



RUSSIA-ADAPTING ITS IMMIGRATION LAWS TO INTEGRATE SKILLED MIGRANTS

Since the Soviet Union's dissolution in December 1991, the former Soviet Republics have undergone tremendous changes and upheavals. Outside of a very few industries, such as gas, oil and minerals, this massive region, generally referred to as the Commonwealth of Independent States (CIS)*, is still a relatively unexplored business frontier for many companies. Over the past decade, as the largest CIS economy, the Russian Federation (Russia) has set the tone for its own and other CIS countries to revamp their old migration policies to attract highly-skilled migrants to help build a new knowledge-based and technology infrastructure.

This article provides a general overview of how Pro-Link GLOBAL (PLG) is working with one of its U.S. clients to quickly mobilize several key overseas personnel under the recently-announced Highly-Qualified Professional (HQP) worker category, and the key areas that any company should note when considering sending overseas assignees under this new talent scheme.

COMMITTING TO A NEW BEGINNING

In January 2011, the Russian Federation struck a new tone by opening the World Economic Forum in Davos, Switzerland. This marked a significant milestone in the world's perception of Russia overcoming a difficult economic and political transition since becoming an independent state. In his opening speech to the Forum, Russian President Dmitry Medvedev spoke with unusual candor about Russia still facing "quite a few difficulties in establishing rule of law and building a modern, efficient economy".

Following the emerging trend of countries in Asia, Europe and the Middle East in attracting the "best and brightest" foreign workers, in March, 2005, President Vladimir Putin addressed the Russian Security Council advising that the country's demographic situation demanded "stimulation of the immigration process" and "the necessity of calculated measures to attract foreign labor to the Russian economy."

RUSSIA'S DOMESTIC LABOR FORCE NEEDS FOREIGN TALENT

As identified by President Putin in 2005, Russia is facing a demographic crisis from the combined factors of the nation's low birthrate, a high mortality rate with the spike in cardiovascular disease, cancer, HIV/AIDS and tuberculosis among the young-adult male population, and the increased number of young, educated nationals departing Russia for overseas career opportunities. This demographic disparity is one of the primary reasons for Russia aggressively revamping its immigration policy.

Since 2002, Presidents Medvedev and Putin have implemented important changes by replacing a closed, Soviet-era border control and immigration policy by: identifying critical shortage-occupation professions to facilitate "fast-track" work authorizations for foreign workers (e.g., the HQP and EQL programs); reducing the incidence of technology skills-mismatches by better educating its young in new, knowledge-based technologies (e.g., the "Skolkovo" MBA program); and, creating new cross-border entry visa waiver programs with neighboring China and other CIS countries for skilled versus unskilled labor.

THE HQP WORK PERMIT

In February, 2011, Russia's Federal Migration Service (FMS) introduced a new immigration scheme as an alternative to the "Quota Worker" category. The HQP category is designed with the explicit intention of permitting Russian companies to sponsor Highly-Qualified Professionals (HQP) without having to undergo the rather onerous traditional work and residence application process associated with the FMS's traditional "Quota Worker" category.

IDENTIFYING KEY AREAS OF THE HQP

In March, 2011, one of PLG's U.S. clients announced the doubling of its major CIS manufacturing and parts ►►

distribution plant in the Moscow region of Russia. Highly-specialized workers from the company's German and U.S. operations were in need of quick mobilization to oversee plant expansion and train Russian employees prior to an August 1st "go-live" date.

Prior to the introduction of the HQP category in February, companies employing foreign workers were required to file under the "Quota Worker" category, which requires submission of a foreign labor forecast by May of the preceding year, providing an estimate to the FMS of the total number of foreign workers needed per category of work. The Quota Work system was not an appropriate or useful model for our client, however, as the Russian facility had opened in April 2010 with no ability or time to prepare a labor forecast for foreign workers from May 2011-April 2012.

