



Immigration law and practice in the African oil and gas industry

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A global economy requires multinationals to adopt a global business strategy, which invariably involves the need to transfer a firm's most important asset – its people – in a fluid way across national borders. That is why managing the mobilization of expatriate employees in the most efficient way, including handling strategic immigration, labor and tax legal issues, is critical for the oil and gas industry.

Companies must comply with the rules of hiring foreign workers imposed not only by labor laws, but also by other regulations, including immigration and tax legislation. When you need to allocate foreign staff to a project, there are some initial questions that need to be answered:

- Is there a need to register a legal entity in the country in order to be entitled to the proper documents for foreign staff?
- If I need to register in the country, which type of legal entity should I incorporate?

These questions need to be addressed as part of the planning process, before the mobilization of staff. The answers to these questions and others will help you to define a mobilization plan.

When planning for mobilization, one should bear in mind that many African jurisdictions have specific challenges, among them:

- There is a lack of regulation or lack of clarity on the interpretation of regulations. When that happens, normally the interpretation of the authorities, often restrictive, will prevail. This often requires the assistance of a lawyer to intervene to press for a more permissive interpretation, consistent with the law, in order to avoid bureaucratic delays.
- The protectionist interpretation of laws in favor of national workers to the detriment of foreign workers is another challenge in many African jurisdictions. In Mozambique, for example, although the labor law applies to all workers, regardless of nationality, the labor authorities have a tendency to avoid the application of certain rules that would facilitate the hiring of foreign staff. Alert and timely intervention is often needed.
- There is a lack of technical capacity among the civil service in processing work permit applications. This often leads to delays in issuing work permits, with legal deadlines effectively ignored. Regular insistence is needed to ensure that a client's application does not sink into a bottomless pile.

Good immigration law and practice is a mobilization pillar for oil and gas projects in Africa. It depends on getting sound, timely advice when creating the mobilization plan, including options on hiring expats under the legal system as well as labor and strategic tax information. Firms should avoid hiring service providers that cope with new, extemporaneous requirements by public officials by rolling over rather than demonstrating that the new requirement is not consistent with the law. A single-case strategy that might work in the short term will complicate the firm's hiring goals in the longer term.

Riskier still are providers that handle such challenges with bribes or corruption; they may ensnare the firm in criminal violations in both local and domestic jurisdictions. Make sure the lawyers you hire in this domain are licensed, insured and qualified to deliver the services you seek, and that their law firm has adopted internal anti-bribery and corruption policies consistent with your own.

Immigration law and practice in the oil and gas industry in Africa is not simply a matter of pushing paper for visas and work permits; it starts with building a realistic mobilization plan against the backdrop of a challenging civil service environment. The oil and gas business depends first and foremost on its people, and having them in the right place at the right time is crucial. Forward human resource planning, including for immigration and labor purposes, is integral to a project's success.

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