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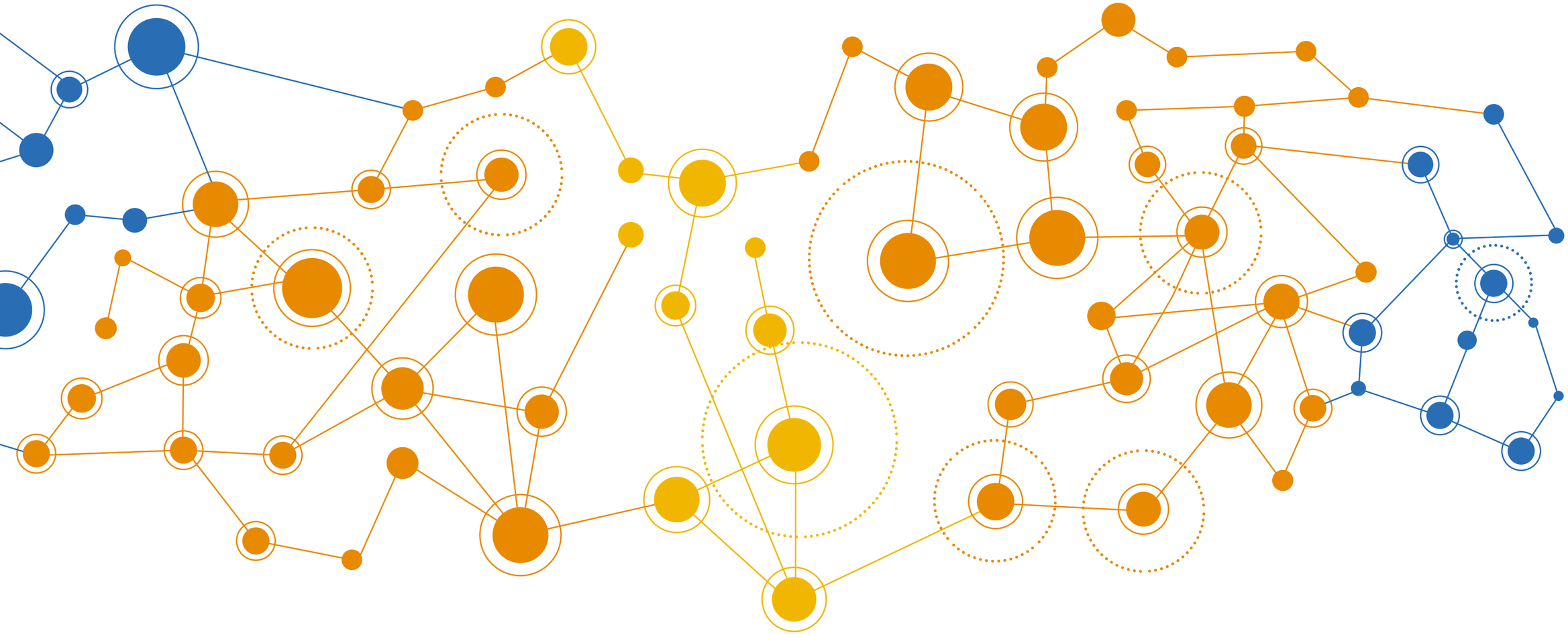

EUROPEAN GUIDE

To International Mobility

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INTRODUCTION

The internationalisation of business has resulted in the growing need for companies to relocate their staff overseas. There is also increasing diversification of assignment types, with international secondments and shorter-term assignments now being the norm. Effective international mobility of personnel has therefore become a major task facing any international or expansion-minded business and getting joined up advice in this area is an even greater challenge.

There are numerous **personal and organisational advantages** to moving people overseas, such as career development: gaining international experience; the creation and transfer of skills, the re-allocation of resources or building inter-cultural literacy.

There are, however, significant challenges too. These challenges fall into **two major categories:**

Individual

the desire, suitability, capability, perceived safety and family situation of the person / people involved.

Systemic

the logistical challenges, financial implications, security risks, organizational upheaval and legal and tax compliance required to move people efficiently between locations.

These challenges are enhanced, or lessened, according to the location to where the person is moving. It is important, therefore, for companies considering the international mobility of personnel to be aware of these differences, especially when it comes to varying employment, tax and immigration laws and regulations.

In order to help companies navigate this environment, this Guide asks **five fundamental questions** with regards to the laws and regulations governing international mobility and provides answers with respect to 22 countries across Europe.

In the first section, the guide provides a **summary of the main mobility issues** you need to be aware of with respect to each country. In the second section, the guide goes into **more detail on these five questions** as they relate to each country.

Please note: this guide is for general information purposes only and is not intended to provide comprehensive legal advice. For more information, or for detailed legal advice with respect to a particular country, please contact the relevant lawyers listed at the start of each country chapter. The information contained in this guide is accurate as at 1 March 2017. Any legal, regulatory or tax changes made after this date are not included.

- Does your employee need a work permit?
- Which specific mandatory employment conditions apply?
- Which Social Security system is applicable?
- What happens in cases of termination of the assignment?
- Is the employee liable to pay taxes in the country?

Summary of Key Issues

The following provides a summary of the key issues that those responsible for international mobility need to know with regards moving people to different countries around Europe.

Austria

1. Nationals of EEA countries are allowed to work without a work permit; third country nationals including Croatian nationals need a work permit that has to be applied for by the prospective employer at Public Employment Service Austria.
2. Foreign employees are in general entitled to Austrian social security benefits, exceptions would be specified in bilateral agreements.
3. Foreign employees who spend more than six months a calendar year in Austria are most likely to be subject to Austrian income taxation.
4. Employees posted to other countries have a right to be paid at least the statutory payment laid down by decree or by collective bargaining agreement.
5. Determination of the applicable law must not derogate from the mandatory provisions of Austrian employment law.

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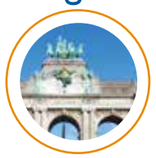
Belgium



1. Nationals of EEA countries including their family members and non-EEA nationals holding an indefinite residency permit may work without a work permit; for third country nationals and employees, a work permit is granted if a "labour market test" is passed.
2. A foreign employee is, in general, entitled to Belgian social security benefits. Exceptions would be specified in bilateral agreements.
3. Due to double-tax treaties with several third countries employee´s, tax issues should be verified on a case-by-case basis.
4. Foreign employers posting workers to Belgium must meet the general provisions for working conditions and remuneration. A failure would be sanctioned under Belgian law as a public offence.
5. Temporary secondments to Belgium will not be influenced by the laws of Belgium.

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Bulgaria

1. Highly qualified employees from third countries may obtain a work permit by a simplified and faster procedure.
2. Bulgarian social security provisions apply to a person employed by, and carrying out work for, a local employer; exceptions would be specified in bilateral agreements.
3. Being a natural person, an employee is a so-called "fiscal-resident" subject to Bulgarian taxation, if residing in Bulgaria for more than 183 days per each 12-month period.
4. Employment of foreigners as "highly qualified employees" is accepted only if remuneration has been at least 1.5 times above the average salary for Bulgaria for the past 12 months.
5. In case of employment contract termination, the Employment Agency must be notified in a 3-day term.

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Czech Republic

1. Under the Employment Act citizens of Member States of the EU and their family members are not deemed to be foreigners and, in accordance with this act, they have the same legal status as Czech citizens.
2. According to Czech legislation, foreigners who are subject to the Czech social security system have to obtain a specific Czech identification number.
3. Czech double-tax treaties define a foreign individual as a Czech tax resident if he / she has a permanent home in the Czech Republic, a strong personal and / or economic connection to the Czech Republic, a habitual place in the Czech Republic or was granted a Czech citizenship.
4. Double-tax treaties may stipulate the conditions for full exemption of income from Czech income tax.
5. The employment relationship between a foreign employer and the foreigner who is posted to carry out work is usually governed by the law of the country where the foreign employer has its registered office.

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Denmark

1. The grounds for a foreigner working in Denmark depend on the person's citizenship. Citizens from EU / EEA countries or Switzerland are entitled to reside and work in Denmark without a permit. Citizens outside these areas need a permit.
2. As a general rule, the employee will be covered by Danish social security when working in Denmark.
3. The employee will be liable to pay tax to Denmark when working in Denmark.
4. Certain mandatory Danish employment rules will apply irrespective of which law governs the employment.
5. The consequences of a terminated assignment between the parties depend on the applicable law, although certain mandatory Danish rules apply. The employee's permit will usually be revoked when the assignment is terminated.

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Finland

1. The grounds for the right to work in Finland depend on the citizenship of the foreign employee, what work the employee is to perform in Finland and for how long of a period. As a rule, a person intending to work in Finland needs to have a residence permit based on employment granted by the state. However, citizens of the EU, the EEA countries (Norway, Iceland, and Liechtenstein), and Switzerland are entitled to work in Finland without a residence permit for an employed person.
2. As a general rule, eligibility for Finnish social security benefits is based on residence in Finland. With certain exceptions, all permanent residents are entitled to social security benefits.
3. The employee's liability for taxes in Finland is largely defined by the duration of stay and whether the employer is considered a Finnish employer or a foreign employer. If the stay is temporary, the employee is treated as a tax non-resident and employment income is subject to tax at source. Regarding assignments of six months or more, the employee is treated as a Finnish tax resident.
4. The employment relationship of a foreign employee is generally subject to Finnish labour legislation, but in international employment relationships the choice of law must be evaluated on a case-by-case basis. Even though a foreign law would apply to the employment, the minimum terms and conditions of employment and working conditions for workers posted to Finland are provided for in the Posted Workers Act.
5. It is recommended to agree upon what happens when the assignment ends and according to which arrangements the employee shall return to his / her country of origin.

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France

1. **Most** non-EU / EAA nationals need both a work permit and a residence permit which has to be applied for at the same time and prior to the employee´s entrance into France.
2. **Given** the high level of social security contributions in France (45% employer and 20% employee) companies often try to avoid the French social security regime.
3. **If** stock options or similar incentive plans are granted, exercised or sold to / by the employee during his assignment in France, this situation might lead to taxation in France.
4. **France** grants specific tax incentives to employees (including presidents, general managers…) recruited from abroad to work in France where they are tax resident during their assignment. Provided that several conditions are met, the following portions of income are tax exempt during for eight years:
   i. the portion of the total compensation corresponding to the expatriation bonus (in cash or in kind) (with a possibility, under certain conditions, to evaluate the said bonus to 30% of the total compensation), and
   ii. the portion of the compensation relating to business trips outside France. For employees who can benefit from both tax exemptions, a cap is applicable.

