organisations that work with diaspora are the World Association of Kazakhs (established in 1992 by representatives of Kazakh diasporas) and

the state Otandastar Fund (established in 2017). The spiritual and cultural support of compatriots is facilitated by the World Association of Kazakhs. The association currently has branches and offices in 19 countries. Otandastar Fund is involved in development of a state program to support Kazakhs abroad and voluntary resettlement; development of the law of the Republic of Kazakhstan on state support for compatriots abroad; coordination of the work of the information support centre for compatriots; creation of an educational infrastructure for teaching the Kazakh language abroad; study the international experience in supporting compatriots and the practice of their return to their historical homeland.<sup>50</sup> At the same time, Kaiser and Beimenbetov point out that repatriate organisations in Kazakhstan are not a viable social movement.<sup>51</sup>

Despite the wide state support, repatriates faced difficulties. The main problems are the following:

1) The adaptation process and the need of the socio psychological assistance;<sup>52</sup>

2) Knowledge of the language. The problem particularly concerns repatriates from China and Mongolia, because of the large gap between the image of the homeland that was preserved by compatriots abroad, and the modern Kazakhstan. As a result, difficulties with the modern language and culture make returnees think twice about returning;<sup>53</sup>

3) The legal issues. First, repatriates do not have rights for all government services as citizens have. And the other problem is the rules of citizenship. Dual citizenship is not allowed in Kazakhstan, and the process of leaving the previous citizenship for repatriates is complicated by the relevant legislation of some countries. For example, it is difficult to relinquish Mongolian citizenship, and at the same time compatriots from

sian Federation’ in the part of simplification of the procedure for admission to the citizenship of Russian Federations for foreign citizens and stationary persons, Federal law No. 134-FZ, 24 April 2020 (Russian Federation). Available at: <http://publication.pravo.gov.ru/Document/View/0001202004240038?index=0&rangeSize=1>. Access on: 8 August 2020.

<sup>47</sup> Law of the Republic of Armenia about foreign persons, No. ZR-47, 16 January 2007 (National Assembly of the Republic of Armenia). Available at: <http://www.parliament.am/legislation.php?sel=show&ID=2861&lang=rus>. Access on: 20 October 2020.

<sup>48</sup> About Citizenship of Georgia, Law No. 134-FZ, 30 April 2014 (Georgia) <https://matsne.gov.ge/ru/document/view/2342552?publication=5>. Access on: 12 Sep. 2020.

<sup>49</sup> On citizenship of the Republic of Kazakhstan, Law No. 1017-XII, 20 December 1991 (Republic of Kazakhstan). Available at: <http://adilet.zan.kz/eng/docs/Z910004800> Access on: 14 Sep. 2020.

<sup>50</sup> ‘State Program to Support Kazakhs Abroad Developed in Kazakhstan’ *Forbes Kazakhstan* (25 October 2019). Available at: [https://forbes.kz/news/2019/10/25/newsid\\_211166](https://forbes.kz/news/2019/10/25/newsid_211166) Access on: 8 August 2020.

<sup>51</sup> KAISER, Markus; BEIMENBETOV, Serik. ‘The role of repatriate organisations in the integration of Kazakhstan’s oralmandar’. *Europe-Asia Studies*, v. 72, n. 8, p. 1403-25, 2020.

<sup>52</sup> ZHANBOSSINOVA *et al.* ‘Socio-cultural adaptation of repatriates of East Kazakhstan and migration attitudes of the Kazakhs of Mongolia’ (n. 7(1);

<sup>53</sup> Kim, ‘Vam zdes’ ne rady: Neudobnaya pravda or Repatriantakh Kazakhstana i ikh budushchem’ [You are not welcome here: An inconvenient truth about the repatriates of Kazakhstan and their future] (2019) *LA REGNUM*.

Afghanistan have no citizenship and therefore they have no such problem.<sup>54</sup>

As we can see, The Republic of Kazakhstan organised comprehensive support for compatriots but there are still issues that require corrections of the migration policy at different levels.

The legislation of the Republic of Kazakhstan on the migration process has undergone significant changes since the 1990s to the present. The basis of the legal status of repatriates in accordance with the Constitution of the Republic of Kazakhstan is the right to free movement on the territory of Kazakhstan and free choice of place of residence, the right to leave the Republic. The main provisions on migration are contained in the Laws of the Republic of Kazakhstan “On Citizenship”<sup>55</sup>, “On Population Migration”.<sup>56</sup>

In the Republic of Kazakhstan, work is being carried out in part through the abolition of migration cards, simplification of obtaining work permits and patents for migrants, cancellation of registration for certain categories of migrants, raising awareness of migrants about migration legislation and existing rules through the visa and migration portal.

