

CLIENT NOTE

ATTENTION! EMPLOYERS, YOU HAVE NEW OBLIGATIONS



INTRODUCTION

On March 25, 2021, during its regular meeting, the Government of the Republic of Armenia initiated large-scale legislative amendments and adopted drafts (hereinafter referred to as the "Draft") on Amendments and Additions to the RA Law (hereinafter referred to as the "Law") on "Foreign persons" and on Amendments and Additions to related laws.

In the context of international globalization, new mechanisms are being introduced in labor relations that facilitate the access of foreign labor to the domestic market. To this end, the Government of Armenia has adopted a huge package of changes in the legislation, which has established new obligations for employers.

Taking into account the diversity of the labor market in the Republic of Armenia and the wide range of beneficiaries of the project, as well as taking as a basis the significance of awareness of this, in this legal overview, we have tried to briefly present the true essence of the main amendments and additions proposed by the draft, which primarily relate to the new obligations of employers within the framework of this Draft and other legal relations arising from them.

PROPOSED AMENDMENTS

- **Implementation of a single electronic platform**

The Draft proposes to create a single electronic platform for hiring foreign citizens in Armenia. Through this platform, by submitting an appropriate application, foreign employees (their

employers) are given the opportunity to obtain a work permit, as well as a certificate confirming their residence permit, legal residence or an conclusion on compliance with the list of exceptions for obtaining a work permit.

Within the meaning of the Law, the "unified electronic platform" is characterized as **an electronic platform with the implementation of which a work permit is granted, through which information about foreign employees who receive a work permit and are released from a work permit is entered or uploaded, in accordance with the procedure established by the Law and the decree of the Government of Armenia, as well as through which communication between state bodies, employers and foreign persons is carried out.**

Accordingly, the Law will be supplemented with a new Article 42.1, which establishes that **in order to provide a foreign person with work permit, residence status, certificate of legal residence and conclusion on compliance with the list of exceptions to obtaining a work permit, the applicant submits an application indicating a number of data of the employee, the employer and the conditions of the proposed work. Moreover, in accordance with the decree of the Government of Armenia, additional information may be requested in respect of a foreign employee if, in the course of performing the functions established by the legislation of the Republic of Armenia, the authorized state body has a visible reasonable suspicion or assumption that there are or may be grounds for refusing to grant a residence permit to a foreign person recognizing the status of residency as invalid or unenforced, deporting or being unable to stay in Armenia.**

All personal data collected on a single electronic platform will be collected and processed by the authorized state body in the field of migration, which, in turn, within the scope of its authorizations, provides access to data about the foreign person and the employer to other authorized bodies, including authorized state bodies in the field of national security, police, labor and social affairs and foreign affairs.

According to the Draft, one single electronic platform will allow " (...) to have clear statistics on foreign persons who have been working in the Republic of Armenia, and to more effectively monitor the process of hiring foreign persons by employers".

Obviously, with the introduction of a single electronic system, the procedure for obtaining a work permit, residence permit and other information (certificates, conclusions) for a foreign employee has been simplified, concentrating them in one single system, however on the other hand, an additional obligation is imposed on the employers. In particular, the entire process of selecting a foreign employee, **concluding an employment contract and terminating employment relations must be carried out only through a single electronic platform.** Moreover, as a result of non-fulfillment of this obligation, the Draft also implemented a corresponding addition to Article 201 of the RA Code on "Administrative Offenses", establishing administrative liability for those employers who:

(a) conclude an employment agreement (provision of services) with a foreign person without a document certifying the temporary status of stay issued on the basis of work permit (with the exception of foreign persons who have the right to work in Armenia without such a document), as well as

(b) without using the unified electronic selection platform provided for by Law, have concluded an employment contract (provision of services) with a foreign person (with the exception of foreign persons who have the right to work without a residence permit).

For the aforementioned offenses, it is proposed to impose a fine of AMD 50,000, and in the case of committing the same violation within one year-in the amount of AMD 100,000.

- **Aligning the Labor Code**

The Draft proposes to define in the RA Labor Code a new ground for termination of the employment agreement by the employer - **"the loss of the foreigner's residence status or its invalidation."**

The Draft also sets a 3-day prior notice period for the employer to terminate the employment agreement on the above-mentioned grounds.

The RA Labor Code has undergone other additions and amendments, bringing it in line with the main logic of the regulations proposed by the Draft.

If the Draft is adopted by the National Assembly of Armenia, the amendments of the Law and other related acts will enter into force on January 1, 2022, and the launch of the unified electronic platform is planned from January 1, 2022.

At the same time, if the Draft is accepted, employers are obliged to fill out an appropriate application on a single electronic platform for the presence of foreign persons working on the basis of an employment agreement (provision of services) before the entry into force of the Draft until September 1, 2021, with the exception of foreign persons for whom a temporary residence permit is not required.

Notice: The thoughts presented here do not constitute legal advice.

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