

B2B: Employment of Highly Qualified Foreign Specialist

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From the times of Peter the Great, professionalism and qualifications of foreign specialists were highly valued in Russia, which is true for today as well.

Nowadays, Russian legislation states that foreign nationals may work in Russia only under a work permit. According to migration legislation (Federal Law of the Russian Federation On the status of foreign nationals on the territory of the Russian Federation No. 115-FZ dated July 25, 2002 (the Law), it is an employer who bears liability for arranging a work permit for foreign national invited to work in Russia.

The procedure of employment of foreign nationals prescribed by law is quite complicated and time-consuming, consisting of multiple stages and requiring a lot of paperwork.

However, certain positive amendments were recently introduced to the law. Those are related to the employment of so-called highly qualified specialists and provide for a simplified procedure of foreign specialists' employment in Russia. Nevertheless, the law also sets forth certain specific requirements for employment of such HQS.

Most of those shall be reflected in an employment agreement between the Russian employer and foreign national being employed as an HQS, and they are outlined in this article as well as those frequently asked questions usually raised with regards to these law requirements.

Parties to employment agreement

Employee

The law provides for only one criterion for a foreign specialist to be considered as HQS. The minimum annual salary amount of such employee shall be no less than 2,000,000 rubles

(~50,000 EUR) including personal income tax. Professional qualification of the foreign employee is in the employer's own discretion.

Employer

There is only one restriction related to an employer's status when speaking of HQS employment. The representative offices of foreign legal entities are not allowed to employ HQS.

Effective date

Russian law requires indicating in the employment agreement with HQS that the agreement shall become effective only upon receipt of work permit. Moreover, the date when the employment agreement comes into effect shall be defined therein as well.

Since the agreement shall be executed and signed prior to applying for a work permit, in practice it is difficult to define the exact date of the work permit's receipt and, therefore, to specify when the agreement will come into effect.

As an option to solve the issue, the agreement may be considered effective as of the date when the foreign national presented the work permit to the employer. This may be reflected in the agreement and fixed by the parties signing a document confirming that the work permit was presented.

Voluntary medical insurance

The law requires an employer to provide HQS with voluntary medical insurance. This shall specifically be stated in the employment agreement with HQS. It is frequently asked whether the HQS may use medical insurance issued outside of Russia and indicate this insurance in the employment agreement.

This is possible if such insurance covers and is applicable in the territory of Russia. With this regard, it might be reasonable mentioning in the employment agreement that Russian employer will reimburse the insurance payments to HQS.

In addition, if HQS's family members (foreign nationals) are also coming to Russia the Russian employer is required to arrange (or reimburse) a voluntary medical insurance to those as well.

Salary amount

Since the annual salary of HQS shall not be less than 2,000,000 rubles (~ 50,000 EUR) the monthly salary will have to be at least ~ 4,166 Euro. The question is whether a foreign national can be considered HQS if the amount of salary is less than the above, yet the foreign employee receives additional benefits from the employer paying for accommodation in Russia, food allowance and pocket money, the collective sum of which (together with salary) amounts to 2,000,000 rubles per year.

As per the recent practice, the salary amount is considered including the above mentioned payments if those are paid by employer and in such case the above foreign national may have

HQS status in terms of work permit application.

These are only some of the issues, which the parties to the employment face when proceeding with receiving a work permit for HQS. Considering that the practice of Russian migration authorities varies from region to region the above clarifications can make the procedure of application for HQS work permit easier.

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