



**MINISTRY OF INTERNAL AFFAIRS OF THE  
RUSSIAN FEDERATION (MOI of Russia)**

**Main Directorate for Migration**  
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**of 06/07/2018**

**On the direction of clarifications of certain  
provisions of the legislation of the Russian  
Federation in the field of migration**

To the CEO  
of the Association of European Businesses  
Mr. Frank Schauff  
Bld. 3, 16 Krasnopresnenskaya Street,  
Moscow, 127473

Dear Mr. Frank Schauff,

The Main Directorate for Migration of the Russian Ministry of Internal Affairs has reviewed your letter and encloses responses to the specified questions arising in the course of the migration registration of foreign citizens in the Russian Federation.

Appendix: according to the text, on 12 page, 1 copy.

Deputy Chief

A. Aksenov

## Explanations on issues related to migration registration of foreign citizens in the Russian Federation, specified by AEB member companies

No. No.	Questions	Responses
<b>Questions on migration registration</b>		
1.	Will the migration registration of a foreign citizen, issued through an employer before 8 July 2018, be considered valid? Will the migration registration issued before July 8 based on the address of the office where the foreign citizen works but does not reside be valid after the law enters into force and until the foreign citizen is removed from the migration registration, i.e., before the onset of any of the following circumstances: (i) the foreign citizen goes abroad; (ii) the foreign citizen is registered at a new place of residence; and (iii) the migration registration expires?	The law does not have retroactive force. In this regard, for foreign citizens registered at a place of residence before the entry into force of Federal Law No. 163-FZ of 27 June 2018 "On amending the Federal Law - On the migration registration of foreign citizens and stateless persons in the Russian Federation" ("Federal Law No. 163-FZ"), there is no need to re-register at the place of residence.
2.	Liability of the employer. Will the employer be liable for failing to comply with the rules for the migration registration of a foreign worker if the employee lives at a private address, and the owner of the premises where the foreigner lives did not register the foreign citizen through his or her own fault? It must also be noted that the provisions of the Code of Administrative Offenses, establishing liability for persons for failing to comply with the rules related to migration registration, remain the same. What risks can arise when bringing in an employee who does not have formal registration through the fault of the owner of his or her residence? What exactly should the employer and foreign citizen do in the event that the owner of his or her residence for some reason cannot carry out migration registration of the foreign citizen residing in the flat of the owner?	If the employer is the receiving party for a foreign citizen working for him or her in the sense defined by the Federal Law, failure to fulfil the obligation to register the foreign employee at the place of residence entails administrative liability in accordance with Part 4 of Article 18.9 of the Code of Administrative Offenses of the Russian Federation, and the imposition of an administrative fine on citizens of two thousand to four thousand roubles; on officials of forty thousand to fifty thousand roubles; on legal entities of four hundred thousand to five hundred thousand roubles. Otherwise, for violation of the established rules related to the migration registration of a foreign employee, the employer is not subject to administrative liability.
3.	Temporary absence of the owner of the flat where the foreign citizen resides. <b>3.1.</b> Since the law was adopted during the holidays and, moreover, during the FIFA 2018 World Cup, it can be expected that many flat owners will simply not be able to carry out the migration registration of foreign citizens who visit the cities of the World Cup from July 8 within the 3-day deadline. Power of attorneys from flat owners (notarially) to third parties, enabling them to submit the required documents to the territorial bodies of the Ministry of Internal Affairs, can solve the problem. Is it possible to use a power of attorney from flat owners to third parties for the migration registration of foreign citizens?	The transfer of powers of the owner of premises, acting as the receiving party, to a third party under a power of attorney, is not allowed by the legislation of the Russian Federation. At the same time, if in accordance with a notarised power of attorney, the owner of a premises has granted the right to another person to manage the premises belonging to him or her at his or her own discretion regarding the transfer of the residence to third parties, then in our opinion this person is entitled to act as the receiving party of the foreign citizen, subject to the conditions provided for in clause 7, Part 1, Article 2 of Federal Law No. 109-FZ.

