



Russian Employment Law: Recruitment and Hiring

Insights

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Russia, also known as the Russian Federation, is a country with over 143 million citizens. Its capital is Moscow, and its official language is Russian, although there are nearly 30 other languages spoken throughout the country. Russia has the eighth largest world economy and its major businesses include energy and mineral natural resources, agriculture and fishing. Russia is the world leader in the production of oil and natural gas, and has a strong tradition of leadership in science, technology and the arts.

Russian employment law exists on both a federal and regional basis; there are 83 regions in Russia. Although aspects of employees' rights and employers' obligations can be found in a number of this country's statutes, the Labor Code of the Russian Federation ("Russia's Labor Code" or "the Labor Code") enacted in late 2001, as amended, includes many of this country's key employment rules. Other pieces of legislation governing employment matters are the Russian Constitution, and federal laws pertaining to a number employment matters, such as trade unions and foreign workers.

This article is the first in a series of articles regarding Russian employment law, and will focus on the recruitment and hiring processes. These articles will provide some of the basic information of interest to multi-national employers considering doing business in Russia, as well as those who are currently doing so.

Recruitment and Hiring. Russia, through its Constitution and Labor Code, prohibits discrimination against applicants and employees irrespective of: sex, race, color of skin, nationality, language, origin, property, social or position status, age, domicile, religious beliefs, political convictions, affiliation or non-affiliation with public associations, and factors not relevant to the employee's professional qualities. The Labor Code further states that individuals who believe they have experienced discrimination may petition the "federal labor inspectorate bodies and/or courts" to apply for restoration of their rights, including "compensation of the material loss and redress" and any moral damages. In July 2013 Russia enacted a new federal law specifically prohibiting job advertisements that are discriminatory in nature. Employers who publish job advertisements that include requirements that can be considered discriminatory based upon race, color of skin, gender, or other categories are subject to fines under this new law. Pre-employment medical examinations are required for certain groups of individuals as specified by the Labor Code and other federal laws. For example, pre-employment medical examinations are required at the employer's expense for individuals who are: 1) under the age of eighteen; 2) hired to

perform hard work or work under harmful and/or dangerous conditions; and 3) hired to work in the food industry, public catering, water treatment facilities and children's institutions.

Multi-national employers also should be aware that in Russia employers are required to maintain for each employee documents known as employment or labor work record books. These books are kept to evidence a worker's entire employment history, and are used for a number of reasons, including enabling the Russian government to determine an employee's benefit entitlement when he or she has retired. Upon the employee's written request, the employer must provide to the employee, within three days of the request, copies of documents related to the job, such as the hiring order, job reassignment orders, and excerpts from the employment work record book. When the employee separates from employment, the employer must issue to the employee on the day of his or her dismissal the work record book, and, on the employee's written request, copies of documents related to the job. The Labor Code provides options for employers who are unable to provide the work record book to the employee on the day of the employee's dismissal for reasons such as the employee's absence.

In order to enter into an employment agreement, the employee must provide a number of documents to the employer, including the employee's passport (or other document showing personal identification), an employment work record book (unless the employment agreement is for the employee's first job, or if the employee is already working for another employer), educational and military documents, the state retirement insurance certificate, and other documents required by the employer due to certain types of employment or legal requirements. If the labor agreement is for the worker's first job, then the employer is responsible for issuing the employment work record book and state retirement insurance certificate.

Employment agreements. Employers also need to be aware that Russia has specific requirements regarding employment agreements. Russia's Labor Code requires that employment must be evidenced by an actual written employment contract. In contrast to the accepted practice in many other countries, an offer letter in Russia, even one that is signed by both the employer and employee, does not constitute an employment contract. It is also required that two copies of the employment agreement are created. Each of the copies must be signed by both parties; one copy of the employment agreement is given to the employee and the other remains with the employer. The terms and conditions of an employment contract in Russia may only be amended by the written consent of all parties.

Further, the Labor Code sets forth specific provisions that must be included in employment contracts, such as: the employee's name; job commencement date; name of the position; profession; the employee's rights and duties; the employer's rights and duties; description of the working conditions; compensation; benefits to employee for any hazardous work; the work and rest and leisure routine (if it differs from the employer's general rules); wage or salary terms; and the types of social insurance and its terms directly related to work activities. The employment agreement can

also include any probation period, trade secret non-disclosure requirements, and any obligation of the employee to work after a training period provided at the employer's expense.

Under Russia's Labor Code, probation periods for employees under most circumstances may not exceed three months, with some exceptions. For example, certain executives may be hired with a six-month probation period. Further, some categories of employees, such as minors and workers with two-month employment contracts, cannot be required to work under any probationary period. The Labor Code provides specific requirements regarding probationary employees, including that: 1) if an employer is not satisfied with the employee's performance, the employer has the right to terminate a labor agreement before the probationary periods expire; 2) the employer must notify the employee in writing about the termination at least three days prior to the termination, stating the reasons for the negative result; and 3) the employee may appeal the decision in court.

United States entities interested in hiring in Russia should be aware, that, unlike in the United States, there is no employment at will in Russia; employees work under either open-ended or fixed-term contracts and can only be discharged for reasons set forth in the Labor Code. Russia, like many countries, prefers open-ended employment agreements which provide the greatest amount of worker protection. For this reason, fixed-term agreements are only allowed for a term no greater than five years (unless another term is set forth by the Labor Code and other federal laws). Fixed-term contracts are only allowed under certain circumstances set forth in the Labor Code, such as for: 1) the replacement by an employee for a temporarily absent employee for whom the job is retained in accordance with the law; 2) seasonal work when, due to the natural conditions of the work, is allowed to be performed only during certain seasons; and 3) the employment of creative personnel in industries such as mass media, motion pictures, the theater or the circus.

The Labor Code also prohibits employees from performing work not specified in the employment contract, except where set forth by law. Russia's Labor Code and its Constitution include numerous privacy rules regarding an employee's personal information, including the requirement that employers must not share personal information regarding an employee with a third party without written permission of the employee, except in cases when such disclosure is necessary to prevent a threat to the health or life of an employee or as required by law.

In summary, Russia has a highly-regulated employment law system on both a federal and regional level, with numerous detailed employee protections. Employers should ensure they carefully research their obligations regarding recruitment and hiring, which may vary depending upon the type of business in which they are engaged, and the locations of their businesses and workers.