

## Employment of Foreign Citizens in Kyrgyzstan

Aizhan Albanova\*

The Government of the Kyrgyz Republic issued Resolution 639 (“Resolution”) on September 8, 2006. The Resolution states that employers have the right to employ noncitizens who have work permits, and the Resolution establishes the procedure for securing work permits.

An employer must first apply to the State Committee for Migration and Employment (“Committee”) for a permit to hire a noncitizen for a job vacancy. The Committee will issue the permit (“Employer Permit”) only if it determines that Kyrgyzstan lacks citizens capable of filling the job vacancy. The Committee must rule on the application within thirty days of its submission; the Committee may extend the deadline if it requires additional expertise. The Committee must inform the employer of its ruling within five business days. If the Committee does issue an Employer Permit, it will stipulate the rate of compensation and the dates of employment.

Once an employer has obtained an Employer Permit for a job vacancy, a noncitizen can apply to the Committee for a work permit to fill the job vacancy (“Employee Permit”). The noncitizen must document that he or she is at least eighteen years old (documents from foreign countries must be certified and translated into an official language of Kyrgyzstan) and must show that he or she has a valid work visa to enter Kyrgyzstan. The Committee must rule on the application within fifteen days of its submission.

Kyrgyzstan should simplify this procedure and resolve its inconsistencies. First, the Employer Permit and the Employee Permit substantially duplicate each other. Unifying the permits would greatly ease the bureaucratic flow. Second, the Resolution requires that employers pay for the Employer Permit and potential employees pay for the Employee Permit. But non-citizens come to work in Kyrgyzstan at the invitation of Kyrgyz employers. Therefore, why should an employee pay for what is in essence a request of the employer? Third, the Kyrgyz Republic issues work visas separate from the Employee Permit. No statutory definition exists for a “work visa.” Thus, a noncitizen may enter the Kyrgyz Republic with a work visa, and an employer may hire the noncitizen as long as the employer has an Employer Permit. Unification of the Employer Permit and Employee Permit would resolve this loophole. Fourth, the Resolution exempts noncitizens on business trips for certain activities (for example, repairing factory equipment) from acquiring Employee Permits; all other non-citizens on business trips must have a work visa and an Employee Permit. This conflicts with the standard international practice of countries simply issuing work visas to noncitizens on business trips and

complicates the activity of foreign companies.

Kyrgyzstan caps the number of noncitizens who may work in Kyrgyzstan. Four months prior to every calendar year, the Parliament approves next year’s cap. Thus, the Committee can issue work permits only for the current year (i.e. from January 1 through December 31) regardless of the date of issuance. When the year ends, the Commission may extend permits if next year’s cap is sufficient. The Committee allocates slots for noncitizen workers among employers, but Kyrgyzstan has failed to clearly regulate the allocation process.

In a nutshell, Kyrgyzstan’s Employer Permit, Employee Permit, and work visa system unduly burdens employers who need to hire specialists from abroad.

---

\* Aizhan Albanova received an honor’s degree in 2004 from Kyrgyz-Russian Slavic University Law School. In 2006 she was a finalist at the U.S. State Department Muskie Graduate Program. Ms. Albanova received her Master of Laws in 2007 from American University Washington College of Law, where she specialized in international business law. Ms. Albanova is currently working for Kumtor Operating Company on a large mining investment project, and lecturing at the American University in Kyrgyzstan.

1 Regulations “On order of realization of labor activity by foreign citizens and stateless persons on territory of Kyrgyz Republic,” approved by the Decree of the Government, September 8, 2006, No. 639.

2 Law of Kyrgyz Republic “On external migration” July 17, 2000, No.61.

3 Regulations “On order of realization of labor activity by foreign citizens and stateless persons on territory of Kyrgyz Republic,” approved by the Decree of the Government, September 8, 2006, No. 639, Item 21.

4 Law of Kyrgyz Republic “On external labor migration,” January 13, 2006, No. 4.

5 Explanation on order of application of Regulations “On order of realization of labor activity by foreign citizens and stateless persons on territory of Kyrgyz Republic,” approved by the Direction of Head of Government Administration, June 11, 2008, No. 45.

6 Regulation of State Committee for Migration and Employment, approved by the Decree of Board of State Committee for Migration and Employment dated as of January 25, 2006, No. 3, Minutes No. 1.