

Activity of Regulatory Authorities in the Field of Migration



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In the course of inspections aimed at controlling compliance with requirements set by Russian migration legislation, departments of the Federal Migration Service and the Interior Ministry should be guided by the following principles:

- priority should be given to human rights and liberties;
- legitimacy;
- public notice, taking into account absolute preservation of state and other legally protected secrets;
- independence and autonomy in the administration of powers, as well as in the use of forms and methods of control and surveillance in the stated field;
- collaboration with other interested federal and local authorities in the stated field. In the course performing their state functions, Federal Migration Service and

Interior Ministry officials should act in strict accordance with Russian legislation, treating both Russian and foreign citizens correctly and observantly.

An inspection is considered to start from the date that its inspection order is issued. The standard form of an inspection order is ratified by Economic Development Ministry order No. 141, dated April 30, 2009, on the realization of provisions of the federal law on protecting the rights of legal entities and individual entrepreneurs during the administration of state control (supervision) and municipal control, registered by the Justice Ministry on May 13, 2009, registration No. 13915.

Objects of inspection may include individuals, except for cases set out in Russian federal legislation; legal entities, irrespective of ownership structure, including for-

foreign companies, their branches and representative offices and individual entrepreneurs who are employers of foreign citizens; individual entrepreneurs; buyers of works or services; vehicles, including international routes of automobile, railway, sea, river and air transport; and places of residence of foreign citizens.

There are field inspections and joint field inspections, which in turn are subdivided into scheduled and unscheduled inspections. The basis for conducting a scheduled or unscheduled field inspection is:

- the availability of data about the object in the inspection plan for the corresponding period set out by the established order of activities for the Federal Migration Service;
- control of the inspected facility's execution of orders for the elimination of causes and conditions that caused a violation of provisions of the migration legislation;
- control of the inspected facility's execution of provisions of the migration legislation in case of availability of information on violation of provisions of the migration legislation;
- receipt by the Federal Migration Service of information showing that there are features of administrative violations in the activity of legal entities and individual entrepreneurs and/or features of a violation of federal laws, other regulatory legal acts of the Russian Federation in the field of migration;
- receipt by the Federal Migration Service and/or the Interior Ministry of information, showing that there are possible violations of the legislation of the Russian Federation in the field of migration by foreign citizens;

- direct revealing of the fact that labor activity is being conducted by a foreign citizen that violates the provisions of the migratory legislation.

In the course of the inspection arrangement, everything is under the control of a head or deputy head of the department of the Federal Migration Service, whose officials conduct an inspection under the order. The list of activities in the case of a field inspection includes:

- moving to the place of location or economic activity of the inspected object;
- announcing the inspection order;
- presenting a staff pass;
- handing an inspection order copy to the legal representative of an inspected object;
- informing representatives of the inspected object about their rights and obligations in the course of inspection;
- examining the territory and establishment of fact of availability of foreign citizens in the territory of an inspected object, examination of their compliance with migration legislation, including the legitimacy of their stay and activity.

A record concerning territory inspection is made in the final inspection certificate. In the course of the inspection, photo and video shooting can be used. In the case of an administrative violation being revealed in the course of the inspection, an inspection protocol of the stated form is made as evidence.

In the case of administrative offence protocol formation, the corresponding record is made in the inspection certificate using the following:

- inspection of documents, data and information received in the course of examination and reclaimed at the inspected facility;
- filing of requests on provision of ad-

ditional information or information that should be prepared in the course of a certain time frame in the order established by the administrative regulations;

- inspection of documents provided under requests;
- comparison of originals of reclaimed documents with their copies and signing of statements of transfer and acceptance of document copies that should be entered into inspection materials;
- oral request to the representative of an inspected object and receipt of oral comments, if necessary;
- requests to officials of an inspected object, other institutions and public authorities for additional documents and information, if necessary;
- recording in the stated order of the revealed facts of violation of the migration legislation;
- end of inspection.

Sending a copy of the inspection order to the representative of the inspected object is done on the day of the move to the inspected object.

In the case of an administrative violation being revealed, the officials conducting the inspection should immediately take measures set out by the legislation or request additional documents. The inspection term may be prolonged, but not by more than 14 days.

It is important to remember that the employer or buyer of works or services should adhere to the rules governing residency of foreign citizens when hiring them and should supply foreign citizens with all the necessary support. In the case of field and joint field inspections, whether scheduled or unscheduled, employers or buyers of works or services should be familiar with their rights and take extra care.