

SUMMARY

Detailed regulations on recruitment and management of Vietnamese employees working for foreign organizations and individuals in Vietnam.

MOLISA is drafting a decree on recruitment and management of Vietnamese employees working for foreign entities/ organisations and individuals in Vietnam. The concept of foreign entities/ organisations is not clearly defined under the Labor Code 2019. However, traditionally, they are (i) foreign diplomatic missions (ii) international organisations, (iii) offices of NGOs in Vietnam; and (iv) representative offices of offshore companies (foreign traders). Generally, these organisations are required to use authorized service providers for recruitment of Vietnamese employees.

The draft decree adds another category of foreign invested companies having 51% investment capital or more owned by foreign entities/ individuals. In particular, there is the Point e, Clause 2, Article 2 regarding applicable entities stipulates: "***Economic organizations with foreign investment capital of 51% or more of the organization's charter capital***". So simply, if you are a wholly foreign owned company, and you need to recruit a Vietnamese employee, you cannot directly recruit him or her any more, you are required to use an authorized head-hunter.

It is unreasonable to require the company to go through a recruitment agency appointed by the Ministry of Labor, Invalids and Social Affairs or the Ministry of Foreign Affairs. This regulation slows down the recruitment process of enterprises, losing autonomy in recruitment and human resource training. This directly slows down the recruitment of Vietnamese human resources, and loses the competitive advantage of Vietnamese workers compared to workers in other countries.