

CROSS-SECTORAL COMMITTEES



MIGRATION COMMITTEE

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MIGRATION CONCEPT: DRAFT LAW OF THE MINISTRY OF INTERNAL AFFAIRS OF RUSSIA “ON THE CONDITIONS OF ENTRY TO (EXIT FROM) AND STAY (RESIDENCE) IN THE RUSSIAN FEDERATION FOR FOREIGN CITIZENS AND STATELESS PERSONS”

Currently, the Ministry of Internal Affairs is elaborating a draft law on the new Migration Concept, considering to include a separate article stipulating that highly-qualified foreign specialists (HQS) are to retain preferences in this category. However, there are provisions that create additional difficulties in

respect of the work and stay of highly-qualified foreign specialists. The adoption of such provisions will negatively affect Russia’s business image and investment attractiveness.

Provisions of concern to the Committee are:

- › To work in Russia, a foreign employee must annually *confirm his/her registration in the Register of foreign workers, present a voluntary medical insurance policy, and undergo a medical examination* with the provision of medical certificates. **Proposal:** to retain the procedure that was initially presented in law on the HQS, in which



work permits for highly-qualified foreign specialists are issued for up to three years without the need to confirm the status annually.

- › A *single-entry work visa for up to 3 months* is introduced, which subsequently must be extended for up to 3 years. Now, highly-qualified foreign specialists and their family members receive a work visa and a visa as an accompanying family member for up to 3 years. **Proposal:** to retain the issuance of multiple-entry work visas with a validity period of up to 3 years.
- › The validity period of a *business visa is limited to 90 days per a calendar year*, which contradicts the generally accepted international rules – 90 days per each 180-day period. **Proposal:** to retain the validity period of a business visa of 90 days per each 180-day period.
- › A *list of healthcare organizations* is introduced where foreign citizens can undergo medical examination. This worsens the current situation, as if the law is adopted, the highly-qualified foreign specialists should undergo an *annual medical examination* only in healthcare institutions included in the list. **Proposal:** to adopt a provision that allows highly-qualified foreign specialists to undergo the examination in all licensed healthcare organizations.
- › A provision is introduced that deprives the right to long-term stay in the event of being outside the Russian Federation for *more than 6 months within a calendar year*. **Proposal:** to retain the current procedure in which the stay outside the Russian Federation for 6 consecutive months may be grounds for deprivation of the right to long-term stay in Russia.
- › There is a provision that currently is under discussion, that foreign citizens wishing to work in the Russian Federation are required to *pay tax* in the form of a fixed advance payment.
- It is also foreseen that an *advance payment must be made in each region* where a foreign citizen works. **Proposal:** to establish a single payment at the place of the employer's registration to avoid multiple payments of tax on the same income from the same employer.
- In the event of failure to make an advance payment *within ten working days from the date of sending notice*, a foreign citizen is excluded from the Register of foreign workers. **Proposal:** set a period from the date of receipt of notice – through a personal account – to avoid unjustified exclusion from the Register (if, due to circumstances, a foreign citizen received notice later than the specified period).
- › *The host person or foreign citizen* is required to *notify of the departure of a foreign citizen from the place of stay* in person, or in electronic form, or through a multifunc-

tional center. **Proposal:** to retain the current procedure, according to which the migration deregistration occurs automatically upon the foreign citizen's departure from the Russian Federation or at the initiative of the host party, without establishing the requirement for a foreign citizen to notify of departure from the place of stay. Alternative proposal: not to perform the migration deregistration at each departure of foreigners working in Russia, when they travel abroad or move around the country.

- › *The migration registration period* is 30 days from the date of entry. **Proposal:** to retain the current procedure for highly-qualified foreign specialists and their family members, i.e., a migration registration period of 90 days from the date of entry.

COVID-19 RELATED MATTERS

The information in this section reflects the situation existing at the time of its preparation. Since then, the COVID-19 situation and the Russian laws might have changed.

HIGHLY-QUALIFIED SPECIALISTS, TECHNICAL SPECIALISTS

In light of the epidemiological situation in Russia and worldwide, the Government of the Russian Federation introduced a number of restrictions on the entry of foreign citizens into the Russian Federation stipulated by Order of the Government of the Russian Federation No. 635-r dated March 16, 2020.