Improving the legal position of irregular migrants can be achieved by increasing their access to effective legal remedies, which can secure the right to legally remain in the host country or return to their home country.

In 2018, the Republic of Kazakhstan was among the countries that voted for the Global Compact for Safe, Orderly and Regular Migration (hereinafter referred to as the GCM)<sup>57</sup>. In the context of the implementation of the provisions of the GCM, work has been intensified to improve migration legislation, simplify the visa regime, the procedure for issuing an invitation, entry and registration of foreign citizens staying, and modernizing the visa and migration portal. These measures are consistent with the implementation of the goals outlined in the GCM as a necessary condition for ensuring safe, orderly and legal migration (in particular, goals 4, 5, 9, 12).

<sup>54</sup> F. Kozybakova and G. Dossymova, “The process of repatriation of Kazakhs” (2020) 41(3) *Norwegian Journal of Development of the International Science*, 16-8.

<sup>55</sup> On citizenship of the Republic of Kazakhstan, Law No. 1017-XII, 20 December 1991 (Republic of Kazakhstan).

<sup>56</sup> On migration of the population, Law No.477-IV, 22 July 2011 (Republic of Kazakhstan).

<sup>57</sup> KAZAKHSTAN: EXTENDED MIGRATION PROFILE 2014-2019.

The Republic of Kazakhstan has taken concrete steps towards strengthening international cooperation in order to ensure safe, orderly and legal migration: in 2020, the Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Belarus on cooperation in the field of migration was ratified and entered into force [[https://online.zakon.kz/Document/?doc\\_id=33963250](https://online.zakon.kz/Document/?doc_id=33963250)]. In 2021, a similar Agreement was ratified with the Government of the Kyrgyz Republic (goal 23) [<https://adilet.zan.kz/rus/docs/Z2100000035>]. These agreements are a step towards the formation of a coordinated migration policy within the framework of the Eurasian Economic Union, which implies mutual responsibility of the countries that send and receive labor migrants.

In pursuance of the goal of overcoming discrimination in pay between Kazakhstani and foreign workers, in May 2020, an addition was made to the Labor Code of the Republic of Kazakhstan, obliging employers to provide employees not only with equal pay for equal work, but also with equal working and living conditions without any discrimination, with the inclusion in the administrative legislation of the grounds for holding liable for this violation (goal 17).

As part of the implementation of the goals of the GCM in the Republic of Kazakhstan, digital technologies are being actively introduced in the management of internal and external movements of people. Since January 1, 2019, Kazakhstan has been implementing the “e-Visa” project, under which foreign citizens can obtain electronic visas of the categories “business”, “tourism” and “for treatment” without contacting the Embassy<sup>58</sup>. Already in 2019, more than 26 thousand electronic visas were issued. Internal affairs bodies provide 36 types of public services, of which 30, or 83.3%, are automated. The portal “Electronic Government” ([www.egov.kz](http://www.egov.kz)), as well as the website of the Committee of the Migration Service of the Ministry of Internal Affairs of the Republic of Kazakhstan publishes the necessary information on migration issues (goal 3).

To ensure the transparency of procedures for obtaining work permits and reduce corruption in the migration sector, from 2020, the submission of documents

<sup>58</sup> MINISTRY OF FOREIGN AFFAIRS OF THE REPUBLIC OF KAZAKHSTAN. *Electronic Visa of the Republic of Kazakhstan*. Available at: <https://www.gov.kz/memleket/entities/mfa/press/article/details/6720?lang=ru>. Access on: 27 Jul. 2022.

by the employer for obtaining / extending permits to attract foreign labor is carried out completely online, only through the e-Government web portal.

At the legislative level, temporary registration has been canceled for all categories of foreigners staying in the country for up to 30 days. Foreigners with the status of an investor are exempted from registration, the validity of visas for them has been increased from 3 to 5 years. In 2020, migration cards for all foreigners were canceled, while maintaining the obligation of hosts to notify the internal affairs authorities about foreigners staying with them through the visa and migration portal on the Internet within 3 days. A 72-hour visa-free transit has been established for citizens of China and India.

