

# Attractive and dangerous benefits

## Branch of law: Employment and Social Security Law.

12.12.2013 Russian President Vladimir Putin announced the annual Presidential Address to the Federal Assembly where he gave relevant authorities clear tasks:

- to improve business climate of the Russian Federation, particularly on the basis of development of Siberia and Far Eastern region as “the most large-scaled national priority for whole XXI century”;
- to improve labor market and regulate foreign labor migration in Russia.

Solving of the first task is going very well. This is confirmed by an immediate preparation and introduction of a draft of the Federal Law "About territories of advanced socio-economic development and other measures of state support of the Far Eastern region" (hereinafter - the Draft).

According to the paragraph 1 of Art. 2 of the Draft territories of advanced socio-economic development are regions of the Far East, where in accordance with the decision of the Government of the Russian Federation for the purpose of development of the Far East, applied special legal regimes for business and other activities.

In this case, besides other things, special legal regime provides unprecedented employment benefits. Article 20 of the Draft states that:

- permission to hire and employ foreign workers is not required;
- invitations to enter the Russian Federation for the purpose of engaging in labor activity and work permits for foreign citizens on the territory of advanced socio-economic development can be issued without any quotas;
- execution of invitations to enter the Russian Federation for the purpose of engaging in labor activity (if necessary) and execution of work permits for foreign citizens is carried out with the help of management company or a subsidiary of the management company;

### And the most interesting:

- salary requirements for highly qualified specialists, mentioned in the Federal Law "About Legal Status of Foreign Citizens in the Russian Federation" is not applied.

It looks like new legislation will bring happiness. This legislation provides elimination of unnecessary at the first glance, regulatory barriers for both an employer and an employee, especially if labor activity in Russia requires a visa. The Draft helps to solve problems with “very expensive” highly qualified specialists that some companies (sole proprietors) cannot afford because of peremptory norms of paragraph 1 of Art. 13.2 of the Federal Law "About Legal Status of Foreign Citizens in the Russian Federation". And finally the Draft gives opportunity to forget about this unpleasant and promising a lot of problems word - "quotas".

But what will really happen after implementation of such serious exemptions?

Experts from Inmar legal ltd. tried to answer this question.

Ksenia Rubets, who participated in the IV St. Petersburg International Legal Forum in 2014, attended a session "An employee in a multinational company. Hiring foreign employees in the context of globalization" during which she discussed the problem of Article 20 of the Draft with State Secretary, first deputy head of the Federal Migration Service, Egorova E Y.

According to Ksenia Rubets, behind mentioned benefits hidden fertile ground for significant violations of labor and immigration laws, such as lack of FMS (Federal Migration Service) control of fulfillment of conditions of employment (civil) contracts with foreign workers and unlimited flow of foreign citizens to the region. This situation does not really match with improvement of labor market conditions and regulation of foreign labor migration in Russia (increasing responsibility of employers for an employment of foreign workers; hiring on a patent basis; monitoring foreign citizens' purposes of entry and so on).

Thus, in spite of the existing weaknesses of FMS control and regulation of foreign labor force in the Russian Federation, bringing into force provisions of the Draft can make situation worse. Control obligations are removed from Migration Service and placed on "ephemeral" management company.

This is very simple decision: "Any problems with exercising of powers? No powers - no problems!".

At the same time, the representative of FMS, Egorova E.Y. agreed with Ksenia Rubets and said that "If you do not apply salary requirement for highly qualified specialist, then the idea of highly qualified specialist itself is damaged. This is justified in the case of "Skolkovo" because "Skolkovo" - is a local area with a special legal regime. In my opinion in the case of Far Eastern region provisions of Article 20 of the Draft is not quite correct and justified."

Let's wait and see.

Let's hope that bringing provisions of Article 20 of the Draft into force will provide development of clear and understandable for both employer and employee instructions, rules and mechanisms in order to specify and organize such attractive, but at the same time, dangerous benefits.