   In addition, interest, dividends, certain royalties and capital gains on portfolio assets are exempt from income tax on 50% of the amount received by the employee, during the above mentioned period of time, provided that the said incomes are paid outside France. The conditions to maximise the above mentioned benefits are quite sophisticated and usually require appropriate wording in the employment contract.
5. **If** foreign provisions that are more favourable for the foreign employee are applied the French mandatory provisions may be superseded.

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Germany

1. **Besides** EEA-nationals, nationals of Australia, Israel, Japan, Canada, the Republic of Korea, New Zealand and the USA can enter Germany even without a visa and apply for a residence permit as a sufficient entitlement to work before taking up employment.
2. **Since** 1 August 2012, foreign nationals with a recognised university degree have easier access to the German labour market under the EU Blue Card system.
3. **For** highly qualified foreign nationals with a background in Mathematics, IT, Natural Sciences or Technology as well as Medical Doctors, the Blue Card conditions also apply if their remuneration amounts to at least €38,688 (valid for 2016).
4. **If** the residence or permanent address (more than 182 days a year) is in Germany, EU / EEA nationals and third country nationals are fully liable to German taxation.
5. **If** the approval by the Federal Employment Agency was required to get access to the German labour market the termination of the employment has to be reported to the Federal Employment Agency immediately.

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Greece

1. **The Greek** Immigration and Social Integration Code stipulating the right of residing and working in Greece is applicable to third-country nationals.
2. **Third-country** nationals are required to hold a valid national visa in order to legally enter Greece and apply for a residence and work permit.
3. **Due** to an extensive restructuring of the Greek social security system, the competent social security institution for all employees will be EFKA (translated into: Unified Entity for Social Security) from 1 January 2017.
4. **Companies** who post employees to Greece shall ensure the terms and conditions of employment provisions as applicable in Greece.
5. **If** the employee has been granted a residence permit due to his / her employment, then in case of termination of the assignment, the residence permit will be revoked or at least not be renewed.

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Hungary

1. **Although** nationals from EEA countries and their family members are exempt from the obligation to obtain a work or residence permit, their employer is required to report certain data to the employment centre.
2. **No** work permit is required for (i) managing directors or supervisory board members of Hungarian companies with foreign shareholders; (ii) for carrying out work that involves commissioning, warranty repair, maintenance or guarantee service activities performed on the basis of a private contract with a business entity established in a third country, if it does not exceed fifteen working days within a thirty-day period at any given time; (iii) for education activities in primary, secondary and tertiary educational institutions in a foreign language, if performed under a recognised international education program; (iv) for activities in the field of education, science or art for not more than ten working days per calendar year.
3. **Hungary** has entered into tax treaties with many countries which follow the tax regime under the OECD double tax treaty model.
4. **Certain** mandatory provisions of Hungarian law (including collective agreements) are applicable to an employment relationship that is not governed by the Hungarian Labour Code, while Hungarian legislation or jurisprudence has not yet determined which provisions of the Hungarian Labour Code will qualify as "overriding mandatory provisions" as defined under Article 9 of Regulation (EC) No 593 / 2008 of the European Parliament and of the Council.

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Ireland

1. **The two** most popular work permits are the Critical Skills Permit, designed to attract highly skilled people into the labour market with the aim of encouraging them to take permanent residence in the State and the Intra Company Transfer Permit, designed to facilitate the transfer of senior management, key personnel or trainees who are non-EEA nationals from an overseas branch of a multinational corporation to the Irish branch.
2. **For** all work permits it has to be proven to the Department of Jobs, Enterprise and Innovation that at the time of application at least 50% of the employees in the Irish entity are EEA nationals.
3. **Foreign** nationals working legally in Ireland are entitled to the full range of statutory employment rights and protections in the same manner as an Irish worker.
4. **"Posted Workers"** – individuals employed in one EU member State but posted to another Member State by their employer for a temporary period are guaranteed the same minimum protection as employees in Ireland.
5. **Employees** will be subject to taxation in Ireland if:
   i. 183 days or more are spent in Ireland for any purpose in that tax year
   ii. they spend 280 days or more in Ireland for any purpose over a period of two consecutive tax years.

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Italy

1. **Entrance** into Italy for subordinate work, seasonal work or self-employment is granted only within the framework of entry quotas established in periodic decrees (usually annual), the so-called 'decree-flows' ("Decreto Flussi"), issued by the President of the Council of Ministers on the basis of the criteria.
2. **The foreign** employee or a stateless person who works in Italy, must be insured in accordance with Italian regulations.
3. **For the purposes** of income tax, a person is considered resident if he / she is registered in the municipal registry of residents for at least 183 days (184 for leap years), and has the principal place of business and interest or the residence in Italy.
4. **Regardless** of the national law applicable to the employment relationship, companies guarantee foreign employees the same terms and conditions of employment applied in that Member State.

MORE DETAILS ON PAGE 37

Netherlands

1. As of 1 April 2014, foreign nationals from outside the EEA must apply for a combined residence and work permit ("GVVA") if they intend to work in the Netherlands for longer than three months.
2. In case the foreign employee is a non-EEA citizen and the Netherlands do not have a bilateral agreement with the home country, the question which social security system(s) is (or are) applicable depends on both Dutch and foreign law.
3. Dutch tax authorities can issue a so-called 30%-ruling: The 30%-ruling is a special tax regime for highly skilled migrants transferred to The Netherlands or recruited from abroad to work in The Netherlands. If a foreign employee meets certain requirements, the employer can grant the employee a tax-free allowance as a reimbursement for the additional costs of a temporary stay outside the home country. The granted tax-free expense allowance can add up to a maximum of 30% of the gross salary.
4. The Netherlands implemented Directive 96 / 71 / EG (the Posting of Workers Directive) in 1999 with the Terms of Employment (Cross-Border Work) Act (the "WAGA").
5. While it is, in principle, not allowed to unilaterally terminate an employment agreement without prior approval of the government or the judge, it is advisable to agree that the assignment can be terminated without prior notice in which event the employee shall return to his home country where the original employment conditions and the laws of the home country will resume.

MORE DETAILS ON PAGE 41

Poland

1. Non-EU / EFTA citizen the company should obtain a work permit; unless exempt from the obligation to hold a work permit (e.g. holds the Card of the Pole, is a student of a full-time studies in Poland or has graduated from such studies in Poland, holds a permanent residence card issued in Poland; there are also some exemptions for citizens of neighbouring countries). Work permits are issued on the employer's request for an indicated foreigner and for a specified period (not more than three years but it can be renewed).
2. Based on the work permit, the foreigner should apply for a visa with a right to work at the Polish consulate in the country of his / her origin. One year is a maximum period of validity of a long term visa.
3. As a general rule, the social security system of the country where employee performs work is applicable. EU law (especially Regulation No. 883 / 2004) allows for the home country social security system to remain applicable. Also exemptions may also result from bilateral agreements executed between Poland and other countries (e.g. USA, Canada, Australia, Ukraine).
4. In general, every person whose place of residence is located in Poland should pay personal income tax in Poland. A person is treated to have a place of residence in Poland when his / her "centre of personal and economic interests" is in Poland and / or who stays in Poland for a period longer than 183 days a year. Foreigners who are not Polish tax residents are obliged to pay taxes in Poland only on the income obtained in Poland.
5. In principle, parties are free to determine the applicable law to their employment relationship, as long as they do not derogate from the mandatory provisions of the laws of the land where the employee usually works (lex loci labori). In case of posting employees to Poland, the rules on posting of workers are specified in the Secondment Directive. According to the Act its provisions are applicable not only to employers whose company is registered in one of EU member states but also to companies registered outside of EU.

MORE DETAILS ON PAGE 43

Portugal

1. Third-country nationals should obtain a work visa in order to work in the Portuguese territory.
2. Most common work permits are (i) temporary stay visas for carrying out an employed or self-employed activity of a temporary nature; (ii) temporary stay visas for the transfer of employees who are nationals of States that are part of the World Trade Organisation and who have been transferred for purposes of providing services or taking part in vocational training in Portugal; and (iii) residence work visa. There are also special types of visas for highly qualified or skilled persons (both temporary stay visas and residence visas).
3. Each type of visa has its own specific conditions for granting and special procedures to follow.
4. To apply for a residence work visa, the employer must declare the intention of hiring the foreign employee to the Portuguese Employment Institute - Instituto de Emprego e Formação Profissional (IEFP) – in order for the Institute to ensure that the job vacancy has not been occupied by a citizen with preferential rights (i.e., unemployed citizens registered at IEFP).
5. Income obtained by foreign employees will be taxed at progressive rates that vary from 14.5% to 48%, according to the respective taxable income bracket, plus the PIT surtax up to 3.21% (during 2017) and, eventually, a solidarity surcharge of 2.5%, applied to the taxable income between €80,000 and €250,000, and 5%, to the taxable income higher than €250,000.
6. The Portuguese Labour Code implemented the Secondment Directive, setting forth that employees assigned to work on Portuguese Territory are entitled to the employment conditions provided by law and collective bargaining agreements, regarding certain matters.

MORE DETAILS ON PAGE 45

Romania

1. A request for an employment or secondment permit must be filed by the employer / beneficiary of services rendered with the Immigration Authority and is to be answered within 30 days.
2. For determining the capacity of a resident or non-resident, any natural person who arrived in Romania and stays for more than 183 days during any 12 consecutive months must fill in a standard form with the tax authorities.
3. Directive 96 / 71 / EC has been implemented in Romanian by means of Law no. 344 / 2006 regarding the posting of employees in the framework of the provisions of services.
4. Under Romanian law, foreign companies (not established in EU / EEA / Swiss Confederation) posting employees on the Romanian territory as well as foreign employees working in Romania may benefit from equal treatment.

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Russia

1. In order to engage a foreign employee in the Russian territory, the employer should obtain a permit for engagement and use of foreign employees, and the foreign employee himself has to obtain a work permit.
2. Permits to work in Russia, and corresponding invitations for entry into Russia, are limited by a quota established by the Government of Russia.
3. Most foreign employees must have medical insurance during their stay in Russia, either at their own expense or at the expense of the employer.
4. For foreign citizens who are not Russian tax residents (who reside in Russia for less than 183 days within 12 consecutive months) the tax rate is 30%, and for Russian tax residents and foreign highly qualified specialists regardless of their tax resident status the tax rate is 13%.
5. Salary must be paid at least every half-month.

