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Research Article

RESTRICTIONS FOR REMOTE WORK OF IT SPECIALISTS LIVING ABROAD: EXPERIENCE AND CHALLENGES OF EAEU MEMBER STATES

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In the context of sanctions pressure on Russia the issues of import substitution in the field of digital technologies are getting even more urgent. Highly qualified specialists with respective competencies are in short demand in the country. The government take some measures to that end, but they can solve all the problems. Engagement of required specialists from abroad – those working on a remote basis – could improve the situation. However, there are certain unresolved issues in the labor legislation of the Russian Federation and some other countries, including members of international economic integration organizations such as the Eurasian Economic Union that hinder this process. Identification of hindrances and restrictions preventing free movement of human resources in EAEU member states and efficient use of remote work in the field of IT is what this paper is dedicated to. To that end the actual situation unfolding in the labor market of the field of IT on the territory of EAEU member states has been analyzed, and so has been labor and other legislation of member states regulating the labor of remote workers and the academic literature and papers published in the periodicals. The system analysis and comprehensive review of sources and comparative legal studies have become the main methods of research. As a result, legal and organizational restrictions preventing efficient application of remote work of IT specialists typical for some or even all EAEU member states have been identified. Also, there have been suggested some ways to overcome the identified restrictions that can be implemented by adopting new legal provisions or by amending the existing ones.

Key words: *remote work, IT specialists, foreign workers, wage, labor safety, conflict rules*

Introduction

Legal uncertainty, gaps and contradictions of legal regulation of certain labor contract types and atypical types of employment create some restrictions for the labor market that affect development of the import substitution. For example, engagement of IT specialists, software developers from among foreign citizens and the Russian citizens residing abroad can be arranged on a remote basis, but it faces the problems that need to be solved through introduction of amendments into the labor, tax and financial legislation.

Nowadays, there is an obvious deficit of IT specialists in Russia. According to the data of the research conducted by the Information & Computer Technologies Industry Association (APKIT) upon the request of the Ministry of Communications of the Russian Federation, the demand for these employees nowadays amounts to more than 200,000 people and it will continue growing to reach 300,000 by 2024¹. And, though

¹ IT Staff for Digital Economy in Russia. Universal Estimate of IT Specialists in Russia and a Forecast of a Need for Them until 2024. Available at: https://apkit.ru/files/it-personnel%20research_2024_APKIT.pdf [Accessed: 15 September 2022].

in early 2022, the number of IT vacancies was reduced by a quarter, there is still a deficit of specialists. As for the changes of supply and demand, they stem from the fact that, firstly, non-core organizations reduced their digitalization program, and, secondly, the specialists started to look for the companies that would remain stable in the face of sanctions risks².

According to the data of the Russian Association for Electronic Communications (RAEC), about 50–70 thousand IT specialists have left Russia in the context of a special military operation. The Association has also forecasted the second wave of ‘relocations’ of about 70–100 thousand people³. However, in the end of May, Prime Minister M. Mishustin stated that 85% of those previously gone returned to the country⁴. In the middle of summer the ‘drain’ in the field of IT reduced, according to the official data, and the most pessimistic forecasts did not ultimately come to fruition: 20,000 left the country instead of expected 170,000⁵.

Despite a deescalation of the specialist outflow and a reduced number of vacancies, the personnel deficiency remains quite an acute problem. As it is known, specialists in the field of digitalization are required to ensure the programs of economic development and import substitution.

To stabilize the situation and prevent IT specialists from leaving the country, the public authorities of the Russian Federation took a whole series of measures. These include introduction of a preferential rate for credits for certified organizations (to give the businessmen an incentive in the field in question); a 3% mortgage rate for IT specialists; financing grants for software created by the national developers⁶; establishment of a deferment from the draft for the persons eligible for military service if they have a respective higher education⁷.