During 2018-2020, the Republic of Kazakhstan implemented an Action Plan for the Prevention, Prevention and Combating of Crimes Related to Smuggling of Migrants and Human Trafficking. Also, measures are being taken to combat human trafficking within the framework of the Interstate Program of Joint Measures to Combat Crime for 2019–2023, adopted by the decision of the Council of the Heads of State of the CIS (goals 9 and 10).

The Republic of Kazakhstan, among 103 states, signed the Joint Statement on the Impact of COVID-19 on Migrants dated June 12, 2020, thus demonstrating their commitment to joint international action in solving migration problems. The state has taken stabilizing anti-crisis measures in the context of the pandemic, including in defense of the rights of migrants stuck in the country due to the cessation of interstate transport links.

The Republic of Kazakhstan is taking consistent measures to improve the regulation of migration processes, the integration of all 23 goals of the Global Compact on Migration into the system of state management of migration processes in the country and the development of international cooperation in the migration field.

Mentioned above problems of adaptation, of language training and similar can be solved according to state authorities' competence within a united interconnected program on supporting compatriots. The need to systematise and improve legislative norms, including amendments to the Constitution, is obvious.

Based on a comparative analysis, presented in Table 3, it was revealed that some norms of the following legal acts are of interest to the Republic of Kazakhstan:

- The Federal Law of the Russian Federation “*On the state policy of the Russian Federation with respect to compatriots abroad*”<sup>59</sup> in matters of defining the concept of “compatriot abroad”, measures of state support;

- The Law of the Republic of Korea “*On Overseas Compatriots*” in matters of cultural, educational and other measures to support compatriots abroad.

**Table 3 - Comparative table on the content of the laws on repatriation (summary)**

| Countries                   | Availability of a legislative act  | Assistance/ assistance in the return of migrants, support of repatriates  | Assistance/ assistance in supporting the diaspora  |
|-----------------------------|--|---|--|
| Federal Republic of Germany | 1. German Federal Law „On Exiles and Refugees“ (Gesetz über die Angelegenheiten der Vertriebenen und Flüchtlinge (Bundesvertriebenengesetz - BVFG) - 1953, amendments in 2013.<br>2. The Law of the Federal Republic of Germany “On the regulation of laws on the consequences of war” – 1992. | 1) Stimulating and facilitating the return of compatriots living abroad;<br>2) departure of family members to Germany as they meet the requirements, after 2013, all family members at the same time;<br>3) creation of camps for displaced persons on the territory of Germany in order to provide housing, social and living conditions;<br>medical assistance as part of a free aid package;<br>4) provision of financial assistance;<br>5) assistance in employment, education;<br>6) teaching it. language;<br>7) assistance in obtaining citizenship; | 1) Assistance in the creation of national cultural associations abroad and the provision of grant funding;<br>2) conducting cultural events. |

<sup>59</sup> On the state policy of the Russian Federation in relation to compatriot's abroad, Federal law No. 99-FZ, 24 March 1999 (Russian Federation)

|                          |  |  |   |                           |   |  |  |
|--------------------------|--|--|---|---------------------------|---|--|--|
| <i>Republic of Korea</i> | <p>1. The Law “On Migration” – 1963.<br/>2. The Law “On Foreign Compatriots” – 1988.</p> | <p>1) All Koreans are not invited to Korea, but they provide assistance to everyone who is outside Korea;<br/>2) Compatriots have the opportunity, without any restrictions, to conduct financial transactions and purchase real estate in Korea, as well as receive special visas for ethnic Koreans, greatly facilitating the process of employment in Korea;<br/>3) Since 2009, foreign compatriots have been eligible to participate in the elections held on the territory of the Republic of Korea for the first time;</p> | <p>1) Assistance in the creation of national cultural associations abroad and the provision of grant funding;<br/>2) Investments in the Korean economy are welcome;<br/>3) ensuring the participation of Koreans in elections held on the territory of Korea.</p> | <i>Russian Federation</i> | <p>1. Federal Law “On the State Policy of the Russian Federation in Relation to Compatriots Abroad” – 1999.<br/>2. The State Program to assist the Voluntary Resettlement of Compatriots Living Abroad to the Russian Federation – 2006.<br/>3. Decree of the President of the Russian Federation “On the implementation of the State program to assist the voluntary resettlement of compatriots living abroad to the Russian Federation” - 2012 (now acquired an indefinite character).</p> | <p>1) Everyone is called, regardless of nationality, to settle in the territory of the Russian Federation and provide housing;<br/>2) social, medical support;<br/>3) creation of conditions for obtaining education, including higher education;<br/>4) employment assistance;<br/>5) legal assistance;<br/>6) entrepreneurship support;<br/>7) it is allowed to move only to those regions that take part in the placement of migrants;<br/>8) compensation at the expense of the federal budget for the costs of moving to a future place of residence, including payment for travel and transportation of personal belongings;</p> | <p>1) Assistance in the creation of national cultural associations abroad and the provision of grant funding;<br/>2) investments in the Russian economy are welcome;<br/>3) stimulating the cooperation of Russian individuals with economic entities of foreign compatriots, promote the creation of joint companies;<br/>4) Russian-speaking lawyers abroad.</p> |
|--------------------------|--|--|---|---------------------------|---|--|--|