MORE DETAILS ON PAGE 49

Slovakia

1. Slovakian law provides for over 15 exceptions to the general work permit requirement – it is recommended to check the eligibility of the particular foreign employee for any statutory exception.
2. The most important categories of employees eligible for a work permit are highly skilled persons in an area of the education, science, technology and research, leading management personnel or personnel working for businesses in Slovakia having a "strategic investor" status.
3. Slovak authorities are reluctant to issue work permits if the relevant job position may be occupied by a Slovakian national registered at the list of unemployed job seekers.
4. To take advantage of the social security system of the home country, the employer needs to obtain and submit to the Slovakian authorities a certificate of coverage by the social security authority in the home country.
5. Only Slovakian residents (i.e. persons of any nationality with a permanent residence in Slovakia or who stays in Slovakia for at least 183 days in the relevant calendar year) are taxable in Slovakia and should declare their worldwide income in Slovakia.
6. The Act No. 311 / 2001 Coll., the Labour Code, as amended, is the implementation of the Directive 96 / 71 / EC in Slovak law.

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Spain

1. In general, most non-EEA citizens require a permit to work on Spanish territory regardless of the nationality of their employer.
2. One of the most recent alternatives to obtaining a work and residence permit in Spain is the Golden Visa or Investor Visa, introduced in 2013 with the aim of stimulating foreign investment in the country; under the golden visa regulation any non-EU / EEA citizen who meets the requirements and invests at least €500,000 in real estate, among other kinds of investments, would be granted a work and residence permit, extendable to his / her family members, for the entire time the investment is maintained.
3. The only exception is applicable to the employees temporarily assigned in Spain coming from an EEA country, Switzerland or a third country with a bilateral agreement on social security in force with Spain (which are The United States of America, Australia, Mexico, Japan, Russia, Brazil, Argentina, Colombia, Ecuador, Venezuela, Korea, Uruguay, Dominican Republic, The Philippines, Chile, Morocco, Tunisia, Cabo Verde, Paraguay, Peru, Ukraine and Andorra).
4. There is a special tax regime for foreigners going to work on assignment in Spain. Under that regime, they are only taxed in Spain on Spanish income at a rate of 24 percent up to €600,000 (2015 and 2016).
5. Employees living in Spain for six months (183 days) or more of the calendar year (not necessarily consecutively) or having their main 'vital' interests in Spain (e.g. their business or their family) will be classed as Spanish residents for tax purposes.
6. Directive 96 / 71 / EC, concerning the posting of employees in the framework of the provisions of services was implemented in Spain in Law 45 / 1999.

MORE DETAILS ON PAGE 53

Switzerland

1. While Switzerland is not part of the European Union, it has signed the Agreement on the Free Movement of Persons (AFMP) with EU / EFTA member states, which lifted the restrictions on EU / EFTA citizens wishing to live or work in Switzerland; the AFMP came into force on 1 June 2002 and has been extended to newer EU member states as well.
2. Switzerland enforces strict quotas of work permits vis-à-vis non-EU / EFTA nationals as well as certain permits concerning EU / EFTA nationals.
3. Generally, foreign employees need to apply for a work permit in order to be allowed to work within Switzerland.
4. Nationals of any of the EU / EFTA member states and their family members do not need to apply for a work permit but are granted a residence permit along with a work permit when they are taking up residency in Switzerland based on the AFMP, provided they are already in possession of a Swiss local employment agreement.
5. For EU / EFTA nationals the AFMP sets forth the principle that the employee is generally subject to the social security system of the state the employee works in (principle of "place of employment"); the social security system of the home country may prevail if certain conditions are met.
6. Individuals who stay in Switzerland for at least 30 days while being employed or self-employed are considered tax-residents; a stay of at least 90 days in Switzerland without carrying out any professional activity also constitutes a tax domicile in Switzerland.

MORE DETAILS ON PAGE 55

Turkey

1. Unless otherwise stipulated in bilateral or multilateral agreements to which Turkey is a party, all foreigners intending to work in Turkey are required to obtain a work permit prior to begin their employment.
2. Foreigners are prohibited from working in certain professions and occupations. They are not allowed to work (i) as attorney (ii) as notary public (iii) as security guard at private or public institutions (iv) as customs broker and assistant customs broker (v) as dentist and nurse (vi) as veterinarian (vii) as director in private hospitals.
3. A Turkish company who would like to recruit a foreigner is also required to meet certain criteria. These requirements are; (i) minimum of five Turkish nationals as employees (ii) minimum TL100,000 paid-in capital or alternatively minimum gross sales amount equal to TL800,000 (iii) the wage of the foreign employee being equal to a Turkish national.
4. With respect to taxation, a resident is considered a person whose place of residence is Turkey or a person who lived in Turkey for more than 6 months during a calendar year.
5. In case the employee obtains a work permit in Turkey, he / she will be part of the Turkish Labour Law system and therefore will have the same statutory obligations, duties and liabilities as a Turkish employee.

MORE DETAILS ON PAGE 57

United Kingdom

1. The UK operates a point-based system for migrants from outside the EEA and Switzerland, with different requirements for different visa categories (called "Tiers").
2. The UK also has special arrangements with all EEA countries and many countries outside the EEA that may mean that the employee can continue to pay social security contributions in the other country for a longer period – especially if the employee is working in more than one country.
3. Regarding taxation, the UK demands a statutory residence test ("SRT") according to which the number of days spent in the UK in any tax year (which runs from April 6 to April 5 of the following calendar year) is decisive.
4. In general, employees who ordinarily work, or are based in the UK, benefit from UK statutory employment rights.
5. The UK statutory protection against unfair dismissal will apply where the employee is ordinarily working in the UK at the time of their dismissal.

MORE DETAILS ON PAGE 59

AUSTRIA

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1. Does your employee need a work permit?

Nationals of EEA countries (EU Member-States including Norway, Iceland and Liechtenstein) are allowed to work in Austria without any further requirements (with the exception of Croatian Nationals, who still need a work permit due to transitional arrangements that run at least until 2020).

Third Country nationals need a work permit that has to be applied for by the prospective employer in Austria at Public Employment Service Austria (Arbeitsmarktservice). In addition, when the work permit is approved, it is advisable for the employee to apply for a residence visa to travel to Austria and start the employment.

The Act on the Employment of Foreign Workers provides for several different permits, each of them allowing foreign employees to work to a different extent and for a different time period (e.g. a red-white-red card may be issued to employees with key qualifications who earn at least €2,430 per month or graduates from Austrian Universities).

Basically, the employment service in Austria will issue the employment permit based on three criteria. The first criterion will involve an analysis of the current labour market situation and the consideration of whether the state of the market will benefit from the employee. Second, the employment service in Austria will determine whether issues of public policy sway against issuing the employment permit to the employee, taking into account the specific circumstances of the prospective employment contract. Finally, the employment service Austria will evaluate the employer and determine whether the employer is compliant with applicable working conditions, minimum wage requirements, and further the social security act.

Recommendations:

Please note that work permits are not granted while the prospective employee is on a visit to Austria and the permit should be applied for from abroad before commencing the employment in due time.

Once a temporary work permit has been approved the candidate should apply for a residence visa (type D). If the employee intends to stay longer than 180 days in Austria, the employee has to apply for a residence title (e.g. red-white-red card).

2. Which social security system is applicable?

When living and working in Austria the employee is entitled to social security benefits in most cases. Social security is obligatory, thus as a rule, nearly all occupational groups are liable to pay social security contributions and are thus entitled to social security benefits. Social security contributions are paid jointly by employers and employees. Employees' contributions are deducted monthly by the employer from gross wages / salaries.

Social security benefits in Austria cover inter alia unemployment, illness, invalidity, work accidents, work related illnesses, maternity, widowhood and pensions. There are various social security institutions; the competent insurance institution is determined by both the place of residence and occupation. Every person is assigned a social security number and a social security card (e-card) upon registration with the responsible social security institution.

Please note that based on coordination of social security systems within the European Union and certain bilateral agreements Austria signed with countries outside the European Union the social security system of the home country can remain applicable if certain conditions are met.

In that case, the employee should request a certificate of coverage from the social security authority in the home country to prove that social security contributions are being paid in the employee´s home country where the employee will continue to be socially insured. The employer and the employee will be exempt from paying social security contributions in Austria.

Recommendations:

Request a certificate of coverage from the social security authority in the home country of the employee.

3. Is the employee liable for taxes in Austria?

Under Austrian tax law, an employee is generally taxable with his worldwide income in Austria if he either has his residence or habitual place of abode in Austria. In principle, if the individual spends more than six months during a calendar year in Austria, he is subject to Austrian tax (unless bilateral tax treaties specify otherwise. Please note that more than 40 taxation treaties with European and overseas countries are in force to avoid double taxation). Once these six months have expired, tax residence is deemed to have commenced at the beginning of the stay in Austria. Citizenship is not relevant in determining residence.

Employees having neither their place of abode nor their normal residence in Austria are taxable only on the Austrian source income. This comprises income from employment if the work is or was performed or utilised in Austria or aboard an Austrian ship. Further if such income is granted out of domestic public funds in consideration for present or past employment in particular from social security pensions.

Recommendations:

It is the duty of the employer to deduct taxes as well as social insurance from wages / salaries and transfer it to the authorities.

The taxpayer's tax office should be notified of a termination of residence as well as a cancellation of residence certificate.

4. Which specific mandatory employment conditions apply?

Austria has very strict laws regarding the protection of employees and it can be deemed as employee-friendly.

Employees posted to other countries have a right to be paid at least the statutory payment laid down by decree or collective bargaining agreement which is paid to comparable employees of comparable employers in the place where they work.

The extension of wage inspections also includes considerable fines in the case of underpayment. This is designed to prevent wage dumping and so-called social dumping.

The standard working hours are eight hours per day, five days per week, but a lot of exceptions exist. Extra hours have to be paid.

Every year employees are entitled to 25 days of paid holiday. Employees can get paid more days off in certain cases (e.g. the employee´s child is sick at home, the employee relocates to a new apartment etc).

The aforementioned mandatory regulations can only be superseded by foreign provisions if these are more favourable to the employee.

Recommendations:

Make sure mandatory rules of Austrian employment law are complied with.