A simplified procedure was established for the international IT specialists to get a residence permit. To that end, in June 2022, the changes were introduced to the Federal Law ‘On Legal Status of Foreign Citizens and Individuals without Citizenship in the Russian Federation’⁸.

The Republic of Belarus faced the so-called relocation of IT specialists even earlier than the Russian Federation – in 2020, due to well-known political events (Tomashevsky, 2021a).

Other EAEU member states also, on the one hand, suffer from a deficit of highly qualified specialists in the field of IT and, on the other hand, due to several well-known reasons become the places of residence for these specialists while they keep working for the employers from abroad. So, even entering the country they do not become formal labor migrants. For example, in September 2022, the Minister of Economy of the Republic of Armenia reported that 50–70 thousand IT specialists from Russia had arrived at Armenia⁹. IT specialists from Russia and Belarus move to Kazakhstan¹⁰. However, some are looking for a job in a new country, some arrive to work in a new (for the country of stay) company founded with the foreign capital or in a branch of a foreign company, while others continue working for the same employer remotely.

A Catastrophic Deficit. A Digital Breakthrough is Predicted to Suffer from an Acute Shortage of IT Specialists. Available at: https://www.dp.ru/a/2020/01/24/Katastroficheskiy_deficit [Accessed: 10 September 2022].

² A Sudden Drop in Demand for IT Specialists in Russia. The Number of CVs Rising, The Number of Vacancies Falls. Available at: https://www.cnews.ru/news/top/2022-09-05_chislo_it-rezyume_rastetinteres [Accessed: 10 September 2022].

³ RAEC forecasted the departure of up to 100,000 IT specialists in April. RBC, March 22, 2022. Available at: <https://www.rbc.ru/politics/22/03/2022/6239c48b9a7947da733b01fd> [Accessed: 10 September 2022].

⁴ Mishustin Reported On the Return of 85% IT Specialists Previously Gone Abroad. RBC, May 27, 2022. Available at: <https://www.rbc.ru/society/27/05/2022/6290b8009a7947311d9f42c7> [Accessed: 10 September 2022].

⁵ IT Staff for Digital Economy in Russia. Universal Estimate of IT Specialists in Russia and a Forecast of a Need for Them until 2024.

⁶ Executive Order of the Government of the Russian Federation No. 714-r dated April 1, 2022 ‘On Allocation of Budgetary Appropriations from the Reserve Funds of the Government of the RF in 2022 due to Restrictive Measures Taken by Foreign Countries Toward the Russian Federation’.

⁷ Resolution of the Government of the Russian Federation No. 490 dated March 28, 2022, ‘On Approval of the Rules for Entitlement to Get a Deferment from the Draft for the Citizens of the Russian Federation working in the certified organizations operating in the field of information technologies’.

⁸ Federal Law No. 207-FZ ‘On Amending the Federal Law on the Legal Status of Foreign Citizens in the Russian Federation’ dated June 28, 2022.

⁹ Armenia Hosted Over 50,000 IT Specialists from Russia. Available at: <https://rtvi.com/news/armeniya-prinyala-svyshe-50-tysyach-it-speczialistov-iz-rossii/> [Accessed: 10 October 2022].

¹⁰ IT Guys from Russia and Belarus Shared Why They Chose Kazakhstan. Available at: <https://tengrinews.kz/article/aytishniki-rossii-belarusi-rasskazali-pochemu-vyibrali-1764/> [Accessed: 10 October 2022].