No. No.	Questions	Responses
	<p><b>3.2.</b> Part 3 of Article 22 of the Federal Law No. 109-FZ "On Migration Registration of Foreign Citizens and Stateless Persons in the Russian Federation" states that if there are documented valid reasons preventing the receiving party from sending a notification, the foreign citizen can independently send a notice of the migration registration. This provision requires clarification, since it is not clear which reasons are considered valid, and what will be considered documentary evidence. The answer is clear when it comes to the receiving party being located in hospital due to a serious illness. And if the owner of an flat, for example, is in another city, another country on vacation/business trip (this will be considered a good reason) (how do you provide documentary evidence of the owner's location in another country/other city)? What documentary evidence and in what form does a foreign citizen need to submit to the migration authorities for self-notification? Will the foreign citizen be able to personally sign the notification form on migration registration in this case, and how will the registration take place in this case? Currently in practice no documents that provide a valid reason have been accepted.</p>	<p>In accordance with part 3 of Article 22 of Federal Law No. 109-FZ, if there are documented valid reasons preventing the receiving party from independently sending a notification of the arrival of a foreign citizen to a place of stay to the migration authorities, the notification must be submitted in accordance with the established procedure to the migration authorities directly by the indicated foreign citizen. In our opinion, valid reasons can include circumstances that prevent the receiving party from personally transferring (sending) notification of arrival to the migration authorities (illness, business trip, location of the receiving party outside the Russian Federation, etc.). As confirmation, any documents that indicate such circumstances (hospital note, travel authorisation, tourist services agreement, notarised statement from the receiving party, providing evidence of these circumstances, etc.) can be considered as evidence. At the same time, it is necessary to take into account that the receiving party gives his or her consent to the temporary residence of a foreign citizen via a signature on the back of the notification of arrival. The transfer of these powers to other persons by is not provided by Russian legislation.</p>
	<p><b>3.3., 6.</b> Can an organisation be considered a receiving party if the lease of the flat in which the foreign employee lives is concluded between the employer and the individual who owns the flat? If possible, what documents are required to be submitted for the migration registration of the foreign employee in this case? Is it possible in this case to carry out migration registration without the participation of the owner of the flat? If it is possible, in relation to what address should this procedure be carried out (address of the flat or address of the employer)? Who will be the receiving party in this case? What documents need to be provided on the part of the owner of the flat and the legal entity? What is the procedure in this situation if the owner of the flat is a legal entity? If the owner of the flat who is an individual with Russian or foreign citizenship has concluded a lease or a trust management agreement with a legal entity, and a legal entity in turn subleases a flat to a foreigner, can the legal entity in this case be the receiving party? It is necessary to take into account that in this case the legal entity will act as the legal owner of the flat (on the basis of a lease agreement or trust management agreement). If it is possible, what documents should be provided? Who will be the receiving party in this case?</p>	<p>An individual and legal person may be the receiving party, who has provided a foreign citizen for his or her actual residence, in accordance with the legislation of the Russian Federation, residential or other premises that have been provided to the receiving party for possession and (or) use on the basis of a civil law contract with the right to provide this premises to third parties. In this case, in addition to the documents necessary for the migration registration of a foreign citizen at the place of stay and the documents stipulated in clause 28 of the Rules for the Implementation of Migration Registration of Foreign Citizens and Stateless Persons in the Russian Federation, approved by Decree No. 9 of the Government of the Russian Federation of 15 January 2007, the receiving party additionally submits the civil law contract. Registration of a foreign citizen or stateless person at the place of stay in this case is carried out at the address of the residential or other premises provided to him or her.</p>

No. No.	Questions	Responses
4.	<p>If the owner of a flat who leases the flat to a foreign citizen has committed administrative offenses (for example, unpaid bills for utilities, traffic police fines, etc.), is this grounds for refusal to carry out migration registration of the foreign citizen?</p>	<p>There are no grounds for suspending or refusing to provide this public service. Clause 28 of the Rules establishes an exhaustive list of documents necessary for the registration of the foreign citizen at the place of stay. If documents are requested that are not required by Russian legislation, and (or) unreasonable refusal is given to obtain the state service (unpaid utility bills, fines, etc.), the recipient of the state service for migration registration is entitled to file a complaint to a higher authority and with the court. The procedure for appealing decisions and actions (inaction) of the federal executive body that provides public services, as well as its officials, is defined and detailed in section V of the Administrative Regulations and the Administrative Court Proceedings Code of the Russian Federation.</p>
5.	<p>Is it possible to carry out migration registration on behalf of the organisation in which the foreign citizen works, by power of attorney from the lessor?</p> <p>Prior to Resolution No. GKPI09-1764 of the Supreme Court of the Russian Federation of 17/02/2010 " On recognising as partially invalid the second paragraph of clause 10 and clause 33 of the Administrative Regulations of the Federal Migration Service for the provision of state registration services and the issuance of invitations to enter the Russian Federation for foreign citizens and stateless persons, approved by Order No. 142 of the Federal Migration Service of 6 June 2008", the administrative regulations provided that the employee of a legal entity should submit the application to the territorial body of the Federal Migration Service. According to the above resolution of the Supreme Court of the Russian Federation, these provisions of the administrative regulations were deemed illegal. In the resolution it was stated that the legal entity in all cases submits the documents to the authorised migration body that are necessary for issuing an invitation to enter the Russian Federation and for migration registration, through his or her representatives, acting on the basis of the law or a power of attorney (Article 53, 185 Civil Code of the Russian Federation). The above-mentioned rules of the Civil Code of the Russian Federation about representation do not regulate property relations and are subject to application during representation of a legal entity in all legal relations, including public relations, unless otherwise established by a special law. However, there is no federal law prohibiting a legal entity to authorise any person chosen by him or her to carry out these actions, and not just his or her employee.</p>	<p>The transfer by power of attorney of the powers of the owner of the premises acting as the receiving party or the organisation in which the foreign citizen works, is not provided for by the legislation of the Russian Federation.</p> <p>At the same time, the receiving party can be an organisation that has provided, in accordance with the legislation of the Russian Federation, residential or other premises for the actual residence of a foreign citizen, provided to the organisation by the lessor for possession and (or) use on the basis of a civil law contract with the right to provide this space to third persons.</p>

