



## Analysis of National Norms Prohibiting the Expulsion of a Citizen of the Republic of Uzbekistan from the Territory of the Country or Transfer to another Country

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**Abstract:** According to international standards and norms of law, the state guarantees legal protection and patronage to every citizen, regardless of the grounds on which he acquired citizenship, both in its territory and abroad. "Citizenship" is a permanent political-legal relationship expressed in the sum of mutual rights, obligations and responsibilities of a person with the state and based on the recognition and respect of human dignity, basic rights and freedoms.

The level of consolidation of the legal principles on the civil status of a person in the domestic legislation is the foundation for the creation of his legal guarantees. On this basis, a thorough study of the scientific basis of the regulation of citizenship relations in our republic at the constitutional level is required. In this regard, international standards and norms, comparative research of the legislation of countries with specific experience is of great importance.

Although the Constitution of the Republic of Uzbekistan (08.12.1992) allocates a separate chapter for the institution of citizenship (Chapter VI. Citizenship), the main provisions guaranteeing citizenship rights have not been fully reflected. In particular, it only provides for the principles of single and equal citizenship (Article 21), legal and diplomatic protection (Article 22). This situation as S.A.Akimova noted, "Principles that are not defined at the constitutional level prevent the creation of the content of national civil institutions and rules, and weaken the clarity and attention they need"<sup>1</sup>.

The principle of banning the expulsion of a citizen from the territory of the country or transfer to another country is one of the controversial issues facing modern legal theory. It is difficult to find a clear approach in the legislation of foreign countries regarding the obligation to extradite (detain) a citizen who has committed a crime.

USA, Albania, Great Britain, Italy, Colombia, Malta, Chile, Japan allow extradition of their citizens<sup>2</sup>. Regarding this issue, V.S.Vyskub: "In legal doctrine, regardless of the purpose and time of obtaining citizenship, most countries have a uniform approach to refusing extradition of their citizens. It is important that the person has citizenship at the time of the extradition request"<sup>3</sup>.

"Expulsion of a person from the territory of the country" means his independent departure, with the subsequent restriction of the right to enter the country, under forced or controlled conditions. In legal

2.1 <sup>1</sup> Акимова С.А. Особенности конституционного закрепления принципов регулирования отношений, связанных с гражданством // Вестник Московского университета МВД России. — 2013. — № 6. — С. 54.

2.1 <sup>2</sup> Попаденко Е. Выдача лиц в международном уголовном праве // Уголовное право. — 2013. — № 1. — С. 60–65.

2.1 <sup>3</sup> Выхуб В.С. Конституция Российской Федерации в свете проблем экстрадиции // Конституционное и муниципальное право. — 2014. — № 8. — С. 25–26.

terminology, this situation is explained by the concepts of "deportation" and "administrative expulsion".

Such measures are applied to foreign persons who have committed a socially dangerous act (criminal or administrative offense) and are not applied to persons who have the status of national citizenship based on generally recognized norms of international law.

For example, the constitutions of Kyrgyzstan (Article 50), Moldova (Article 18), Azerbaijan (Article 53), Russia (Article 61), Turkmenistan (Article 10), and Ukraine (Article 25) allow a citizen to move to another country.

Strictly prohibits giving. In the constitutional norms of Belarus (Article 10), Georgia (Article 13), Kazakhstan (Article 11), Latvia (Article 98), Lithuania (Article 13) and Tajikistan (Article 16), a citizen can only have an international agreement and two it is noted that it can be transferred to another country based on bilateral agreements.

Also, the legislation of Georgia (Article 13) and Estonia (Article 36) provides for the right to appeal to the court regarding the extradition (detention) of a citizen to another country.

Handing over (extradition) of a person who is in the territory of a state to a foreign state is a situation that occurs as a result of committing a criminal act, and most international documents state that a state is not obliged to hand over a person for a crime committed by its citizen in the territory of another state.

Such rules can be found in the following documents:

- 1) Paragraph 2 of the "Principles of International Cooperation" adopted by the resolution No. 3074 of the 2187 plenary session of the UN General Assembly on December 3, 1973;
- 2) Article 89, Part 1, Clause "a" of the Convention "On Legal Assistance and Legal Relations in Civil, Family and Criminal Matters" concluded between the CIS countries;
- 3) Article 6 of the European Convention on Extradition;
- 4) Paragraph "a" of Article 4 of the Model Treaty "On Extradition" approved by UN General Assembly Resolution No. 45/116.

At the same time, it is emphasized in the legal literature that sending a request for extradition after the commission of a crime should not be a reason for the state to refuse to grant citizenship to a person. Article 13 of the recommended legal document "On the agreed principles of citizenship regulation" adopted by the Inter-Parliamentary Assembly of the CIS countries (December 29, 1992): it states that member states "must strengthen the prohibition of extradition of a citizen to a foreign country, except as provided for in international agreements" there is a rule.

At the same time, the provisions of the constitutions of Kyrgyzstan, Moldova, Azerbaijan, Russia, Turkmenistan, and Ukraine strictly prohibit the transfer (detention) of a citizen to another country. Regarding this issue, V.S.Vyskub: "In legal doctrine, regardless of the purpose and time of obtaining citizenship, most countries have a uniform approach to refusing extradition of their citizens. "What matters is that the person has citizenship at the time of the extradition request"<sup>4</sup>.

It should be noted that in accordance with the requirements of Article 603 of the Code of Criminal Procedure of the Republic of Uzbekistan, if the person against whom a request has been received is a citizen of the Republic of Uzbekistan, it is not allowed to hand him over to a foreign country. At the same time, it should be recognized that this issue has not been strengthened at the level of our national constitutional norms.

This does not allow, firstly, to openly express the state's position on the issue of extradition of its citizens, and secondly, the level of compliance of domestic legislation with international law norms.

2.1 <sup>4</sup> Выскуп В.С. Конституция Российской Федерации в свете проблем экстрадиции // Конституционное и муниципальное право. — 2014. — № 8. — С. 25–26.

In general, the analyzes show the need to create constitutional provisions stating that the expulsion of a citizen of the Republic of Uzbekistan from the territory of Uzbekistan or transfer to another country is not allowed in accordance with the norms of international law and the requirements of our national legislation.

Therefore, in our opinion, Article 22 of the Constitution of the Republic of Uzbekistan should be supplemented with a separate paragraph with the following content: *"A citizen of the Republic of Uzbekistan cannot be expelled from the Republic of Uzbekistan or transferred to another country"*.