One would think, the labor transfer, including highly qualified work force, between the countries belonging within the same international regional economic integration organization – EAEU – shall not face any serious challenges. However, a lack of synchronized labor, social welfare, tax, and currency legislations can result in certain hindrances and restrictions. This paper covers the restrictions imposed on remote employees working from abroad. The legal regulation of remote work has been recently researched by such scientists from EAEU member states as S. Yu. Golovina, M. K. Zhuranova, K. S. Ramankulov, K. L. Tomashevsky, S. V. Shuraleva and others. Most scientists have analyzed the system of remote work legal regulation in certain EAEU countries (Zhuranova, 2012; Shuraleva, 2019) and conducted a critical analysis of the changes in this regulation that had been caused by the pandemic (Golovina, 2020; Yeremina, 2020). Some papers have been dedicated to a rather-legal analysis of labor legislation regulating the remote work in EAEU member states (Shuraleva, 2019), including its application to the ‘digital nomads’ (Tomashevsky, 2021a). However, the possibility for IT specialists to work from abroad has never been examined in the aforementioned papers one way or another. Solely, we had already made an attempt to research the ambiguous practice of using the remote work from abroad in the Russian Federation, even before the situation with our country facing serious economic restrictions in 2022 has come about and without any consideration to the specificities of the work of IT specialists (Zaitseva & Abakumova, 2021). This paper includes the assessment of formal opportunities for IT specialists to use working from abroad while they reside on the territory of one EAEU member state and work for the employer from another EAEU member state. To that end, the labor legislations of EAEU member states are analyzed in order to identify the conditions for such a work and the circumstances that restrict it. Also, regulatory impediments for free development of remote work within EAEU are discovered and potential ways to deal with them are suggested.

Materials and Methods

To accomplish this goal and the established objectives, the labor, social welfare, and tax legislations of EAEU member states are analyzed to the extent that they regulate the labor activities of remote workers residing abroad. The standpoints of legal scholars on the problem under study and the periodical press materials are examined, since the relations in the field in question are dynamically changing nowadays showing a high level of transformation. Therefore, the main research methods are system analysis and comprehensive review of normative legal acts of the Russian Federation, the Republic of Belarus, the Republic of Kazakhstan, the Republic of Armenia and the Republic of Kyrgyzstan; a comparative method and a Delphi approach. The conclusions based on the results of research are of both theoretical and practical nature, and they suggest certain areas of improvement for the labor legislation of EAEU member states.

Results

The research has shown that the legislations of the countries display not only different degrees of remote work regulation, but also different attitudes to the opportunities for remote work of the individuals staying abroad which itself undermines the efficient use of highly qualified IT specialists on the territory of EAEU countries with a prospect of their labor’s use beyond the borders of member states.

No country has managed to settle down the issue of remote work from abroad directly. At most, in some countries the local Ministries of Labor give some explanations regarding the matter in question.

In the Russian Federation an odd situation has come about when the Ministry of Labor and the Ministry of Finance have different views on the very opportunity of remote work from abroad. The Ministry of Labor has adopted the attitude denying this very opportunity. The Ministry of Finance does not see any impediments in the context of tax legislation application. In the Republics of Belarus and Kazakhstan, on the contrary, the Ministry of Labor does not see any impediments for remote work from abroad. In the Republics of Armenia and Kyrgyzstan, there is no special regulation of labor for remote workers at all which in a certain manner invalidates the entire situation.

Aside from legal regulation gaps that are common for all the countries, a few problems typical for certain countries only have been identified. They can be seen as legal impediments that can be dealt with under certain circumstances and with the help of legislative will. Aside from labor legislation barriers exclusively,



other restrictions have been identified, including those of situational nature, associated with economic and financial sanctions imposed on certain EAEU member states. Recognizing these impediments dealing with which goes far beyond the framework of this research, the governments of EAEU member states take certain steps in certain areas.

Discussion

Restrictions for remote engagement of IT specialists from abroad in the Russian Federation. The measures currently introduced in Russia to overcome a lack of highly qualified personnel in the field of IT have deescalated the problem a bit only, but they will hardly be able to solve it given that a deficit of highly qualified human resources emerged long before the events the aforementioned measures of the government are associated with.

What other barriers that could have been destroyed today already, could alleviate the situation in the high-tech segment of the labor market?