Obtaining the status of “oralman” (migrant) until 2020, currently the status has been renamed “candas” (half-blood), according to which state support is provided.:

- 1) free adaptation and integration services;
- 2) medical assistance as part of a free assistance package;
- 3) provision of places in kindergartens, free education at school;
- 4) social security;
- 5) employment assistance;
- 6) assistance in starting a business;
- 7) provision for temporary use of a land plot for housing construction;
- 8) assistance in obtaining citizenship.

1) There is no state program and no special law;

2) measures for state support of diasporas are carried out within the framework of the action program of the Otandastar Foundation on behalf of the Government of the Republic of Kazakhstan, since the implementation of the diaspora policy is a functional competence.

1.2 As the analysis of the international experience shows, the legal regulation of the state authorities’ competence is one of the first steps to organize the state support from a historical homeland to compatriots abroad. In connection with this, there is a need to amend the following constitutional laws of the Republic of Kazakhstan:

- to supplement the Constitutional Law of the Republic of Kazakhstan “*On the President of the Republic of Kazakhstan*”, in particular, Article 19, with the norm of the following content: “The President of the Republic of Kazakhstan determines the main directions of state support for compatriots abroad”;<sup>60</sup>

- appropriate amendments are recommended to be made to the Constitutional Law of the Republic of Kazakhstan “*On the Government of the Republic of Kazakhstan*”<sup>61</sup> and the Constitutional Law of the Republic of Kazakhstan “*On the Parliament of the Republic of Kazakhstan and the status of its deputies*”.<sup>62</sup>

Since the competence of these state bodies should include the task of developing and approving a state policy to support compatriots abroad, ensuring its implementation.

## 2. To support repatriation and foreign compatriots.

2.1 In our opinion, there should be a single document joining all legal rules on the subject. Thereby we propose to develop the draft Law of the Republic of Kazakhstan “*On state support of compatriots abroad*” as a sequential step to create conditions for the reinforcement and maintenance of communication between Kazakhstan and our compatriots living abroad.

2.2 Propose to improve the legal act handling the questions of citizenship of the Republic of Kazakhstan. The Law “*On Citizenship of the Republic of Kazakhstan*”<sup>63</sup>,

<sup>60</sup> About the President of the Republic of Kazakhstan, Constitutional Law No. 2733, 26 December 1995 (Republic of Kazakhstan 1995c). Available at: [https://online.zakon.kz/Document/?doc\\_id=1004068](https://online.zakon.kz/Document/?doc_id=1004068). Access on: 14 Sep. 2020

<sup>61</sup> About the Government of the Republic of Kazakhstan, Constitutional Law No. 2688, 18 December 1995 (Republic of Kazakhstan 1995b). Available at: [https://online.zakon.kz/document/?doc\\_id=1003973](https://online.zakon.kz/document/?doc_id=1003973). 14 Sep. 2020

<sup>62</sup> On the Parliament of the Republic of Kazakhstan and the status of its deputies, Constitutional Law No. 2529, 16 October 1995 (Republic of Kazakhstan 1995a). Available at: [https://online.zakon.kz/document/?doc\\_id=1003961](https://online.zakon.kz/document/?doc_id=1003961). Access on: 14 Sep. 2020

<sup>63</sup> On citizenship of the Republic of Kazakhstan, Law No. 1017-XII, 20 December 1991 (Republic of Kazakhstan).

### 3. 5 Practical recommendations

The above study of the legal aspects of supporting compatriots abroad in various countries and the analysis of the current migration policy in Kazakhstan made it possible to single out the recommendations to improve the Kazakh legislation that set up the regulation from the highest Constitutional level to the state program’s level.