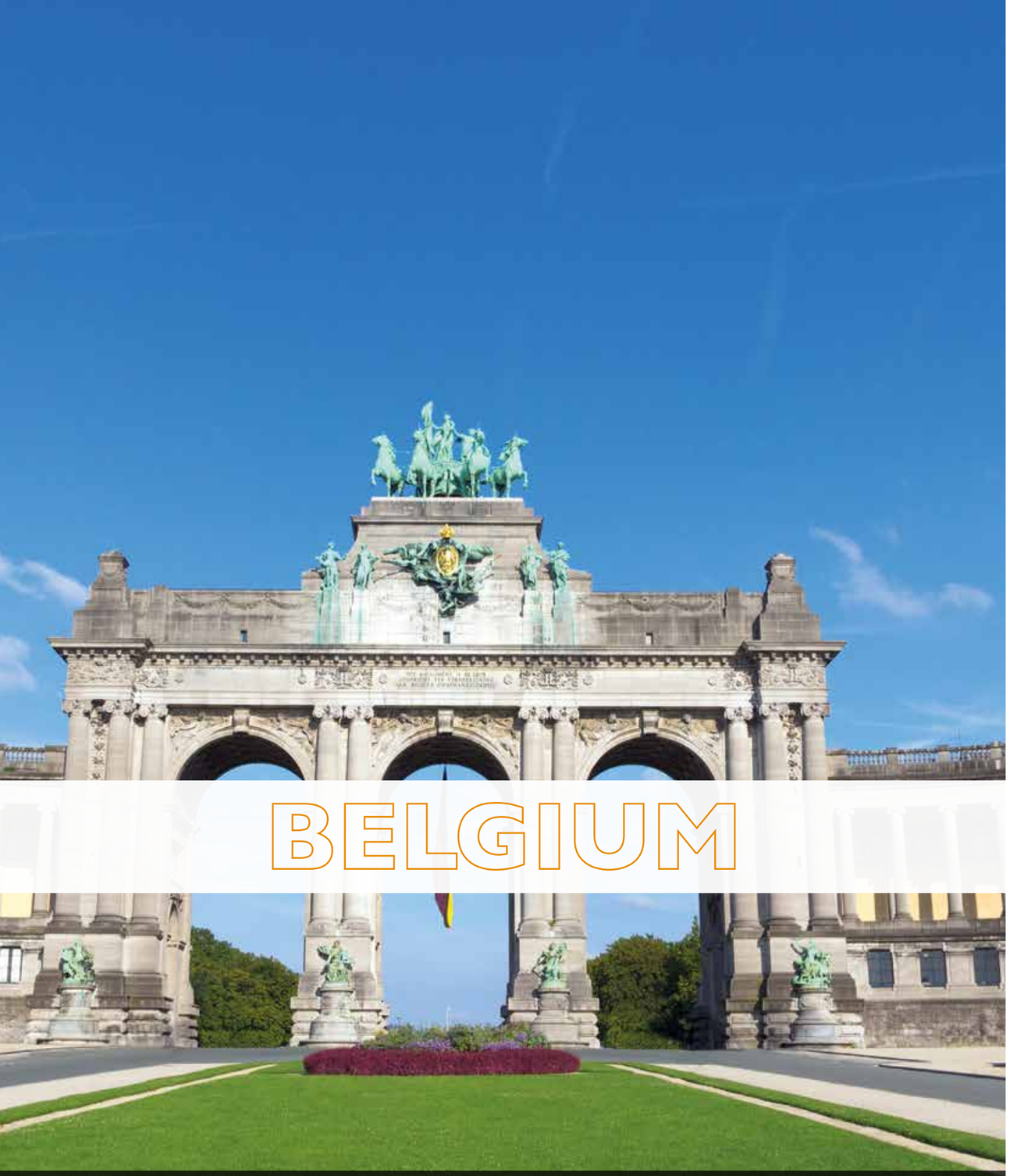
5. What happens in case of termination of the assignment?

Basically, parties of an employment contract are free to determine the applicable law to their employment relationship, provided they do not derogate from the mandatory provisions of Austrian employment law. In the absence of a choice of law agreement, the employment contract is subject to the provisions of Austrian employment law.

The usual termination period in Austria is at least six weeks and the employment contract can be terminated by the end of each month and by the 15th of each month.

Recommendations:

Make sure that the employment contract contains written provisions related to the termination of the assignment.



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1. Does your employee need a work permit?

In principle, foreign employees should obtain a work permit in order to be allowed to work on Belgian territory. A number of categories of employees, however, are exempt from obtaining a work permit. This exemption mainly regards nationals and their family members of any of the EEA countries (European Economic Area, i.e. the 28 EU Member-States, Norway, Iceland and Liechtenstein) as well as non-EEA nationals with a residency permit of indefinite term.

Work permits are only granted in exceptional circumstances. Residents from countries with which Belgium has concluded a bilateral employment agreement should pass a labour market test in order to obtain their work permit. The most important categories of employees eligible for a work permit are highly skilled persons (who must prove they have at least a bachelor degree and have a minimum yearly salary of €40,124 gross) or leading personnel (employees in a leading function earning more than €66,942 gross per year).

There are different types of work permits depending on the personal situation of the foreign employee. The most common type of work permit is a work permit type B, which allows foreign employees to work in Belgium for a specific employer for a definite period of time (usually 12 months). The work permit type B should be requested by the employer or through a proxy holder in Belgium.

It is very important to note that, as a general rule, the work permit should be applied for prior to the employee's entrance into Belgium and might take several weeks.

Recommendations:

Make sure the employee assigned to Belgium has a work permit before entrance in Belgium.

The process to apply for a work permit should be initiated in due time when planning an employee's assignment to Belgium.

2. Which social security system is applicable?

In principle, the social security system of the country where the employee works is applicable. However, due to the coordination of social security systems within the European Union and certain bilateral agreements Belgium signed with countries outside the European Union (e.g. the United States of America), the social security system of the home country can remain applicable if certain conditions are met.

In that case, the employer should request a certificate of coverage from the social security authority in the home country to prove that social security contributions are being paid in the employee's home country where the employee will continue to be socially ensured. The employer will be exempt to pay social security contributions in Belgium.

Recommendations:

Apply for a temporary exception (A1 form or certificate of coverage) to avoid Belgian social security during an assignment.

3. Is the employee liable for taxes in Belgium?

Only Belgian residents are taxable in Belgium and should declare their worldwide income in Belgium. Non-residents are, in principle, only liable to pay taxes on their Belgian sourced income and will have to declare their worldwide income in their home country. As this might lead to a possible double taxation, Belgium has concluded a double tax treaty with several third countries, most of which are based on the OECD double tax treaty model. The double tax treaties provide rules to determine which country is competent to tax the employee in the event of international employment. It should consequently be verified on a case-by-case basis where the employee is liable for taxes and what the impact thereof will be.

In order to avoid the employee encountering any positive or negative impact on its salary due to the possible difference in taxes between the home and host country, many employers choose to agree on a tax equalisation. Hence, should the employee be liable for taxes in the host country during its assignment, a tax equalisation implies that the hypothetical home country taxes on the employee's salary are calculated and, insofar as necessary, withheld from its salary, guaranteeing the employee the same net income as it would have earned in its home country. The company will bear the costs of possible extra taxes or enjoy a possible benefit should the taxes in the host country turn out to be lower than those in the employee's home country.

Please note that Belgium has a specific tax regime for executive expats provided that certain conditions are met. This tax regime is very favourable as it implies that certain costs borne by the employer as well as the income earned during international travels outside Belgium are tax exempt. In order to make use of this specific tax regime it should be applied for within 6 months after arrival of the employee in Belgium. The tax authorities grant the specific tax regime on a discretionary basis.

Recommendations:

Check whether the employee qualifies for the favourable expat tax regime.

4. Which specific mandatory employment conditions apply?

With its Secondment Directive, the EU intended to protect posted workers by obliging Member-States to ensure that the minimum provisions regarding working time, vacation days and minimum wages normally applicable in their jurisdiction are complied with vis-à-vis the posted workers employed on their territory. The Act of 5 March 2002 is the implementation of the Directive in Belgian law and stipulates that any employer posting workers to Belgium should comply with the working, salary and employment conditions that are criminally sanctioned under Belgian law.

In general, this means that at least the following rules should be complied with and thus qualify as mandatory provisions under Belgian law: provisions relating to working time, provisions relating to public holidays, provisions relating to temporary work and lending of personnel, provisions relating to the well-being and safety at work and provisions relating to the protection of salary and minimum wages. The foregoing does not prevent (foreign) provisions that are more favourable for the employee from being applied, in which case the Belgian mandatory provisions can be superseded.

We therefore recommend checking at the beginning of the assignment whether or not the employment conditions agreed upon with the seconded employee are in line with Belgian mandatory legislation or whether, at least, these generate an equivalent benefit for the employee.

Recommendations:

Make sure mandatory rules of Belgian labour law are applied.

5. What happens in case of termination of the assignment?

In principle, parties are free to determine the applicable law to their employment relationship, as long as in doing so they do not derogate from the mandatory provisions of the laws of the land where the employee usually works (lex loci labori). In the absence of a choice of law, the employment contract is, in principle, subject to the laws of the land where the employee usually works.

For clarification purposes, we usually recommend to draft an assignment letter or agreement to explicitly determine the applicable law to the employment relationship (with respect to the mandatory provisions under Belgian law) and agree upon rules regarding termination of the assignment. In this respect, it is advisable to stipulate the assignment can be terminated without prior notice in which event the employee will have to return to its home country where the original employment conditions resume.

In the case of an international assignment where the employee is only temporarily seconded to Belgium, the laws of the employee's home country will usually apply to its employment relationship. Termination of the employment contract itself will in that case be governed by the laws of the employee's home country.

Recommendations:

Deal with this issue in an assignment letter, which clearly provides the length of the assignment and the return to the home country.

Make sure that the assignment letter also covers business protection.

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1. Does your employee need a work permit?

In general foreigners need a work permit in order to be allowed to work in Bulgaria. However, there are three different regimes that apply to the following groups of foreigners: (a) Citizens of countries from the European Union (EU), the European Economic Area (EAA) or Switzerland; (b) Citizens of a third country outside the EU, EEA and Switzerland; (c) Highly qualified employees from third countries. The applicable local legislation regarding all of the categories above includes the Labour Migration and Labour Mobility Act, the Foreigners in the Republic of Bulgaria Act and the Act for Entrance, Residence and Departure from the Republic of Bulgaria of EU Citizens and Members of Their Families, as well as some secondary legislation.

i. citizens from the EU Member States, EEA Member States and Switzerland do not need a work permit.
ii. citizens of countries outside the EU, EEA and Switzerland (third countries) need to apply for a Unified Permit for Residence and Work, issued by the Ministry of Internal Affairs after a decision from the Ministry of Labour and Social Politics. Such permits are valid for up to one year and are subject to renewal. The work permit procedure is initiated by the employer, requires a labour market test and takes about three months to complete.
iii. highly qualified employees from third countries may follow a simplified procedure. In the first place, third-country citizens who have resided in an European country via an EU Blue card for at least 18 months, as well as their families, are eligible to reside in Bulgaria for the purposes of highly qualified employment only, i.e. employment of persons that possess the required competence for a certain position, a university degree or other specialised education provided by an educational establishment, which is recognised as a higher education institution in a given country. Secondly, third-country citizens who are to be employed for the purposes of highly qualified employment need to obtain EU Blue Card in Bulgaria if they have not resided in another European country via EU Blue card so far. An EU Blue Card is issued for a period of up to one year and could be renewed as long as the grounds for its issuance are still in place.