Firstly, it is a lack of a legal opportunity to engage the required workers on a remote basis regardless of where they reside. We have already written about the inconsequence of a whole number of explanations given by the Ministry of Labor to ground the impossibility of concluding labor contracts with remote workers living abroad (Zaitseva & Abakumova, 2021). However, since the arguments of the Ministry prompt new questions, more and more new letters are sent only to change the arguments, but not the essence of the attitude to these opportunities. One of the last letters of the Ministry of Labor and Social Protection of the Russian Federation on the matter published in 2022¹¹, unlike the previous ones, explains that the Russian legislation is applicable to the foreigners residing on the territory of the country only. In our opinion, it rather displays the problem of the Russian labor law with no conflict rules. As it appears, in the context of work and labor market virtualization, this issue shall be settled and a regulatory provision shall be included in the Labor Code – one that allows applying labor legislation provisions of the country within the jurisdiction of which the employer stays as a beneficiary of the worker's labor activity results.

Besides, the Letter by the Ministry of Labor of 2017¹² includes the argument that, in the Ministry's opinion, also does not allow exercising labor relations remotely abroad, since the employer is physically unable to encompass their obligations to such a worker in terms of labor safety. So, while all the orientations and trainings can be arranged remotely as well, how can an occupational accident be investigated as required by the Labor Code of the Russian Federation? In this case, the Order of the Ministry of Labor 'On Approval of the Provision on Specificities of Investigating Occupational Accidents in Certain Industries and Organizations, Document Forms, Respective Nomenclatures Required for Occupational Accident Investigation'¹³ should be amended by introducing an opportunity for application of online procedures, electronic document flow, etc. Or, in the worse case scenario, a mandatory rule may be introduced to install supervisory programs on the computer of a remote worker which is now possible to arrange for the purpose of labor safety due to Art. 214.2 of the Labor Code of the Russian Federation as a way to prove the potential connection between the accident and the occupation. That said, in the lack of an opportunity for the injured party to undergo the expert proceedings to identify the extent of a persistent disability as established in the Russian Federation, the rules regarding fixed insurance payments at the occurrence of an insured accident may be provided for. Naturally, if such an option is chosen, respective amendments shall be introduced into the Federal Law 'On Compulsory Social Insurance Against Industrial Accidents and Occupational Diseases'.

Secondly, perhaps, it is quite a broad definition of remote work that was introduced into the Labor Code of the Russian Federation after the amendments caused by Federal Law No. 407-FZ which practically

¹¹ Letter of the Ministry of Labor and Social Protection of the Russian Federation No. 14-4/10/V-1848 'On Legislation Applied in Case of Concluding a Remote Employment Agreement with Foreign Citizens to Perform Labor Activities beyond RF' dated February 15, 2022. Available at: <http://www.consultant.ru/cons/cgi/online.cgi?req=doc&ts=nqWXk8TOo9toKgvZ2&cacheid=F2F60A728A8F0729C81BC2752BA0A9F3&mode=splus&rnd=3mVDQ&base=QUEST&n=209833#G3Y9NNTUtZ3WC7qo> [Accessed: 11 September 2022].

¹² Letter of the Ministry of Labor of Russia No. 14-2/OOG-245 dated January 16, 2017.

¹³ Order of the Ministry of Labor of Russia No. 223n 'On Approval of the Provision on Specificities of Investigating Occupational Accidents in Certain Industries and Organizations, Document Forms, Respective Nomenclatures Required for Occupational Accident Investigation' dated April 20, 2022. Available at: <http://pravo.gov.ru> [Accessed: 01 June 2022].