At the moment, highly-qualified specialists and their family members can obtain work permits and visas without restrictions if their country of citizenship is on the list of countries with which the Russian Federation has an official flight connection. If their country of citizenship is not on said list, highly-qualified specialists and their family members can obtain work permits, visas and multiple-entry permits by inclusion in the lists agreed with the industry-specific federal executive authorities.

Despite measures taken by the government, companies that want their highly-qualified specialists to return to the Russian Federation face some challenges related to the approval of entry of foreign citizens into the Russian Federation:

ISSUE OF DETERMINING THE INDUSTRY-SPECIFIC FEDERAL EXECUTIVE AUTHORITY

To submit an application for a permit for a highly-qualified specialist's entry, a company needs to determine the industry-specific federal executive authority. The Russian National Classifier of Economic Activity Types (OKVED) does not always allow one to determine precisely which federal executive authority is industry-specific for a company. Many companies (including foreign companies operating in Russia through representative offices/branches) have faced the

rejection of documents by federal executive authorities which they determined as industry-specific.

The absence of a procedure regulating the submission of documents and the timing of consideration of companies' applications leads to frequent rejection of documents by federal executive authorities, notwithstanding that federal executive authorities are required by the current laws to submit the approved lists of foreign citizens who are allowed entry to the Federal Security Service and the Ministry of Internal Affairs of Russia.

The problems specified are also faced by companies with respect to foreign citizens performing the adjustment and maintenance of equipment of foreign origin, who are permitted to enter the Russian Federation, provided that they are included in the list to be submitted to the Federal Security Service of Russia and the Ministry of Internal Affairs of Russia by the federal executive authority whose competence covers the entity that ordered the equipment of foreign origin.

Also, at the moment it is impossible to obtain a visa for a technical specialist for a period of more than 3 months, which leads to delays in the launch of new production facilities and suspensions of investment projects.

RECOMMENDATIONS

- › To develop clear criteria for assigning an employer to a particular federal executive authority based on OKVED codes or other criteria.
- › To develop a unified procedure for submitting documents and deadlines for approving and sending lists of foreign workers to the Border Service of the Federal Security Service of Russia and the Ministry of Internal Affairs of Russia for obtaining permits to enter the Russian Federation.

LIST OF TRAVEL PURPOSES

Since February 2021, a new list of travel purposes has come into force in accordance with Order of the Ministry of Foreign Affairs of Russia No. 23235 dated December 21, 2020:

- › The "Maintenance" business visa was transferred to the category of "Assembly Works" work visas and is issued for up to 3 months. An invitation can be sent only through the Ministry of Internal Affairs.
- › The "Foreign Employee" visa is issued to foreign citizens and accredited employees of representative offices of

foreign legal entities accredited in Russia, on the principle of reciprocity in accordance with international treaties entered into force by the Russian Federation. So far, such a treaty has been concluded only with South Korea.

- › The new list does not include the accompanying family members of foreigners arriving on work visas (with the exception of family members of highly-qualified specialists and some other narrow categories of employees) or on business visas (with the exception of those entering for the implementation of an investment project in the Far Eastern Federal District). Such family members are now required to obtain private or other visas with corresponding restrictions.
- › There is no division into business and commercial visas: a business visa is issued to foreign citizens entering the Russian Federation for business purposes.

RECOMMENDATIONS

- › To study the new list carefully and follow the new rules.

ADMINISTRATIVE LIABILITY FOR VIOLATION OF MIGRATION LAWS

The applicable laws of the Russian Federation provide for strict sanctions and heavy fines for legal entities and individuals committing violations of migration rules.

For example, it seems to be an excessive measure to ban an entry to Russia for a foreign citizen against whom administrative action was instituted two or more times within three years, regardless of the administrative offense committed. This is an acute problem for foreign citizens who are heads of companies.

RECOMMENDATIONS

- › Monitor the existence of fines, information on administrative offences, and bans on entry of foreign citizens through the electronic services of the Ministry of Internal Affairs of Russia.



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