There are also categories of employees for whom different rules may apply. The document requirements and terms for completion of the work permit procedure may vary and there are some exceptions (e.g. no labour market tests required) for certain professions included in a list of professions for which there is a lack of highly qualified specialists, approved by the Ministry of Labour and Social Politics on an annual basis.

In any case foreign citizens need to obtain a long-term residence permit or to complete the necessary registrations with the local authorities for residence purposes.

Recommendations:

Plan ahead because the work permit process takes time and should be initiated well in advance.

Check the qualification of the employee because there might be a simplified and faster procedure.

Research whether there is a bilateral or other similar agreement between Bulgaria and the employee's country in terms of resident and visa requirements.

2. Which social security system is applicable?

The Bulgarian Social Security Code provides no differentiation of employees on the grounds of citizenship. As a main principle, the Bulgarian social security system grants foreign and Bulgarian employees equal social security rights and benefits. As long as a person is employed and carries out work for an employer based in the territory of Bulgaria, the Bulgarian social security system applies. There is an imperative rule which states that the social security rights of all citizens of third countries employed in Bulgaria shall be governed by the rules of the Bulgarian labour and social security legislation.

There are also some exceptions, where Bulgaria has concluded bilateral agreements with certain non-EU countries on the coordination of the social security systems (such as Serbia, Russia, Moldova, Korea, Canada, Israel). Provided that some specific conditions are present, the social security system of the employees' home country could remain applicable.

Recommendations:

Check in advance if the social security system of another country could be applied and which are the relevant documents / forms to be filed.

3. Is the employee liable for taxes in Bulgaria?

The income tax is charged on each person who is a fiscal resident in Bulgaria and in relation to his / her worldwide income. A natural person is considered a fiscal resident of Bulgaria if this person resides in the country for more than 183 days per each 12-month period, or whose personal and economic (vital) interests are located in the country (i.e. family, property, place of employment, etc.). Whether a natural person's vital interests are located in Bulgaria or not is assessed on a case-by-case basis by the tax authorities.

To avoid double taxation, Bulgaria has signed many bilateral agreements with countries from and outside the EU, which typically define the country where the income tax of the employee shall be paid in case of international employment.

Recommendations:

Check the fiscal residence of the employee.

Verify whether the employee could benefit from bilateral agreements that aim to avoid double taxation.

4. Which specific mandatory employment conditions apply?

According to Bulgarian legislation, employment contracts have a minimum mandatory content regardless of the employees' citizenship. They must include at least the place and type of work, position, term of the contract, date of signing and starting date of the employment, working time per day or per week, annual paid leave, an equal termination notice term for both parties and remuneration.

There are also some specific conditions in case of employment of foreigners for the purposes of a highly qualified employment, where employee's salary must be at least 1.5 times higher than the average salary for Bulgaria for the last 12 months.

Equal treatment is also applied to foreign employees seconded in Bulgaria.

It is a general principle of international labour law that the parties are free to agree on the applicable law to their employment relationship. In any case the choice of law must not deprive employees of the protection afforded to them by provisions that cannot be derogated from by agreement under the law that, in the absence of choice, would have been applicable. In case of international assignments, including in cases of secondment of foreign employees in Bulgaria, if no applicable law has been agreed, the contract shall be governed by the law of the country in which the employee habitually carries out his work, or by the law of the country where the place of business, through which the employee has been engaged in.

Recommendations:

Verify the law applicable to the contract.

Ascertain that the mandatory rules of Bulgarian labour law are applied when the employment contract is regulated by Bulgarian law.

5. What happens in case of termination of the assignment?

EU Blue card holders may continue their residence in Bulgaria after termination of their employment for a period of three consecutive months. They may start work for a different employer after decision of the Employment Agency.

In any case of employment contract termination, the Employment Agency must be notified in a three-day term and the work permit is being terminated as it is always issued for a specific employee and for a specific employer.

The legal consequences of the termination in terms of parties' rights shall be defined by the governing law to the employment contract.

Recommendations:

Agree in advance and in writing on the consequences and obligations in case of employment termination.

Notify the competent authorities in case of employment termination.

CZECH REPUBLIC

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1. Does your employee need a work permit?

Generally, foreign employees may be employed in the territory of the Czech Republic if they have obtained an employment permit, provided that such permits are required by the Employment Act, and a residence permit, or an Employee Card or a Blue Card.

An Employee Card, Blue Card and work permit are issued for a specific job with a specific employer. In terms of employment arrangements, they are equivalent to each other. Each of these permits may be granted under specific circumstances. The Blue Card and Employee Card are work permits and a residence permit in one document. The validity of the Cards is dependent upon the concluded employment contract, but are valid for no more than two years. The permits may be repeatedly extended by no more than two years.

Under the Employment Act, citizens of Member States of the European Union and their family members are not deemed to be foreigners and, in accordance with this Act, they have the same legal status as citizens of the Czech Republic. Citizens of Norway, Liechtenstein and Iceland, which are members of the EEA, their family members, as well as citizens of Switzerland and their family members also have the same legal status as citizens of the Czech Republic and no permits are required.

Prior to entering into the contract under which foreigners will be posted to the territory of the Czech Republic to carry out work there, the domestic legal or natural entity which has entered into the contract with a foreign employer and to which the foreigner will be posted to perform tasks arising out of that contract is primarily obliged to discuss with the relevant regional office of the Public Employment Service the quantities and professions of posted employees and the periods for which they will be posted.

Finally, pay great attention to the fact that a residence permit has to be applied for before entrance in the Czech Republic.

Recommendations:

Make sure whether the employee assigned to the Czech Republic needs to arrange for work permit and residence permit.

When planning an assignment with your employee, take into consideration that the application for a work permit and / or residence permit takes several weeks.

2. Which social security system is applicable?

Assignees working in the Czech Republic are generally subject to Czech social security and health insurance contributions. According to Czech legislation, foreigners who are subject to the Czech social security system must have a specific Czech identification number.

Based on EU regulations, or an applicable bilateral social security treaty, foreign employees may be subject to their home country social security system and, in this case, they are not subject to the Czech social security scheme.

For assigned foreigners, the main employment relationships are those between the foreign employer and the foreigner, i.e. the foreigner employed by the foreign employer and posted to the Czech Republic to carry out work there is remunerated according to an employment contract entered into with his or her employer. The employment contract entered into, as well as health insurance and social security, are usually governed by regulations applicable in the country of employer, with the employer being fully responsible for the content of the contract and for the fulfilment of the insurance.

The domestic legal or natural entity that has entered into the contract with a foreign employer and to which the foreigner will be posted to perform tasks arising out of that contract is obliged to notify the relevant regional office of the Public Employment Service of the foreigner's starting work, and to do so within no later than the date on which the foreigner starts work.

Recommendations:

Check to make sure if a bilateral agreement exists in respect of social security matters.

3. Is the employee liable for taxes in the Czech Republic?

A foreign national working in the Czech Republic is likely to be subject to Czech taxation. Income tax is the main tax to which expatriates are subject.

An individual is considered a resident for tax purposes in the Czech Republic if either of the following conditions are met:

i. the individual is a permanent resident in the Czech Republic, i.e., possesses a permanent home in the Czech Republic. The possession of a long-term visa does not by itself make an individual a tax resident;
ii. the individual is present in the Czech Republic for 183 or more days in a calendar year. This includes the days of arrival and departure.

If the individual is considered a resident in more than one country, his final tax residency is determined on the applicable double-tax treaty. Most double-tax treaties define an individual as a Czech tax resident if he / she has a permanent home in the Czech Republic, a strong personal and / or economic connection to the Czech Republic, a habitual place residence in the Czech Republic or Czech citizenship.

An individual not meeting the conditions of Czech tax residency is considered a Czech tax non-resident.

Under Czech legislation, a tax resident is subject to tax on his / her worldwide income. This treatment applies, in principle, to any individual who has a permanent home in the Czech Republic or who is present in the country for 183 or more days in the calendar year. However, if an expatriate is present in the Czech Republic for 183 or more days but is a tax resident of a country with which the Czech Republic has concluded a double-tax treaty, the determination of a tax residency under the treaty applies, and he / she may effectively be taxed only on Czech-source income.

A non-resident individual present in the Czech Republic for less than 183 days in a calendar year may be subject to Czech taxation on Czech-source income only. In principle, no tax is payable by the individual if he / she remains on the payroll of a foreign company and the employer does not have a taxable presence in the Czech Republic via a permanent establishment.

In some cases the double-tax-treaty rules can indicate the conditions for full exemption of income from Czech income tax.

Recommendations:

Make sure what tax regime double-tax-treaty specifies, if applicable.

4. Which specific mandatory employment conditions apply?

The performance of work by foreigners posted to the territory of the Czech Republic by a foreign employer for the purpose of performing a contract entered into with a domestic legal or natural entity – the employment relationship between the foreign employer and the foreigner who is posted to carry out work is usually governed by the law of the country where the foreign employer has its registered office.

Because of the difference in partial modification of labour law, the EU Member States Directive lays down a minimum standard of protection for posted workers. This standard includes conditions that must be guaranteed under the laws of the state in whose territory the assignee was sent. These conditions include:

i. the maximum work periods and minimum rest periods,
ii. the minimum length of annual leave,
iii. the minimum wage, including pay for overtime,
iv. the conditions of workers, particularly for those in temporary work,
v. health, safety and hygiene at work,
vi. protective measures relating to the working conditions of pregnant women or women who have recently given birth, children and adolescents,
vii. equal treatment for men and women and the general non-discrimination clause.

Recommendations:

Make sure that mandatory rules of the Labour Code are applied.