equated remote work and telework that prevents the problem from being solved radically through statutory recognition of an opportunity for remote work. In the context of the subject in hand, the viewpoints of the Russian scholars that have always stood and still stand for a need to distinguish between remote work and telework even more legitimate (Golovina, 2020; Yeremina, 2020). The work of an IT specialist performed virtually, in the Internet exclusively, responds to the conflict regulation of transboundary relations suggested above rather well actually, as it provides for application of the labor legislation of the country where the employer resides. Another thing is a 'remote worker' who uses the Internet to contact the employer only while working 'on the land' in the country with another jurisdiction. A sales representative is a good example. Such an employee with a stationary workplace abroad may not be stripped of their labor protection rights and guarantees in their entirety. The workplace of such an employee shall be properly assessed in terms of working conditions and labor protection (the workplace of such an employee may not be excluded from the general rules of a special assessment of working conditions as it is established for remote workers). Since the work of such an employee does not come down to dealing with a computer, the risks of an occupational accident are not only significantly higher for such a worker in comparison to the remote worker engaged in the 'virtual' work exclusively – they can even largely exceed the risks of conventional workers whose workplace always stays under the supervision of an employer who, among other things, monitors and ensures the proper working condition and labor protection. All these considerations can explain the formal negative approach of the Russian Ministry of Labor to the opportunity of remote work from abroad. However, in this case, it is required either to return to the issue of distinguishing between the remote work and the telework for consequent positive regulation of remote work from abroad for IT specialists and other workers whose occupation is similar by its nature, or to establish special rules for the latter ones (special regulation in the framework of specificities the remote work regulation is notable for).

Thirdly, it is the financial sanctions imposed against our country that prevent development of remote employment abroad significantly. Nowadays, there is actually a lack of an entire set of measures designed to cope with the sanctions, so that the employers could encompass their obligations on timely payments to the workers that have found themselves abroad. Until recently, an opportunity to use the cryptocurrency for these purposes have been considered in literature (Leskina, 2020). However, with the adoption and consequent amendments to the law on cryptocurrencies in Russia¹⁴ the issue has been taken off the table predictably, as now the Federal Law prohibits using the cryptocurrency as the means of payment. Nevertheless, in April 2022, it became known that Zavod-IT, an IT company from Yekaterinburg, offered its employees to be paid in one of cryptocurrencies if they wished so – bitcoins, ETH, USDT or XRP. The head of the company explained in his interview to The Forbes that it was a forced decision due to the financial sanctions introduced against the Russian Federation and the difficulties that had arisen from a need to pay the workers residing in Kirgizia, Kazakhstan, Azerbaijan, USA, Thailand, and Ukraine (Titova, 2022). Thirty percent of employees turned to that means of payment at once, and other workers started expressing similar wishes to the employer. The head of the company did not specify how it aligned with the requirements of the Russian legislation, including labor legislation, though. Even supposing that a cryptocurrency, while not being a legitimate means of payment, is equated with a non-monetary form of payment for labor, its maximum share in the payment for labor, as it is known, may not exceed 20%. And if a legal practitioner equals it to coupons, liabilities or vouchers, such a payment may be considered an administrative infraction with all ensuing consequences. However, nothing prevents an employee who has their wage in rubles transferred to the account in a banking company from converting rubles into a cryptocurrency with its further transfer abroad and a possible conversion into a fiat currency again through well-known 'remote operations' using mobile banking or other applications. Can the employer ensure all the aforementioned operations though?

Nowadays, the issue of financial restrictions can be dealt with by transferring the wages via the banks of the countries that have not imposed sanctions on the Russian Federation. A special focus here is on the friendly countries the regulators of which together with the Central Bank of Russia create a single payment area, including interaction of Faster Payments Systems. First of all, it applies to EAEU, BRICS and SCO member states.

Also, it is still possible to transfer the wages to the e-wallets, since it is not all the systems the sanctions against Russia have affected. An opportunity of wage transfers to the e-wallets has been confirmed

¹⁴ Federal Law No. 259-FZ 'On Digital Financial Assets, Digital Currency and on Amendments to Certain Legislative Acts of the Russian Federation' dated July 31, 2020 (revised on July 14, 2022).

by the Federal Service for Labor and Employment (Rostrud) with a respective explanation. That said, it is impossible to miss that when an e-wallet is used, the transaction costs increase. Besides, not all the global companies – operators are banking organizations which contradicts Art. 136 of the Labor Code of the Russian Federation. From this perspective, the improvement of wording of the aforementioned article by introduction of an alternative payment to the account of the banking organization exclusively at least in case of emergency might be considered.