No. No.	Questions	Responses
6.	<p>What about the registration of foreign citizens who live in flats?</p> <p>It should be noted that Federal Law No. 109-FZ of 18 July 2006 amends Federal Law No. 163 FZ of 27 June 2018 that establishes that a foreign citizen is subject to registration at the place of stay at the organisation's address in case of actual residence at the address of this organisation, or in the premises (building) of this organisation, including temporary premises. In this case, it is obvious that we are not talking about residential accommodation (in the understanding of the Housing Code of the Russian Federation), and any room equipped for "regular use for sleeping and rest" (including temporary cabins) can be provided as the place of stay.</p> <p>What should be done in such cases? If migration registration is possible, what documents will be required?</p> <p>What documents will be required if the owner of the flat is a legal entity and if the owner is an individual?</p>	<p>In accordance with Russian law, a foreign citizen is subject to registration at the place of stay in the residential or other premises in which he or she actually resides. In accordance with the rules of the Housing Code of the Russian Federation, flats are not categorised as residential premises, and due to this, in our opinion, flats can be considered as another premises, at the address of which the foreign citizen is registered at the place of stay in accordance with the established procedure on condition of his actual residence in this room.</p>
7.	<p>The owner of housing is a foreign citizen who does not have a residence permit or status as a highly qualified specialist. How can he or she carry out migration registration if he or she resides in the flat? Who will be the receiving party if he or she leases the flat to another foreign citizen and how can he or she carry out migration registration of a foreign citizen?</p>	<p>Part 3.1 of Article 22 of the Federal Law stipulates that if a foreign citizen has property rights to a residential premises located in the Russian Federation, he or she can declare such premise as his or her place of stay. In this case, for registration at the place of stay, such a foreign citizen personally submits notification of his or her arrival at the place of stay directly to the migration authorities or through a multifunctional centre. Restrictions on this issue for certain categories of foreign citizens are not provided by Russian law.</p>

No. No.	Questions	Responses
8.	<p>Currently, when extending work visas in the territorial office of the Ministry of Internal Affairs in Moscow at Pokrovka 42, one of the necessary conditions for submitting documents is the presence of migration registration in the database of the Ministry of Internal Affairs. This migration registration must be from a legal entity for whom the foreign citizen works or from an individual at whose property the foreign citizen actually resides. At the same time, in the latter case, the necessary condition is the provision of a lease agreement for the residential premises in which the foreign citizen resides and is registered (migration registration). This is not reflected in the current regulations in any way.</p> <p>What is the procedure when a foreign citizen works in Moscow and his or her legal entity is in Moscow, but in fact he or she resides in the Moscow region? In this situation, the territorial office of the Ministry of Internal Affairs does not accept visa extension documents, since the foreigner has migration registration in the Moscow region. Prior to the introduction of new amendments to 109-FZ, the resolution of the issue was to change the address of the migration registration to the employer's address. What is the procedure now? Is the requirement for the compulsory migration registration and provision of the detachable part of the notification to the corresponding office of the migration authorities for the extension or restoration of visas valid in a situation where for highly qualified specialists and accompanying family members the current legislation provides for exemption from migration registration if their stay in the Russian Federation does not exceed 90 days?</p>	<p>Work visas are extended by the migration unit of the territorial body of the Ministry of Internal Affairs of Russia at the place of registration at the place of residence of the foreign citizen. At the same time, the provision of a lease agreement for the residential premises (for the purpose of confirming the registration of an individual) is not required.</p> <p>In case of applying to extend a work visa for a highly qualified specialist and family members before the expiration of 90 days from the date of his or her entry into the Russian Federation, registration at the place of residence is not required, and the application to extend the work visa can be tied to the employer's address.</p>
9.	<p>What is the procedure in cases when there is no information on migration registration in the database of the Ministry of Internal Affairs? Currently this happens almost in 100% of cases when carrying out registering migration through post offices and in many cases when registering in territorial offices. If there is no information in the database of the Ministry of Internal Affairs, territorial offices of the Ministry of Internal Affairs do not accept documents to extend work visas. If such a situation arises, the receiving party must reapply to the territorial office and ask for the information to be entered into the database. Sometimes this has to be done several times.</p>	<p>A mark in the detachable part of the notification form about the arrival of a foreign citizen to his or her place of stay, provided in accordance with the established procedure by the migration authorities, hotel or the organisation of the federal postal service, serves as confirmation by the receiving party and/or foreign citizen of the actions necessary for his or her registration at the place of stay. The refusal to accept documents for the extension of a work visa due to information on the migration registration of a foreign citizen not being available in the automated records of the Ministry of Internal Affairs, is not provided for by Russian legislation. In case of refusal to accept documents to extend a work visa, it is necessary to contact the direct supervisor of the official who provided the refusal for additional explanations on this issue.</p>