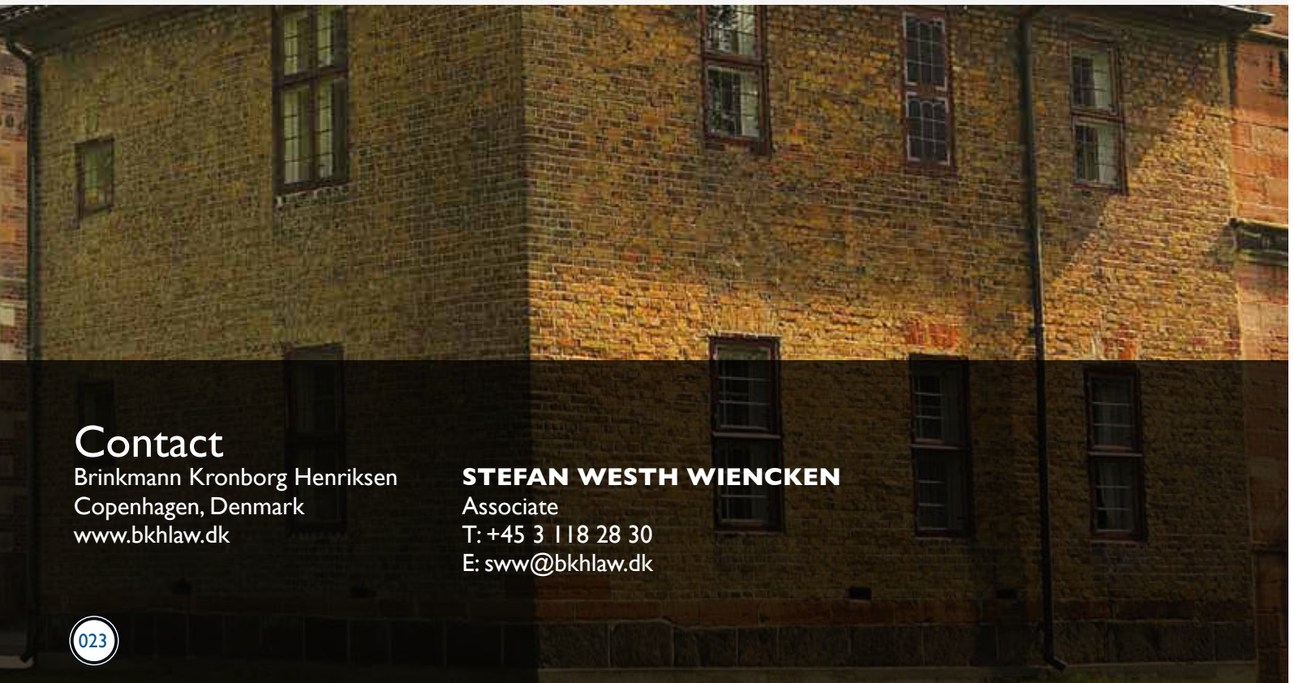
5. What happens in case of termination of the assignment?

As mentioned above, the employment relationship between the foreign employer and the foreigner who is posted to carry out work is usually governed by the law of the country where the foreign employer has its registered office. In the case of an assignment, we recommend determining in advance the conditions for termination of such an assignment.

Recommendations:

Make sure that assignment letter covers the issue of termination.

DENMARK



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1. Does your employee need a work permit?

In Denmark, citizens from the European Union (EU), the European Economic Area (EEA) and Switzerland are free to work and reside in Denmark. If, however, the employee is an EU / EEA citizen or Swiss citizen, and you expect that the employee's stay in Denmark will last more than three months, the employee is required to apply for an EU residence document before the expiry of the three months. Citizens from the other Nordic countries (Finland, Iceland, Norway and Sweden) are free to work in and reside in Denmark without any permits.

If the employee is a citizen of a country outside the Nordic countries, EU / EEA or Switzerland, he / she must hold a residence and work permit to reside and work in Denmark. Whether the employee qualifies for a residence and work permit depends first and foremost on the employee's qualifications. A number of schemes are in place in order for specifically qualified individuals to get a residency and work permit in Denmark. Professionals that qualify to apply for permits via these schemes have significantly easier access to the Danish labour market. The most common schemes are the (a) pay limit scheme and the (b) positive list scheme.

i. the pay limit scheme applies to professionals that have been offered a highly paid job in Denmark. No specific requirements in regards to education, profession or nature of work apply. For a job to be "highly paid", the annual salary must amount to a minimum of DKK 408,000 for applications submitted in 2017. The amount is subject to change each year.

i. the positive list scheme applies to professionals that Denmark currently experiences a shortage of in the Danish labour market. Per January 2017, the list includes professionals within the following areas:

   1. leadership, management and business-oriented functions,
   2. healthcare,
   3. teaching and educational work,
   4. economics, administration and sales,
   5. information and communication technology,
   6. law, social science and culture,
   7. workers in the field of building and construction and
   8. technicians and assistants in healthcare

The application process can be handled online and usually takes four to eight weeks after the complete application has been submitted with the Danish Agency for International Recruitment and Integration.

Recommendations:

Plan ahead because the work permit process takes time and should be initiated well in advance.

Check the current positive list to see whether the employee qualifies to apply under the scheme.

2. Which social security system is applicable?

The social security system in Denmark is heavily regulated by EU regulation. According to the rules set forth by EU, employees will in general be covered by the social security system in the country in which they work. Therefore, the employee will as a main rule, be covered by Danish social security when working in Denmark.

The employee can remain covered by the social security system in his or her country of residence in certain circumstances if the employee is an EU / EEA citizen or Swiss citizen. To remain covered by the social security system in the country of residence, an application to this country must be submitted to this effect.

Special rules apply to frontier workers, posted employees as well as employees residing in areas outside EU / EEA and Switzerland that Denmark have entered into special agreements with.

Recommendations:

Check in advance if the social security system of another country could apply, especially if the employee is residing outside EU / EEA and Switzerland.

3. Is the employee liable for taxes in Denmark?

As a main rule, employees will be liable to pay tax in Denmark when they start working in Denmark. The employee will either be subject to unlimited tax liability, i.e. he / she are tax liable on their worldwide income from employment, capital gains, etc., or limited tax liability, i.e. he / she is tax liable on certain types of income only.

Unlimited tax liability is applied for individuals that:

i. are residents in Denmark, or
ii. stay in Denmark (without establishing a residence) for a period of a minimum of six months within a 12-month period.

Other individuals may be limited tax liable to Denmark if they have income from Danish sources, e.g. employment in Denmark.

Special rules apply to foreign researchers and highly paid employees. These employees can obtain a special low tax rate for a period of 60 months if they meet a number of requirements. On the other hand, the employees will in general not be entitled to make any tax deductions. The company and the employee must apply with the tax authorities to obtain taxation under this special scheme.

Further, Denmark has entered into a number of bilateral agreements aimed at avoiding double taxation and to regulate which country is entitled to tax certain types of income etc.

Recommendations:

Check the fiscal residence of the employee.

Verify whether the employee could benefit from bilateral agreements that aim to avoid double taxation.

Check if the employee may be covered by the beneficial tax scheme for researchers and highly paid employees.

4. Which specific mandatory employment conditions apply?

In Denmark, the employment is, and has historically been, dominated by unions. Therefore, few mandatory laws are in place that regulate employment conditions as such these conditions have been set out in collective bargaining agreements.

An exception to the above is the Danish Salaried Employees Act which applies for "white-collar" employees. The rules herein, which regulate employment conditions such as termination notices, severance payments, compensation for unjust termination, salary under illness, commission, maternity leave and work outside employment, cannot by agreement be deviated from to the detriment of the employee.

For nearly all types of employment, other mandatory rules apply in regards to (a) the employee's right to a contract (including specific information about the employment conditions), (b) holidays, (c) work environment, (d) equal treatment of men and women, (e) discrimination, (f) parental leave, (g) working hours, and more. Many of these rules are regulated in acts that stem for EU regulation.

The above acts, or a part hereof, also apply to postings in Denmark (i.e. when undertakings in the framework of the transnational provision of services post workers to Denmark on a temporary basis), irrespective of the law applicable for the employment. Employers are required to register posted workers in a special register, including certain information about the posting terms.

Recommendations:

Verify the applicable law, including whether any collective bargaining agreement may apply.

Ascertain that the mandatory rules of Danish law are complied with in the employment agreement.

5. What happens in case of termination of the assignment?

The consequences of the termination of the assignment between the employer and employee depend on the law applicable on the assignment. The employer and employee are, generally, free to agree to the applicable law. Whether the employer and employee have made a choice of law, the employee still enjoys the protection under the mandatory provisions of law applicable if the employer and employee did not make any choice of law (see above as examples). In the absence of an agreement on the choice of law, the assignment is governed by the laws of the country in which the work is habitually carried out. Under Danish law, the employee is, as a main rule, not entitled to claim his / her job back in the event of an unjust termination but the employee may be entitled to compensation.

In regards to the employee's work and residency permit, the permit is, as a main rule, conditioned on the employee's employment on the assignment. Therefore, in case of termination of the assignment, the employee's permit will usually be revoked and the employee asked to leave Denmark. The employer shall notify the authorities in the event the assignment is terminated. If the assignment is terminated through no fault of the employee, the employee may under certain circumstances apply for an additional six months' residency permit to look for other work.

Recommendations:

Agree in advance the applicable law and obligations in the event of termination of the assignment.

Notify the competent authorities in the event of termination of the assignment.

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1. Does your employee need a work permit?

The grounds for the right to work in Finland depend on the citizenship of the foreign employee, what work the employee is to perform in Finland and for how long of a period. As a rule, a person intending to work in Finland needs to have a residence permit based on employment granted by the state. However, citizens of the EU, the EEA countries (Norway, Iceland, and Liechtenstein) and Switzerland) are entitled to work in Finland without a residence permit for an employed person.

A residence permit for an employed person is usually granted for the professional field that the employee's job belongs to. An employee may thus have several jobs in the same professional field with one permit. Also, if a person has another job waiting in another professional field, the same application may be used for both jobs. In this case, an employee may be granted a permit for several lines of trade.

Within certain professions, an employee is allowed to work in Finland without a residence permit. However, the employee must have a valid visa (provided that the employee is required to have a visa) or a Schengen residence permit granted by another country, which allows short-term stays in Finland. In these situations, the right to work is limited to certain jobs and up to 90 days, although no longer than the validity of the employee's visa.

When applying for a residence permit to work in Finland, the employee needs to be able to earn one's living in Finland through gainful employment throughout the period of validity of the residence permit. If the residence permit is applied in order to work full-time, the salary must correspond to at least the salary specified in the collective agreement that applies to the employment relationship in question. If there is no collective agreement for the line of business, or if the employment is part-time, the employee's salary must correspond to at least the salary that meets the so called "condition regarding previous employment" under the Finnish Unemployment Security Act.

Attention should also be paid to the fact that health care professionals must receive permission to practice their profession from the National Supervisory Authority for Welfare and Health (Valvira).

The application for a residence permit for an employed person shall be submitted to Finnish embassy abroad. The applicant must usually wait for the decision abroad. According to the Finnish Aliens Act, the maximum processing time for residence permits for work is four months.