Thus, nowadays, it is a whole number of gaps in the Russian legislation that could be eliminated easily enough, but still get in the way of extending opportunities and engaging highly qualified specialists through digital technologies.

Specificities of remote work regulation in the Republic of Belarus and labor legislation methods of IT industry development. The law of the Republic of Belarus defines the remote work in Art. 307¹ of the Labor Code as the work performed by a worker outside the location of the employer using information and communication technologies for labor activities and interaction with the employer. Unlike the Russian Federation, a remote employment agreement is concluded in the Republic of Belarus only under the condition of such a worker's personal attendance. This can make it difficult for a specialist residing abroad to choose this type of employment freely. The Belarusian scholars, specifically, K. L. Tomashevsky consider the rule regarding the remote worker's personal attendance at the time of concluding the remote employment agreement not quite justified, as the worker can reside far from the employer, including some place abroad (Tomashevsky, 2021b). In Russia in its turn the Labor Code provides for an opportunity to conclude a labor contract with a remote worker by exchanging the electronic documents which does not require the worker's personal attendance and simplifies recruitment options regardless of the employee's actual place of residence.

However, in the Republic of Belarus the legislator treats such issues as labor protection of remote workers more liberally providing for the only obligation of an employer in the Labor Code – to inform a remote worker with the requirements regarding labor protection for them to use the equipment or tools provided or recommended by the hirer. The remaining obligations of a hirer in terms of labor protection may be provided for (or not provided for) with a labor contract. Such an approach, on the one hand, practically strips the remote worker of any significant guarantees in the field of labor protection, but, on the other hand, it makes it as easy as possible to use the potential opportunity of staying within another jurisdiction while performing employment duties and remaining the subject of labor relations regulated by the labor legislation of the Republic of Belarus. The last is confirmed, among other things, with a direct instruction in Art. 307² of the Labor Code of the Republic of Belarus specifying that the place to conclude the labor contract with a remote worker is always a place of the employer's residence.

As for the opportunities of remote work from abroad in accordance with the Belarusian legislation, on March 16, 2022, IT companies of Belarus received respective explanations from the Ministry of Labor and Social Protection of the Republic of Belarus (Voinich, 2022). The Ministry explained that the issue lies under cognizance of labor contract parties that can restrict the remote work on the territory of the Republic. However, as it stems from the aforementioned explanation, there is nothing to restrict the remote work abroad aside from the parties of the labor contract.

Such an approach is quite new for the Republic of Belarus, and such a liberal attitude has not always existed. Until 2022, the Ministry of the Republic of Belarus used to give other arguments to the companies explaining the negative attitude to the opportunity in question not unlike the Russian Ministry of Labor and putting an emphasis on the fact the legal protection of such a worker can be ensured on the territory of the Republic of Belarus only due to the existing rules of the legislation in the area¹⁵. However, the Ministry of Taxes and Duties of the Republic of Belarus and the Social Protection Fund gave explanations regarding the issues of payment for the labor of remote workers residing abroad as early as in 2019¹⁶.

As for an opportunity to pay the wage in cryptocurrency in Belarus, it is hardly legal nowadays. Despite quite extensive opportunities for the cryptocurrency turnover in Belarus provided due to Decree No. 8¹⁷,

¹⁵ Is Telework from Abroad Legal? An It Company Received Answer from SPF. Available at: <https://devby.io/news/remote-fszn> [Accessed: 12 October 2022].

¹⁶ Good News from MTD: Telework from Abroad Will Not Affect Taxes. Available at: <https://devby.io/news/mns-remote> [Accessed: 12 October 2022].

