

New rules designed to weed out criminals, undesirable foreigners

23 April, 20:11 | Yuliya Popova, Kyiv Post Staff Writer



More bureaucratic headaches ahead as work rules tighten for expatriates.

Many foreigners working in Ukraine may mark International Workers' Day on May 1 worrying about extra paperwork they will need to stack up to obtain work permits.

New restrictions on employment go into effect on May 14 as a part of anti-crisis initiatives to protect the national labor market.

On April 8, Ukraine's government adopted a resolution setting out the new entry and stay rules for foreigners. The constraints are more numerous, with new requirements for criminal background checks and certification of university diplomas in the respective countries. Those seeking to extend their stay will have to go through the same procedure.

Americans and most European citizens don't need to certify their diplomas. More than 90 countries that signed onto the Hague Convention of 1961 get an exemption from this rule. Canadians, Germans, as well workers from some Asian, African, Arab and Latin American countries, have to comply.

But now all foreign applicants will have to obtain a police check from their respective countries or from Ukraine if they already live here.

The new rules appear to be an attempt to keep out illegal workers and migrants from poorer nations. But the existing bureaucracy – overwhelming itself – will remain in place. It will still cause headaches for most expatriates working in Ukraine, the completely legal and those on the fringe.

There are about 12,500 foreign nationals registered at employment centers today. But there are no official estimates for many others who make Ukraine home as illegal workers, business visa holders, company owners and permanent residents.

Authorities have also raised fines for violating immigration rules fourfold to Hr 3,400. An application fee for a work permit has surged from Hr 170 to Hr 2,500.

Labor authorities think the new regulations will keep out unskilled personnel, thereby opening more opportunities for work-hungry Ukrainians. Employers complain the restrictions will make it harder for key staff, including managers, to stay legal in Ukraine.

The Presidential Secretariat added fuel to the fire last month, threatening to re-impose a visa regime with the European Union, leaving foreigners wondering if they are still welcome.

“The devil is not as black as he is painted,” said Illya Dovzhenko, head of the inspection department at the State Employment Center.

“This regulation is like a sanitarian,” Dovzhenko said. “It will separate the scum and leave what is really necessary for the economy of this country.”

Dovzhenko said the employment authorities would seek police background checks from all foreign applicants to keep criminals out. “A lot of delinquents are flocking to Ukraine, mainly from our brotherly countries like Russia, Belarus and Georgia. Also, a lot of Turkish citizens are dodging the draft here.”

While police checks make sense, the requirement to legalize diplomas seems less defensible to employers. “Each country has its own conditions. It means numerous trips to Ukrainian embassies in the country where it [a diploma] was issued,” said Yulia Kadibash, tax and legal services manager at the Kyiv offices of PricewaterhouseCoopers.

Dovzhenko, however, insisted that certified documents would stop fraudsters from taking jobs for which they were not qualified. “You see, they [foreign applicants] take a paper clipping in Arabic, translate it the way they like and pose as masters in law. They get hired when our specialist with higher education can’t get a job,” he said, defending the new regulations.

Dovzhenko added that a certification process takes only a few days and costs \$15.

Employers want the entire procedure for legitimizing foreign workers to be clarified. There are so many ‘ifs and buts’ “that even a specialist sometimes gets confused,” said Oksana Lapii, senior consultant at the Kyiv offices of Ernst & Young.

Trying to unthread a chain of work permits, visa and registration rules – without an expert - may take weeks, if not months.

“The scheme is mad,” said Yuriy Gorelikov from Veles Solution, whose company helps register foreign nationals for work.

To feel bulletproof in Ukraine, one has to go through three stages. It involves getting a work permit from an employment center, then an IM-1 visa from a Ukrainian consulate abroad, and then a temporary registration certificate. It is issued by the Office for Citizenship, Immigration and Registration of Physical Entities, which is still better known by its acronym back in Soviet days, OVIR.

“But only 10 to 20 percent of foreigners use [this option], because it is way too bureaucratic,” said Gorelikov.

Many foreigners just paid fines rather than stand in line with stacks of paper, traveled in and out every 90 days, or exploited one of many other loopholes. Last May, however 180-day stays became the legal maximum within a year without a visa.

“Our legislation contradicts itself on many occasions. To get registered, for instance, a foreigner must pass an AIDS test, even though Ukraine has ratified international conventions on human rights, which ban this requirement. Then, an applicant must officially register at a Ukrainian address. But Ukraine no longer has temporary

registration, which makes it a problem for landlords. They don't want [strangers in] their properties on a permanent basis," said Gorelikov.

Kadibash, from PricewaterhouseCoopers, said the biggest headache is legitimizing the families of officially employed foreigners. Those coming from countries with visa-free entry can stay in Ukraine for 90 days during their first half year. To stay longer they have to obtain a legal permit. It gets even worse after that.

"It's a delirious situation. A person comes with a family. They have plans to send kids to a local school. But within a half year, they have to leave the country and come back only after another six months," said Kadibash.

The general rules of entry for family members indicate vaguely that partners of foreign employees can apply for a private visa for an extended stay. However, "it shall be issued up to six months," explained Ernst & Young's Lapii.

"This visa cannot be extended. After it expires one shall have to receive it again in the Embassy of Ukraine of the respective country."

Until last December, restrictions on the length of stay were often ignored by the immigration service. "People used to get work permits but violated customs control. No one really counted how many days they spent here over a year," said Gorelikov, from Veles Solutions.

Dovzhenko, from the employment center, said the economic downturn led to the need to tighten up rules. "When the crisis hit us, Ukrainian migrants started coming back from abroad and we did not have enough jobs to offer them," he said.

Now foreigners will be watched closely. New computerized systems tracking visas and duration of stay were installed at international airports. The next stage is introduction of biometric control in 2010. The prototype biometric scanner was unveiled in Boryspil airport on April 23.

Victor [Chumak](#), head of political analysis and security programs at Kyiv's International Centre for Policy Studies, a think tank, said the new regulations and tighter controls are simply reciprocation. It's retaliation for tighter rules on travel by Ukrainians to the European Union, among other countries.

"I think it's done on equal footing with other countries," he said. "To become legal in the EU, Ukrainians will have to provide the same number of documents. Their [authorities'] imagination is not very rich, so usually they just adapt European regulations in Ukraine," said Chumak.

But he said talks to revive a visa regime with the EU have no serious fiber: "I think these jokes or threats are inadequate and unnecessary."

Other measures - fees, police checks and electronic tracking in airports - are adequate improvements already used in many countries.

Employment experts, however, warn that the new regulations might enhance the already vibrant corruption at visa and registration offices.