#### 1. To support diasporas.

1.1 The key decision on supporting foreign compatriots should be the inclusion into the Constitution of the Republic of Kazakhstan the norms on the state’s obligations to support them.

contains provisions requiring detailed study and does not exactly comply with realities of the international migration situation. In particular, to the article 16 “*Conditions for conferment of citizenship of the Republic of Kazakhstan*” shall be amended to simplify the procedure for conferment of citizenship of the Republic of Kazakhstan:

- par. 1, Citizenship of the Republic of Kazakhstan may be awarded to: 1) persons who are permanently resident in the territory of the Republic of Kazakhstan on legal grounds not less than five years or being married to citizens of the Republic of Kazakhstan not less than three years’ shall be amended as follows:

‘1) persons who are permanently resident in the territory of the Republic of Kazakhstan not less than two years or being married to citizens of the Republic of Kazakhstan not less than one year’;

- par. 2, 2) citizens of the former republics of the USSR who arrived at the Republic of Kazakhstan for permanent residence, having one of close relatives - citizens of the Republic of Kazakhstan: a child (including an adopted child), husband (wife), one of parents (adoptive parents), a sister, brother, grandfather or grandmother, regardless of the period of their residence in the Republic of Kazakhstan’ shall be amended as follows:

‘2) citizens of the former republics of the USSR and former countrymen resident in the foreign countries who arrived at the Republic of Kazakhstan for permanent residence, irrespective of family ties and the period of their residence in the Republic of Kazakhstan’.

In article 16-1, “Conditions for admission to citizenship of the Republic of Kazakhstan in a simplified (registration) procedure” the words “The term for consideration of materials on acquiring citizenship in a simplified (registration) procedure should not exceed three months from the date of application” shall be amended as follows: “The term for consideration of materials on the acquisition of citizenship in a simplified (registration) manner should not exceed thirty calendar days from the date of submission of the application”.

2.3 At the moment, in Kazakhstan there is no united interconnected program that defines all areas of state support for Kazakh diaspora and voluntary immigrants to Kazakhstan, including reception, arrangement, adaptation, and employment of returnees. So, recommen-

ded developing a draft State program aimed at regulating state support for compatriots abroad, which should meet the needs of Kazakhstan society and meet modern challenges.

2.4 Today, against the background of migration processes, another trend has emerged in the regulation of state support for foreign compatriots. We are talking about granting citizenship.

Kazakhstan has always been and still remains an opponent of the institution of “dual citizenship”. However, the events in the world and global processes of recent years show that it makes sense to look more closely at this design. Today it is already a reality that some countries, and there are already many of them even among the countries of the Commonwealth of Independent States (CIS), see dual citizenship not only as a way to support repatriation, but also as a solution to demographic problems.

The laws of a number of countries on citizenship provide support measures for persons wishing to return to their historical homeland and obtain citizenship on the basis of nationality. For example, the laws of Armenia and Georgia provide for special or exceptional conditions for granting citizenship to persons wishing to obtain citizenship of the country on national grounds or by right of residence in the country in the past (along with the experience of non-CIS countries, the experience of CIS countries has also been studied).

International experience shows that at the moment many countries, including large ones, are changing their attitude to the institution of “dual citizenship” and are trying to benefit from it. Taking into account the rapidly changing international migration policy, we consider it expedient to revise the provisions of the Kazakh law on citizenship in the direction of simplifying admission to citizenship of Kazakhstan.

## 4 Discussion

In Kazakhstan, the issues of repatriation were rapidly developed in the 90s of the 20th century, when the country gained state independence and became a sovereign state. Since then, more than a million ethnic Kazakhs, as well as former Kazakhstanis, have returned to Kazakhstan for permanent residence. However, in

recent years (2015-2021), the migration flow of ethnic Kazakhs has sharply decreased. Kazakh society sees the reason for such a decrease in interest in the historical homeland on the part of ethnic Kazakhs in the absence of a special law that would address issues of support for migrants from the state and society.

That is why this study is the first project of this kind, previously in Kazakhstan the issue of developing a separate legal act to support foreign compatriots was not raised.

Nevertheless, discussions were going on within the Kazakh society: whether such a law is needed or not. Only the study of international experience in matters of state support for foreign compatriots and repatriation has shown the need and effectiveness of such an act.

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Nevertheless, discussions took place within Kazakhstani society: whether such a law is needed or not. Only the study of international experience in matters of state support for foreign compatriots and repatriation showed the necessity and effectiveness of such an act.