¹⁷ Decree of the President of the Republic of Belarus No. 8 'On Development of Digital Economy' dated March 18, 2017. Available at: <http://law.by/document/?guid=3871&p0=Pd1700008e> [Accessed: 15 October 2022].

according to Art. 74 of the Labor Code of the Republic of Belarus, the wage shall be paid in the Belarusian monetary units only, i.e. Belarusian rubles. The Republic of Belarus, just like Russia, faces the problems of transferring money abroad arising from the sanctions restrictions. The exception is only the settlement of payments between the individuals staying within these two countries.

Opportunities for 'digital nomads' in the Republic of Kazakhstan. The Republic of Kazakhstan became the first EAEU member state that introduced a chapter on remote work into the Labor Code in 2012 (Zhurunova, 2012). In 2021, a respective chapter of the Labor Code was amended, though the amendments still did not regulate the issues of remote work abroad as suggested by some representatives of the legal community of the country (Kolesnikova & Aimak, 2022). However, just like in the Republic of Belarus, the Ministry of Labor and Social Protection of the Republic of Kazakhstan gave written explanations regarding the opportunities for remote work from abroad according to the rules established by the legislation of the Republic of Kazakhstan (Kolesnikova & Aimak, 2022). Though, just like in all the EAEU member states, the letters of public agencies shall not constitute normative legal acts and, therefore, shall not create a proper ground for legal regulation. The standpoint of the Ministry of Labor of the Republic of Kazakhstan is indirectly confirmed with a new version of Art. 28 of LC of RK which specifies that 'in case of remote work the work site is not specified unless of mixed remote work'; therefore, no actual location of an employee is excluded, one abroad as well.

Some isolated insignificant hindrances for application of remote work of foreigners in Kazakhstan include the following specificities of remote work legal regulation. Firstly, Art. 138 of the Labor Code of the Republic of Kazakhstan specifies that the employer's obligation is to provide means of communication to the employee with their subsequent maintenance or a compensation for the use of employee's means of communication as well as a refund of other expenses related to the work for the employer based on the parties' agreement (Shuraleva, 2019). While it is complicated, but possible to pay the compensation, even through a conversion of expenses incurred in a foreign currency, actual payments abroad do not seem possible at all. That said, the mechanism of compensation of expenses incurred is complicated not only with the fact that they shall be compensated in the RK currency, though the expenses were incurred in a foreign state, but with the difficulties associated with documentary confirmation of such expenses unless their amount is not set forth in the labor contract itself without requiring any documentary support.

Secondly, Cl. 7, Art. 138 of the Labor Code of the Republic of Kazakhstan provides for the employer's fulfillment of a few obligations to the remote worker in the field of labor protection that appear problematic to be fulfilled in certain cases when the remote worker actually resides abroad. For example, like the investigation of an occupational accident (like in RF) and mandatory regular (throughout the labor activity) medical examinations and pre-shift medical clearance in the cases specified by the agreement, the collective contract and the legislation of the Republic of Kazakhstan.

As for the currency of the wage paid to a remote worker of the Kazakh company working from abroad, here are some options. In the letter of the National Bank of the Republic of Kazakhstan No. 21047/3129 yur dated October 23, 2008, it is specified that 'according to Articles 14–15 of Law No. 57-III of the Republic of Kazakhstan 'On Currency Regulation and Control' dated June 13, 2005, the currency transactions between residents and non-residents, including wage payment in a foreign currency, shall be performed pursuant to the procedure established by the currency legislation'. Thus, the legislation of the Republic of Kazakhstan provides the Kazakh employer an opportunity to choose the currency (national or foreign) when paying the wage to the foreign employee (Osetrova, 2022).

Since a foreigner working remotely from abroad is not subject to the mandatory pension insurance, their wage shall not be liable to charges for this kind of insurance. However, the employer calculates, withdraws and remits the social tax in the amount of 11% within their jurisdiction (Osetrova, 2022).