Recommendations:

It is recommended to start the application process for a residence permit for an employed person in due time because the processing time may take a while.

The employer is required to ensure that foreign employees have a residence permit entitling them to work in Finland. The employer is also required to keep a record of foreign employees and the grounds for their right to work. The employer must further provide such information to the Employment and Economic Development Office (TE Services) and the personnel representative at the workplace.

2. Which social security system is applicable?

As a general rule, eligibility for Finnish social security benefits is based on residence in Finland. With certain exceptions, all permanent residents are entitled to social security benefits.

The social security coverage of people moving from one EU country to another is coordinated by EU Regulation 883 / 2004. The principal rule is that employees are covered by the social security system of the country in which they are employed. The rules governing the coordination of social security within the EU apply also to third-country nationals who are residing legally in the EU and are in a cross-border situation. They are subject to largely the same social security coordination rules as EU citizens. If the EU regulations do not contain provisions regarding the employee's social security coverage, the Finnish national legislation will be applied, including its provisions concerning the temporary or permanent nature of a change of residence to Finland.

The right to social security benefits in Finland is, as a rule, decided by reference to the length of residence or by employment in Finland. Social security coverage is affected by the country from which the employee moves to Finland and by the length of the working period. Partial coverage by the Finnish social security system is also possible.

An employee may also be entitled to social security on the basis of a social security agreement. Finland has such agreements with the other Nordic countries and with the United States, Canada, Australia, Chile, India and Israel. Further, Finland has made a separate arrangement concerning social security with the Province of Quebec. With Australia, Finland has an agreement covering medical treatment during a temporary stay in the other signatory country.

If the domicile (the country of tax residence) is in the European Union, or is Norway, Iceland, Liechtenstein or Switzerland, the social security authorities of that country may give the employee an A1 or E101 certificate of posting. This means that the employee is still covered by home-country social security. As long as the certificate is valid, no social security contributions have to be paid in Finland.

Recommendations:

Find out whether the posted employees have A1 (E101) Certificates or similar documents.

3. Is the employee liable for taxes in Finland?

The employee's liability for taxes in Finland is largely defined by the duration of stay and whether the employer is considered a Finnish employer or a foreign employer. Additionally, special tax rules apply to certain professions and types of work.

Finnish-sourced employment income is usually taxed in Finland even if the stay is only for a short period of time. If the employer is based in another country but operates a trade or business in Finland from a permanent establishment for tax purposes, they are treated as a Finnish employer. If the stay is temporary, the employee is treated as a tax non-resident and employment income is subject to tax at source. Regarding assignments of six months or more, the employee is treated as a Finnish tax resident and the percentage rate of tax depends on the employee's annual gross income according to a progressive scale.

When working in Finland for an overseas employer for a period of six months or more, the employee becomes fully liable to pay Finnish tax. The calculation of the six-month period is not affected by any short trips to other countries. Once an employee is fully liable to taxation, he / she will pay tax to the Finnish Tax Administration not only on Finnish-sourced income, but also on income sourced in any other country.

However, an international tax treaty between Finland and the employee's home country may prevent Finland from taxing the income under certain conditions, for example, staying in Finland for a maximum of 183 days within a time period specified by the tax treaty. If the employee's continuous period of stay in Finland is six months exactly or less, the employee will be considered a non-resident and the wages received from an overseas employer will not be subject to Finnish taxation. However, if the overseas employer's business operation gives rise to a permanent establishment being formed in Finland, the employee's wages will be taxed in the same way as if the payer of wages were a Finnish employer.

Recommendations:

As a rule, everyone working in Finland is required to have a tax card. Before obtaining the tax card, the employee must get a Finnish personal ID or a temporary ID number.

In addition to taxes, an employee will also be expected to pay Finnish health insurance, pension and unemployment insurance contributions, which amount to approximately seven per cent of gross wages.

However, if the employee possesses the A1 or E101 certificate showing that he / she is a 'posted worker' the employee will not be required to pay these contributions in Finland.

It should be noted, however, that the provisions of an international tax treaty between Finland and the employee's home country usually do not affect Finland's rights to demand these contributions from overseas workers.

4. Which specific mandatory employment conditions apply?

The employment relationship of a foreign employee is generally subject to Finnish labour legislation, but in international employment relationships the choice of law must be evaluated on a case-by-case basis.

In any case, the employer must ensure that the working conditions comply with Finland's occupational safety and health regulations. The minimum terms and conditions of employment and working conditions for workers posted to Finland are provided for in the Posted Workers Act. This includes, for example, working hours, the manner of determining annual holiday and related compensation, family leave, equal treatment of men and women, non-discrimination, stipulation of Finnish Occupational Safety and Health Act, the Occupational Health Care Act and the Young Workers' Act and amount of minimum wage.

The employer must ensure that the working conditions of the workplace are compliant with Finnish occupational safety regulations. Among other things, the employer must ensure that the work environment and tools are safe and that foreign employees are provided with sufficient training and guidance for their job duties in a language that they can understand.

Recommendations:

It must be noted further that so-called (generally binding) collective agreements made by and between the Employer and Employee Unions may be applied to employment relationships in Finland as well. Such collective agreements determine the minimum terms for employment relationships in the applicable field of business and they may include terms and conditions that differ from the ones set forth in the legislation.

Check which mandatory rules of Finnish labour law should be applied and make sure that such regulation is applied.

5. What happens in case of termination of the assignment?

According to the Finnish Employment Contracts Act, Finnish employment legislation shall be applied to work that is carried out in Finland, unless the employment contract has connections to more than one state. The law applicable to an employment contract with connections to more than one state shall be defined in accordance with Regulation (EC) No 593 / 2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I).

Generally, the employer and employee are free to agree amongst themselves which legislation should be applied to their international employment contract. However, the employee is always entitled to the terms and conditions of employment provided for in the legislation that would be selected by default under the provisions of choice of law in the Rome I Regulation (593 / 2008), which governs contractual obligations under civil and trade law.

Under the choice-of-law provisions, by default the contract shall be governed by the law of the country in which or, failing that, from which the employee habitually carries out his work in performance of the contract. If the place where the employee habitually carries out his work cannot be determined, the contract shall be governed by the law of the country where the place of business through which the employee was engaged is situated.

If an employee's employment contract is only connected to Finland, Finnish employment legislation and its rules of termination of the employment shall apply under the territorial principle. With regard to posted workers, it must be established which country's legislation applies to their employment contracts and termination.

If the employment contract is terminated, the employee must leave Finland when his / her right to reside expires or earlier.

If the employment is terminated before the permit expires, the employer or employee must inform the Finnish Immigration Service of the termination of employment with a written notification in Finnish, Swedish or English. The form of the notification is informal, but it must include the date and signature.

Recommendations:

It is recommended to determine the applicable law in the employment agreement.

It is further recommended to agree upon what happens when the assignment ends and according to which arrangements the employee shall return to his / her country of origin.

FRANCE

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1. Does your employee need a work permit?

In principle, foreign employees should have a work permit in order to be allowed to work on French territory.

A number of categories of employees, however, are exempt from obtaining a work permit. This exemption mainly regards nationals and their family members of any of the European Union / EEA countries.

Most non-EU / EAA nationals need both a work and a residency permit. These are applied for at the same time. The permit type required depends on the planned activity and whether the individual in question asks for a temporary or long-term work permit.

However, the individual needs to find a job before he / she can obtain the work permit, as the company has to organise the employment contract.

It is very important to note that, as a general rule, the residency and work permit should be applied for prior to the employee's entrance in France and might take up several weeks / months.

Recommendations:

Make sure the employee assigned to France has a residency and work permit (or is exempted from it) before entrance in France.

The process to apply for a work permit should be initiated in due time when planning an employee's assignment to France.

2. Which social security system is applicable?

In principle, the social security system of the country where the employee works is applicable. However, due to the coordination of social security systems within the European Union and certain bilateral agreements France signed with countries outside the European Union, the social security system of the home country can remain applicable if certain conditions are met.

In that case, the employer should request a certificate of coverage from the social security authority in the home country to prove that social security contributions are being paid in the employee's home country where the employee will continue to be socially ensured. The employer will be exempt to pay social security contributions in France.

Please note that given the high level of social charges in France (45% employer's social charges and 20% employee's social charges), companies often try in practice to avoid (when legally possible through an EU secondment) the application of the French social security regime. For this reason, and especially in order to avoid "social dumping", French legislation has been strengthened over the last years regarding the obligations of foreign companies sending temporarily employees to work in France.

Recommendations:

Apply for a temporary exception (A1 form or certificate of coverage) to avoid French social security during assignment.

Double-check the local French regulations before sending employees to France.

3. Is the employee liable for taxes in France

In principle, employees are liable for income tax in France, either because they become French tax residents during their assignment to France, or because as non-residents of France they are liable for French income tax on their French source income (except if the temporary assignment exemption provision contained in the tax treaty between France and their home country is applicable, which requires that the assignment complies with several conditions including a duration of less than 183 days during any period of 12 months).

Whether or not the employee becomes a tax resident of France is an issue which must be addressed before (and checked during) their assignment. It will depends on the facts (for instance will their spouse and children remain in their home country during their assignment to France?) and on the provisions of the tax treaty between France and their home country (France has signed tax treaties with almost all countries in the world except tax haven).

If they become a French tax resident, they will be liable to French income tax on their worldwide income (subject to tax treaties provisions). The amount of compensation, after deduction of the employee part of social security contributions and after statutory allowances, will be added to their other income and liable to French income tax, which is levied at progressive rates (in 2016 the maximum rate is 45% excluding surcharges for very high income). If the employee remains a tax resident of their home country, their French source compensation will be liable to French income tax. The tax will first be withheld at source by their employer, at a rate of 12% until a certain level of net salary income, and at 20 % for the excess. French income tax at progressive rates (see above) is also due on the excess (if any) in which case the 20% withholding tax is deducted from the tax to be paid.

If the employee is also liable to income tax in their home country, in principle double taxation will be avoided, through a mechanism of tax credit or an exemption in the home country, depending on the content of the relevant provision of the tax treaty between France and the home country.

If stock options (or similar incentive plans) are granted, exercised, or sold to / by the employee during their assignment to France, this situation might lead to taxation in France. Consequently the employee should obtain an analysis of their situation and the French tax impact (if any) before taking the decision to exercise an option while being assigned to France.

