

# B2B: Foreign Labor Migration: Current Review

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The existing mechanism regulating labor migration in Russia indicates that the migration policy tends toward a liberal approach. At the same time, it remains essential to develop a mechanism that efficiently regulates migration and secures the interests of all stakeholders in the migration process (the state, individuals and society overall).

Below we summarize the measures that have been implemented over the past few months of migration legislation in Russia:

Article 13.4.6 of the Federal Law No. 115-FZ dated 25.07.2002 effective Jan. 1, 2013. The article stipulates that foreign nationals arriving in Russia from visa-free countries must undergo a fingerprinting procedure when applying for work, temporary residence and permanent residence permits. We note that in addition to crime-combatting considerations, the objective of the data collection is to control the migrants' activities, prevent illegal labor exploitation and recover documents, in the event of loss, and to establish the identity of a foreign national;

Starting Jan. 1, 2013, foreign nationals with temporary residential permits ("TRP") in Russia are no longer required to apply for work permits to engage in employment activities. Pursuant to Article 13.4 of Federal Law N 115-FZ dated 25.07.2002 (as amended on 30.12.2012) "On the Legal Position of Foreign Nationals in the Russian Federation," the employment procedure rules that require foreign employees to have the work permits do NOT apply to foreign nationals permanently or temporarily residing in Russia (as amended by Federal Law N 320-FZ dated 30.12.2012);

The year 2013 has seen the lowest ever quota for foreign employees. The quota system was initially designed to regulate the inflow of foreign nationals into various regions of Russia in order to satisfy demand for foreign employees. However, certain implementation defects were revealed shortly after the system was approved. In particular, today employers may

apply for quotas for foreign specialists without assuming any obligations. An employer may apply for quotas to hire a certain number of foreign nationals but has no obligation to hire any.

There are also other situations where an employer who did not apply for quotas experiences a rapid growth and therefore feels the need to hire foreign employees. In such a situation, the quota system gives no opportunity for the employer to cover its needs, as any adjustments would require complex bureaucratic procedures.

To remedy the situation, the Health and Social Development Ministry has adopted orders approving the list of non-quota positions over the last few years.

Yet, the list includes mainly top managers rather than mid-level specialists who are highly in demand by employers seeking to hire foreign nationals. It seems like the only function of the quota system today is to handle the application statistics and not to help regulate the foreign employment market.

The quota for foreign employees in 2013 has been set at 101,500 people, well below the levels seen in the previous years. As recently as in 2006, the quota was set at 870,000 of foreign employees, and in 2008 it was around 500,000. This trend is in line with the government's policy with the primary objective to secure jobs for Russian citizens. According to a trilateral agreement signed in December 2013 between employers, trade unions and executive authorities, in 2013 and consecutive years the quota for migrant employees from abroad shall not exceed 3.2 percent of the economically active population (about 200,000 people).

It is also worth mentioning that the Russian government determined the number of work permits to be issued to foreign nationals in 2013 (Russian Government's Decree No. 1137 dated Nov. 3, 2012), which is 1,745,584 permits for the country as a whole. This quota remains at the levels of 2011 and 2012. In addition, by Order No. 568n dated Dec. 3, 2012, the Russian Labor Ministry approved the 2013 list of professions (specializations, positions) held by foreign employees seeking employment in the field of their profession (specialization) not covered by quotas for foreign nationals working in the Russian Federation.

The 2013 list contains 59 professions (specializations, positions) and has remained unchanged since 2012. This year, the list has been revised twice to add 6 engineering and 19 creative professions.

According to the Moscow Employment Center, the authorities have purposefully reduced the quota for hiring foreign nationals: in 2012, the quota was set at 200,000 migrant workers, which is 2.8 times lower than in 2008, when the quota was set at 561,000 people. The quota extends to highly qualified employees accounting for 20 percent of the quota, qualified and non-qualified employees accounting for 50 percent and 30 percent, respectively. The total number of legalized migrant workers in Moscow, including those who bought the work licenses, does not exceed 400,000 people. The labor market in Moscow is dominated by Muscovites (80 percent of the marketplace), with citizens from other cities, mostly from the Moscow region, and foreigners accounting for 17 percent and 3 percent of the market, respectively. The department has organized career fairs, including 12 video fairs and 4 road-show fairs in Ivanovo, Ryazan, Smolensk and Bryansk regions. However, these efforts resulted in only 1,500 people moving to Moscow for new jobs. Labor migrants work

in the sphere of construction, public utilities and transport. Numerous audits of entities with quotas for hiring foreign employees in 2013 revealed that 60 percent of the employers do not comply with the migration, labor and tax laws and frequently fail to meet occupational safety requirements. Based on the results of the audits it was decided to revoke the quotas allocated to the employers not complying with the legislation.

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