Today's state of affairs in the field of remote work legal regulation in the Republic of Armenia and the Kyrgyz Republic. Nowadays, the Labor Code of the Republic of Armenia does not regulate the remote work at all, except for Art. 106.1 introduced due to a need of employees for a temporary switch to the remote work because of the COVID-19 pandemic. Though the application of remote work from abroad is nowadays relevant for the Republic of Armenia largely because of its status as a 'host country' for 'digital nomads' (Tomashevsky, 2021a).

There are also no regulatory provisions on the remote work in the labor legislation of the Republic of Kyrgyzstan. A need for closing this legal gap has been noted by Kyrgyz scholars (Ramankulov, 2019).

Despite a lack of legal regulation in both countries, the remote work (telework) is largely used judging by the job sites.

Conclusion

Nowadays, levels of remote work regulatedness in different EAEU countries vary significantly (Pryazhennikov, 2021). From a lack of special regulation in Armenia and Kyrgyzstan to some chapters with various amounts of details in labor codes of other EAEU member states.

Remote employment of IT specialists abroad can be arranged so that such a worker does not become a working migrant. Such a specialist can work for the employer located abroad without leaving their country of residence (not citizenship). No laws of the EAEU member states provide for a special status in such a case, since to receive the status of a migrant worker a citizen of another state shall not only enter the country for subsequent employment, but also to work on its territory. However, a more complicated situation is easy to imagine – one where a citizen of one country works remotely for the employer located in another country while staying (residing) on the territory of the third country. So, currently all or at least some EAEU member states face the following problems preventing efficient use of human resources abroad on a remote basis – the problems that should be solved by one of means suggested below.

1. Nowadays, there are no conflict rules in the labor codes of EAEU member states that could have allowed solving the problem of the transboundary application of labor legislation. This problem has been studied in the legal science multiple times already (Shesteryakova, 2010). Here can be considered an approach providing for an opportunity to apply the laws of the country where the labor contract was concluded (the place of employer's residence) for transboundary labor, unless otherwise agreed by the parties in the framework of the labor contract.

2. The legal orders that provide for a lack of alternatives for in-person conclusion of a labor contract with a remote worker (e.g. in the Republic of Belarus) shall provide for an opportunity to introduce the electronic workflow (in a broad sense of this word) (Golovina & Zaitseva, 2022).

3. A list of employer's obligations in the field of labor protection for a remote worker shall be treated more thoroughly. The existing responsibilities shall be revised, the feasibility of their fulfillment for a remote worker shall be assessed (despite the actual place of the worker's stay). Besides, special rules for investigation of occupational accidents with remote workers in case they work while actually staying abroad shall be regulated. Perhaps, that is where a wider application of the electronic document flow and/or rules of installment of special software on a PC shall be considered in order to supervise the employee in terms of observance of safety regulations and/or labor discipline (which is partially already provided for in some countries).

4. Some questions regarding taxation may arise, though they shall be solved based on agreements on double taxation prevention and synchronization of tax legislations of EAEU member states, establishment an efficient mechanism of supranational and national legal and regulatory frameworks (Mambetaliev & Mambetalieva, 2015). The main issues in this field are resolved with the Treaty on the Eurasian Economic Union (Art. 98)¹⁸. Meanwhile, the problem of improper fulfillment of fiscal liabilities by a citizen of an EAEU member state may arise in case they move between countries actively which prevents them from obtaining the status of a tax resident.

5. Active steps are required to create a single payment area, including the Faster Payments Systems. Nowadays, due to multiple reasons, it is premature to speak about payroll processing through cryptocurrencies. And, since in most EAEU member states cryptocurrencies are not legitimate means of payment nowadays, even though used in practice by some employers to circumvent the restrictions imposed by the Western countries while violating national laws. Another reason is that foreign cryptocurrency exchanges supported the financial sanctions which resulted in a low level of the worker's security when these very risky financial tools are applied for payment.

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