No. No.	Questions	Responses
10.	<p>Patent registration. How can a foreign citizen patent be registered in Moscow, if he or she actually resides and is registered (migration registration) in the Moscow region? In this case the office of the Ministry of Internal Affairs in Sakharovo will not accept documents from a foreign citizen, since he or she is on the register in another region of the Russian Federation.</p>	<p>A foreign citizen is not entitled to work outside the federal subject of the Russian Federation on whose territory he or she has been granted a patent. However, the legislation of the Russian Federation does not state that a foreign citizen may be granted a patent only in the federal subject of the Russian Federation in which he or she is registered at the place of residence.</p>
11.	<p>Electronic submission of documents. Is it planned to introduce electronic filing of notifications about migration registration through the State Service portal? In light of the numerous issues, this could greatly simplify the procedure for property owners.</p>	<p>This issue is being looked into by the Ministry of Internal Affairs of Russia in conjunction with concerned federal executive bodies. At present, a pilot project has been launched to transfer information from organisations providing hotel services to the information system of the Ministry of Internal Affairs of Russia through the unified state service portal. Based on the results of the pilot project, a decision will be taken on the further use of this mechanism for transferring the specified information. Information on the possibility of transferring information through the unified state service portal will be posted on the official website of the Ministry of Internal Affairs of Russia.</p>
12.	<p>Is the Ministry of Internal Affairs of Russia considering the possibility of adjusting the enforcement of Federal Law No. 163 solely for foreign employees only with the status of highly qualified specialists, i.e., carrying out migration registration for highly qualified specialists at the address of the organisation in which the highly qualified specialist works on the basis of a labour and civil law contract?</p>	<p>In the event that a corresponding instruction from the Government of the Russian Federation is received by the Ministry of Internal Affairs of Russia, this issue will be considered in accordance with the established procedure.</p>

No. No.	Questions	Responses
13.	<p>What actions need to be taken by a foreign citizen if the receiving party refuses to carry out migration registration at the place of actual residence in order to avoid violating the residence regime in the Russian Federation without carrying out migration registration?</p> <p>In accordance with Part 2 of Article 24 of Federal Law No. 109-FZ "On the migration registration of foreign citizens and stateless persons in the Russian Federation", foreign citizens who are not registered at the place of stay in accordance with the Federal Law are not liable for violation of the rules of migration registration, except for cases when the obligation to provide information about the place of stay in accordance with the Federal Law lies with the foreign citizen.</p> <p>How should the above provision of the law be applied in the case of a check by the migration/police authorities with respect to a foreign citizen on the absence of migration registration?</p> <p>In practice, when police officers check a foreign citizen's documents on the street, if he or she does not have the detachable part of the notification on migration registration or there is no information on his or her migration registration in the Ministry of Internal Affairs database, the police immediately fine the foreign citizen, without inquiring into the circumstances.</p>	<p>Responsibility for the registration of a foreign citizen at the place of residence lies with the receiving party, with the exception of certain cases.</p> <p>Part 2 of Article 24 of the Federal Law establishes that foreign citizens who are not registered at the place of stay in accordance with the Federal Law are not liable for violating the rules of migration registration, except for cases when the obligation to provide information about the place of stay lies with the foreign citizen.</p> <p>In case the receiving party refuses to carry out the actions necessary to register a foreign citizen at the place of stay, the foreign citizen should submit a statement to the territorial body of the Ministry of Internal Affairs of Russia at the place of his or her stay.</p> <p>When exercising state control (supervision) over the stay of foreign citizens in the Russian Federation, the receiving party (if necessary) is entitled to give explanations and provide any information (documents) regarding the circumstances of the arrival of the foreign citizen at the place of stay. If the foreign citizen does not agree with the fine, he or she can, and in the established procedure, file a complaint to a higher authority and with the court.</p>

**Main Directorate for Migration Affairs of the Ministry of Internal Affairs of Russia**