Under the new HQP decree (an amendment to Federal Law #115), PLG has worked with its client to manage their new employer obligations by identifying and working through the key areas of need:



1) Ensuring that the client was appropriately incorporated in Russia and registered as a qualified sponsoring entity with the FMS. According to the new decree, HQP will only be available to Russian LLC ("OOO") companies, branches (филиалы) of foreign companies and Russian scientific organizations. Representative offices are not mentioned in the amendment;

2) Reviewing human resources needs to identify and plan for both "quota" workers and HQP workers. As the FMS relies on both quota and HQP workers, Russian companies must ensure that proposed positions actually require highly-specialized technical skills that are not readily available in the Russian labor market;

3) Ensuring the client also identified those proposed positions that qualify for the "Quota Exemption List" (QEL) of workers. The QEL is not to be confused with the HQP, as QEL positions are specific by position title (e.g., Director of a Plant, Engineer for Production Control System);

4) Ensuring HQPs are paid the appropriate minimum salaries according to occupation. For traditional HQPs working in the Russian private sector, foreign workers must earn an annual base salary equivalent to at least RUB 2 million (approx. €48,000 / US \$ 69,400);



5) Russian companies employing HQPs are required to make quarterly reports regarding salary; the new law introduces a deadline for the report: the last day of the month;

6) Working with the client company to prepare the necessary Russian labor contracts and invitation letters. As the concept of a labor contract is fairly foreign to most U.S. workers, this proved to be a sensitive point with our client. Therefore, PLG and company representatives worked with employees to ensure their

understanding of the conditions of employment as a localized hire;

7) Working with the company and the local FMS to have all document-ready HQP applications ready for filing to take advantage of the new fast-track processing times of 14 days versus 30 days.

By working closely with local FMS officials and Russian consular posts to address the above areas, companies can successfully utilize the HQP category to expedite work permit application filings.

MEDICAL TESTING REMAINS AN ISSUE FOR RUSSIAN WORK PERMITS

As with any new immigration policy, implementation can bring unexpected change. According to the Russian state health authorities, a disproportionately high number of CIS workers were granted work permits when submitting HIV results as part of comprehensive medical examinations performed by private clinics.

In response to this national health concern, on July 1, 2011, the Chief State Sanitation Officer in Moscow issued a decree that all foreign nationals applying for work permits sponsored under a Russian host company's annual work permit quota (i.e., a "quota worker") must undergo testing for HIV by an official state clinic as part of the overall medical clearance examination. Accompanying family members of quota workers and foreign nationals granted HQP status are exempt from medical examination requirements.

Under the new decree, there has been confusion as to who requires medical clearances and how to meet the new HIV testing requirement. ▶

INTEGRATE SKILLED MIGRANTS

Prior to the decree, quota workers could have their medicals performed at private clinics or hospitals. Now, arranging appointments and obtaining HIV test results from state clinics on behalf of quota workers could significantly delay the application process. In addition, while HQP workers and accompanying family members of Russian work permit holders are not required to undergo medical certification in Russia, certain Russian consular posts (especially those in the U.S.) still require HIV test results of all work and residence visa applicants age six months and older. PLG works with the employees and family members to obtain HIV test results well in advance of filing their visa applications with the Russian consular posts.

ADDITIONAL CHANGES IN RUSSIAN IMMIGRATION POLICY

One of the best examples of the tone set by the Davos speech is a regional approach by certain CIS countries to comingle their resources and talents to increase the Eurasian region's competitiveness in the global market. In July 2011, a multilateral and reciprocal agreement was enacted between Russia, Belarus and Kazakhstan, facilitating the ability of each country's nationals to enter and work in the other participating countries. In addition to this historic agreement, all other CIS nationals are exempt from Russian entry visa requirements as visitors and may enjoy special expedited processing of work authorization if assigned to local Russian payroll.

CONCLUSION

In the world of immigration, countries face the ongoing challenge of achieving a balance between multiple interests: restricting the influx of unskilled foreign workers and illegal immigrants; preserving jobs for the local workforce; protecting national social security and healthcare systems; and promoting national advancement in science, technology, engineering, and mathematics by attracting the best and brightest immigrants. As with Russia, the U.S., UK, the European Union, Australia, and Canada are also actively modifying their immigration systems in response to the global economy and the quest to optimize the local and foreign national labor pool to meet national economic and social demands. With continued concerns over the global economy and unemployment rate, mobility professionals and expatriates can expect further similar developments from Russia in the upcoming months.

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