In general, in the context of providing conditions for voluntary resettlement to the Republic of Kazakhstan for permanent residence of ethnic Kazakhs/former compatriots living abroad, taking into account the strategic development plans of the country, and their integration into the Kazakh society, it is necessary, we believe, to continue creating conditions and incentives for national consolidation and return of ethnic Kazakhs living abroad to their historical homeland; stimulation

of their resettlement in regions in need of labor resources; promotion of their adaptation and integration in the Republic of Kazakhstan. As part of the implementation of this task, the following measures are more necessary:

1) activation of work with the Kazakh foreign diaspora, through social, cultural, educational and other initiatives;

2) intensifying the activities of the Otandastar Foundation to develop cultural, business and other ties with the Kazakh community in different countries, disseminate information about the state policy to support the resettlement of ethnic Kazakhs / former compatriots to the Republic of Kazakhstan and create favorable conditions for compatriots who have expressed a desire to return to the historical homeland;

3) using the potential and authority of the World Association of Kazakhs to saturate the idea of spiritual unity of the Kazakh nation with practical meanings, create an attractive image of a modern, dynamically developing Kazakhstan and create incentives for ethnic Kazakhs living abroad to return to their historical homeland;

4) development of a system of measures aimed at simplifying the procedures for obtaining Kazakh citizenship for former compatriots wishing to resettle in the Republic of Kazakhstan;

5) improvement of the system for the formation of target indicators for the reception of candidates by region, taking into account the established indicators of the socio-economic development of the territories;

6) increase in funding for the work of CAIC aimed at integrating migrants into the host community, vocational training and employment promotion for ethnic Kazakhs who arrived in the Republic of Kazakhstan;

7) increase in quotas and simplification of conditions for admission to higher education organizations of the Republic of Kazakhstan for ethnic Kazakhs living abroad;

8) the introduction of additional measures to stimulate the resettlement of candidates in regions in need of labor resources, subject to the wishes of candidates regarding the regions of settlement; including the introduction of incentive measures to support candidates in existing state programs;

9) development of comprehensive programs for the economic, social and cultural integration of kandas in places of settlement through the joint efforts of local authorities and civil society institutions in order to realize the professional potential of immigrants, ensure their rights, while respecting the interests of all members of society and maintaining the social cohesion of the nation;

10) development of a system of indicators of the integration of kandas to assess the degree of their integration at the local level and further improve the integration policy;

11) stimulating the involvement of highly qualified candidates, including by guaranteeing the project employment of these candidates upon their return to their historical homeland.

## 5 Conclusion

All above studied countries have special acts on state support for compatriots. Each of these countries has its own characteristics of the legal regulation of such relations, due to the historical and political conditions of development.

The study of foreign experience made it possible to assess the significance of a special legal act that should regulate the issues of repatriation and state support of foreign compatriots. The absence of such an act in Kazakhstan creates certain difficulties in law enforcement practice for representatives of the Kazakh diaspora and compatriots. Today, the only legislative act regulating this sphere is the Law of Kazakhstan “*On Population Migration*” of 2011, which has undergone serious amendments in recent years (the last were in July 2021), providing for legal regulation of not only external, but also internal migration. Taking into account the demographic problems of Kazakhstan (immigrants from Kazakhstan make up 37.6% of those resettling to Russia from CIS countries), as well as the importance of preserving their national identity by representatives of the Kazakh diaspora abroad, the problem of improving legislation in the field of repatriation support and state support for foreign compatriots remains relevant. International experience plays an important role in this work.

The appeal at the beginning of the study to the experience of Germany, Russia and Korea is explained by the following factors. Germany was one of the first after the Second World War to raise the issue of the repatriation of Germans who, for historical or political reasons, voluntarily or forcibly found themselves abroad and in 1953 adopted the first law (*Bundesvertriebenengesetz*). Russia, for territorial reasons, has always been interested in attracting labor, and the multinational population contributed to the promotion of resettlement, both from outside and inside the country. In this, perhaps, there are common features with Kazakhstan, since today both Kazakhstan and Russia are experiencing demographic problems. South Korea has a huge experience in supporting Koreans living outside of Korea. The history of the Korean people shows that a lot of Koreans have lived and live in the CIS countries and they do not want to lose their national identity, this has found reliable support from the state. These countries have been able to achieve success in supporting compatriots thanks to effective legislation.

In the future, the object of detailed research will be the legislative acts of other countries, including the CIS countries.

The recommendations proposed above on improving Kazakhstan’s legislation on repatriation and state support of compatriots, including amendments to existing legislative acts and the development of new draft laws, are aimed at strengthening ties and cooperation between Kazakhstan and compatriots living abroad.

The developed recommendations are applicable not only for Kazakhstan, but also for other countries.

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