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The Legal Framework for Circular Migration in the Russian Federation

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1. Definition

The term “circular migration” is not used in Russian official documents. Instead of circular migration another term, “temporary migration” (временная (краткосрочная) трудовая миграция), is typically used.

The crucial document here is the new Concept of the State Migration Policy of the Russian Federation for the Period to 2025, adopted by the President of the Russian Federation.¹ One of the main points of state migration policy in the Russian Federation is the introduction of differentiated programs for short and long-term labor migration; this includes the use of different mechanisms of selection, conditions of entry, residence and employment. The Concept defines temporary Migration as international and internal migration, which occurs for a certain period of time without a change in residence. Temporary migration is carried out for purposes of work (temporary labor migration, educational migration etc). Circular or temporary migration has different forms: we can distinguish seasonal, holiday migration, internal circular migration and pendular migration (маятниковая миграция).

2. The circular migration of Russian citizens

The Russian Federation is developing its relations with European Union and certain EU member states on migration. But cooperation does not entail any specific provisions for circular migration. Moreover, the Russian Federation does not participate in the EU program on Mobility Partnership and Circular Migration².

There is though the State program of voluntary resettlement of Compatriots Living Abroad to the Russian Federation. This program was introduced for 2006-2012 by a Decree of the President 28 June 2006³. The program simplifies the procedure for compatriots living abroad to return to the Russian Federation and for them to acquire Russian Citizenship.

According to Art. 62 of the Constitution the Citizens of the Russian Federation may have citizenship of a foreign state (dual citizenship). If Russian citizens have foreign nationality it does not detract from their rights and freedoms, and it does not exempt them from any obligations. Dual citizenship or second citizenship permits Russian and foreign citizens the back and forth movement across countries without risking the loss of residence status in one of them.

3. Circular migration of foreign nationals

With regard to the circular migration of foreign nationals, it must be noted, that Russia receives immigrants from the CIS, mostly Central Asia countries, Moldova and Ukraine. As for workers from Belarus and Kazakhstan they are not considered external migrants because of the free movement of workers between Russia and these countries.

¹ КОНЦЕПЦИЯ государственной миграционной политики Российской Федерации на период до 2025 года // <http://президент.рф/acts/15635>

² Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions On circular migration and mobility partnerships between the European Union and third countries /* COM/2007/0248 final */ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0248:FIN:EN:HTML>

³ Указ Президента РФ от 22.06.2006 N 637 "О мерах по оказанию содействия добровольному переселению в Российскую Федерацию соотечественников, проживающих за рубежом"//Собрание законодательства РФ", 26.06.2006, N 26, ст. 2820.

The Russian Federation established a visa free regime for all former Soviet Republics, except the Baltic States and Georgia. The Russian Federation contains, meanwhile, restrictive rules on the employment of foreign workers. These two circumstances mean a high level of illegal employment among foreign nationals. This phenomenon is known in Russian as “shadow migration” (теневая миграция): i.e. foreign nationals stay in Russia legally, but they work without permission.

Taking into account the high level of irregular labor immigration to the Russian Federation circular migration could be one of the tools used to improve the situation in this sphere.

Circular migration might provide more liberal rules on temporary employment and the strict obligation of foreign workers to leave Russian territory after the termination of their labor contracts.

3.1 Labor migration

From the point of view of Russian legislation two groups of migrants can be considered as circular migrants:

1. Persons temporarily staying (a person who has arrived in the Russian Federation with a visa or without it in a visa free regime) on the territory of the Russian Federation; and
2. Temporary residents (a person who has received a temporary residence permit that is good for 3 years legal stay).

A foreign national, lawfully staying on the RF territory, may submit an application for a temporary residence permit, which is issued within an annual quota, established by the Government (Art. 6 of Federal Law).

During the period of validity for the temporary residence permit a foreign citizen may on his application be granted a permanent residence permit. Prior to obtaining a permanent residence permit a foreign citizen has to live in the Russian Federation not less than one year on the temporary residence permit (art. 8).

According to the common provisions of Russian immigration legislation the temporary residence permit and the permanent residence permit can be refused or revoked. This is done if a foreign national is living outside of the Russian territory for more than 6 months (art. 7 and art. 9 of the Federal law “On the Legal Status of Foreign citizens in the Russian Federation”)⁴. This provision is not particularly clear, the Law does not specify how to calculate this term (by auditioning several absences or by continuing continuously).

In accordance with the Federal law On the Legal Status of Foreign citizens in the Russian Federation foreign citizens are entitled to work with a work permit alone. Absence from Russian territory during six months and more is grounds for the annulment of the work permit: art. 18 of the Federal law “On the Legal Status of Foreign citizens in the Russian Federation”.

3.2 Educational migration

According to Art. 17 of the Law on the Legal Status of Foreign citizens, educational migration is migration with the aim of education or the continuation of education. It can be considered one of the main forms of circular migration after labor migration. Migrants, who are students of Russian high schools, have some privileges in terms of employment. Foreign students have no need to be in possession of work permits when they carry out the labor activity during their vacations: art. 13 (4) Federal law “On the Legal Status of Foreign citizens in the Russian Federation”.

⁴ Федеральный закон от 25.07.2002 N 115-ФЗ "О правовом положении иностранных граждан в Российской Федерации"//Собрание законодательства РФ, 29.07.2002, N 30, ст. 3032.

Another form of immigration in the sphere of education is academic mobility. This definition was first introduced in the Concept of the State Migration Policy of the Russian Federation for the period to 2025. According to the Concept academic mobility refers to the international mobility of the scientists and lecturers with the aim of carrying out scientific and educational activity, exchange of experience etc.

Conclusions

Our analysis of the Russian legislation shows that there are no special rules on circular migration. At the moment migration legislation does not contain provisions which facilitate back-and-forth mobility of the migrants. Moreover, Russian rules are not flexible in terms of work and residence permits. Absence from Russia for more than 6 months means grounds to refuse or to revoke work or residence permits.

At the moment Russian legislators are seeking ways to create the most favorable rules for migrants who want to come to Russia for temporary labor activity on a regular basis. The Concept of the State Migration Policy of the Russian Federation for the Period to 2025 shows the direction of Russian legislation in this sphere. Thus, it is possible to suppose that the concept of circular migration will be developed in the framework of the Russian legislation over the medium term.

Additional sources:

Концепция государственной миграционной политики Российской Федерации: Обобщенные комментарии международных экспертов Всемирного банка, ноябрь 2011 года
http://www.fms.gov.ru/upload/iblock/209/zakluchenie_vsemirniy_bank.pdf

Report: Labor Migration Likely to Grow in Europe and Central Asia
<http://web.worldbank.org/WBSITE/EXTERNAL/NEWS/0,,contentMDK:21183561~pagePK:64257043~piPK:437376~theSitePK:4607,00.html>