In order to avoid the employee encountering any positive or negative impact on its salary due to the possible difference in taxes between the home and host country, several years ago many employers had chosen to agree with the employee on a tax equalisation regime. Hence, should the employee be liable for taxes in France during the assignment, a tax equalisation implies that the hypothetical home country taxes on the employee's salary are calculated and, insofar necessary, withheld from its salary, guaranteeing the employee the same net income as it would have earned in their home country. The company will bear the costs of possible extra taxes (or enjoy a possible benefit should the taxes in France turn out to be lower than those in the employee's home country). Today's tax equalisation regimes for employees assigned to France are less utilised by their employers, for several reasons including the indirect costs resulting from the regime, for the employer, when the employee's assignment exceeds two years.

France has a specific tax regime for employees (including presidents, general managers…) assigned to France where they are tax resident during their assignment, provided that several conditions are met. This tax regime is very favourable: the following portions of income are tax exempt until December 31st of the 8th year following the year the employee starts his assignment to France (until 31st December of the 5th year, for employees whose assignment to France started before 6 July 2016) :

i. the portion of the total compensation corresponding to the expatriation bonus (in cash or in kind) (with a possibility, under certain conditions, to evaluate the said bonus to 30% of the total compensation),

ii. the portion of the compensation relating to business trips outside France.

For employees who can benefit from both tax exemptions, a cap is applicable so that (i) the total amount of both exemptions cannot exceed 50% of their total compensation or (if more favourable to the employee) (ii) the exemption for business trip outside France cannot exceed 20% of the compensation after deduction of the expatriation bonus.

In addition, interest, dividends, certain royalties and capital gains on portfolio assets are exempt from income tax on 50 % of the amount received by the employee, during the above mentioned period of time, provided that the said incomes are paid outside France.

The conditions to maximise the above mentioned benefits are quite sophisticated and usually require appropriate wording in the employment contract. It is therefore strongly recommended to address these issues before the assignment of the employee.

Recommendations:

Check before the assignment whether the employee qualifies for the favourable expatriation tax regime.

If they qualify, draft or amend appropriate documentation before their assignment.

Check if the employee can or must exercise their rights under a SOP (or similar) while assigned in France.

4. Which specific mandatory employment conditions apply?

With its Secondment Directive, the EU intended to protect posted workers by obliging Member-States to ensure that the minimum provisions regarding working time, vacation days and minimum wages normally applicable in their jurisdiction are complied with vis-à-vis the posted workers employed on their territory.

The French legislator has implemented this EU Directive in a sense that the following rules should be complied with and thus qualify as mandatory provisions under French law for posted employees in France (articles L. 1262-4, R. 1261-1 et R.1262-1 and the following of the French labour Code) : provisions relating to individual and collective freedoms, working-time, days off, paid vacation, maternity leave, paternity leave, minimum wages including the compensation for supplementary hours, pay slips, rules relating to the safety, health and medical surveillance, rules relating to discrimination, equal rights between men and women, protection of maternity, and rules relating to illegal work, etc.

The foregoing does not prevent that (foreign) provisions that are more favourable for the employee are applied, in which case the French mandatory provisions can be superseded.

We therefore recommend checking at the beginning of the assignment whether or not the employment conditions agreed upon with the seconded employee are in line with French mandatory legislation or whether, at least, these generate an equivalent benefit for the employee.

Recommendations:

Make sure mandatory rules of French labour law are applied.

5. What happens in case of termination of the assignment?

In principle, parties are free to determine the applicable law to their employment relationship, as long as in doing so they do not derogate from the mandatory provisions of the laws of the land where the employee usually works (lex loci labori). In the absence of a choice of law, the employment contract is, in principle, subject to the laws of the land where the employee usually works.

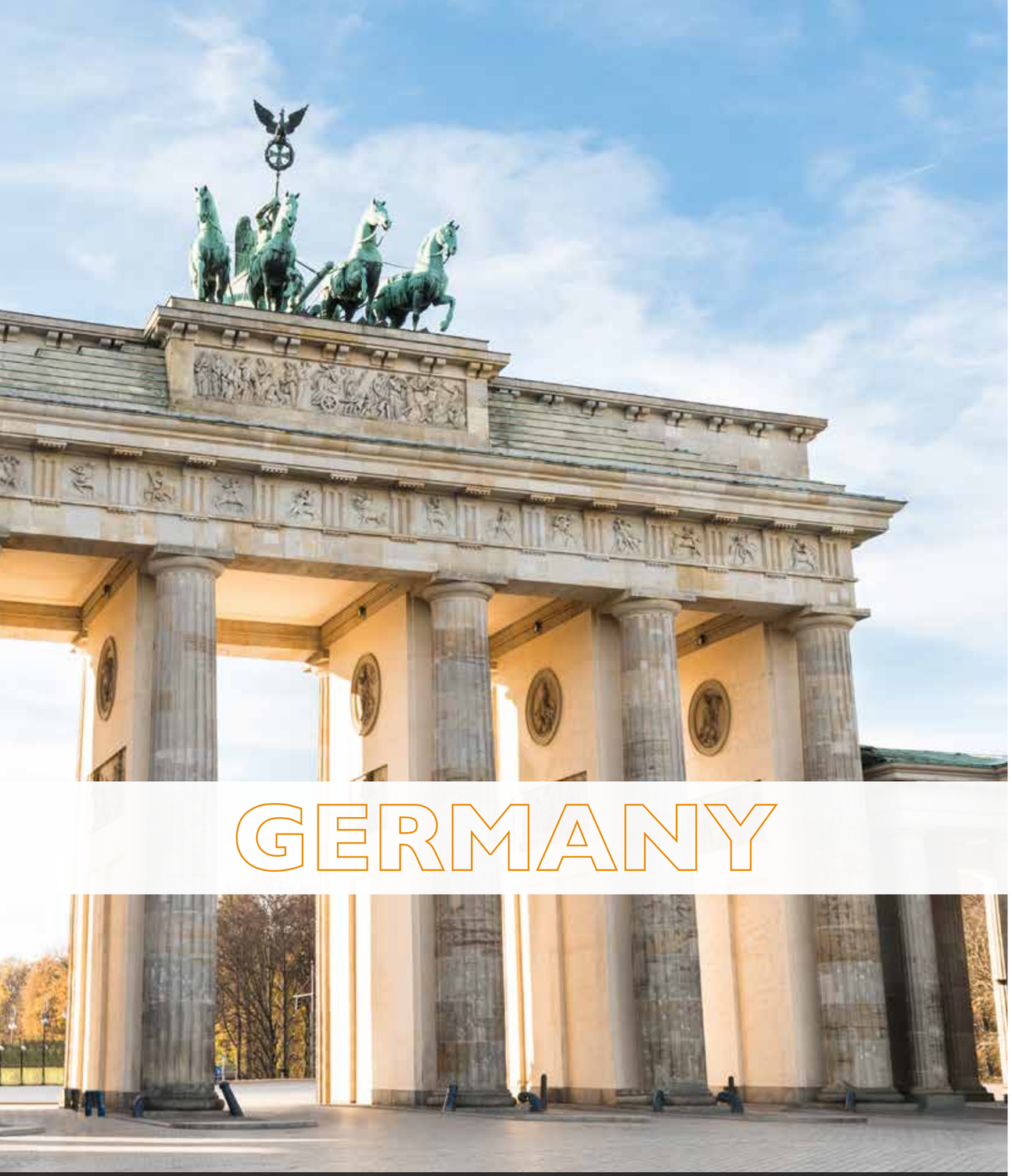
For clarification purposes, we usually recommend the drafting of an assignment letter or agreement to explicitly determine the applicable law to the employment relationship (with respect for the mandatory provisions under French law) and agree upon rules regarding termination of the assignment. In this respect it is advisable to stipulate the assignment can be terminated without prior notice in which event the employee will have to return to its home country where the original employment conditions resume.

As in the case of an international assignment, the employee is only temporarily seconded to France, the laws of the employee's home country will usually apply to its employment relationship. Termination of the employment contract itself will in that case be governed by the laws of the employee's home country.

Recommendations:

Deal with termination in an assignment letter which clearly provides the length of the assignment and return to the home country.

Make sure that the assignment letter also covers business protection.



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1. Does your employee need a work permit?

Nationals of the EU Member States can take advantage of unrestricted freedom of movement for workers and are not subject to any restrictions regarding work permits. The same applies to nationals of the EEA States - Iceland, Norway and Liechtenstein. Swiss nationals are equivalent to EEA nationals. Croatian nationals have had this freedom since 1 July 2015.

Nationals from countries that do not belong to the EU or the EEA - so-called third country nationals - need a residence title to enter and work in Germany (visa, residence permit, EU Blue Card, settlement permit or the permanent EU residence permit). An exception only applies to nationals of Australia, Israel, Japan, Canada, the Republic of Korea, New Zealand and the USA. They can enter Germany even without a visa and apply for a residence permit as a sufficient entitlement to work before taking up employment. Only nationals of these countries can directly apply after the arrival to their local foreign nationals' registration authority for a residence permit.

Access to the German labour market is determined by the provisions of the German Residence Act (AufenthG), as well as the German Regulation on the Employment of Foreigners (BeschV). For a residency with the purpose of employment, the approval by the Federal Employment Agency (Bundesagentur für Arbeit) is generally required. However, there are numerous exceptions to this general principle.

The approval can be obtained through an internal procedure in the country of origin (visa centre) or the responsible local immigration authority in Germany. The working permit is awarded along with the residence title.

For an approval, it is always required that:

i. a legislative provision grants access to the German labour market
ii. a concrete job offer can be proved and
iii. there are no preferential workers available for the concrete job and
iv. the conditions of employment are comparable with those of domestic employees (labour market test).

Access to the labour market remains limited for unskilled and low-skilled workers. For them working permits are issued under exceptional circumstances only, e.g. through intergovernmental agreements or legal ordinance. At the same time, legal barriers to working in Germany have been further reduced for highly-qualified foreign nationals such as university graduates.

Since 1 August 2012, foreign nationals with a recognised university degree have easier access to the German labour market under the EU Blue Card (temporary residence title) system. To obtain the Blue Card, they must simply furnish proof of their qualifications and present a concrete job offer for a position providing annual gross earnings of at least €49,600 (amount valid for 2016 only). An approval of the Federal Employment Agency is not required.

In the case of highly qualified foreign nationals with a background in Mathematics, IT, Natural Sciences or Technology as well as Medical Doctors, the EU Blue Card conditions also apply, provided these people are offered the same salaries as comparable to German employees and their annual gross earnings would be at least €38,688 (amount valid for 2016 only). The approval of the Federal Employment Agency is required.

Simplified rules on access to the labour market also apply to academics, highly qualified professionals, executives, senior employees, specialists and similar groups. In addition, access to the German labour market has been made possible for professions experiencing shortages without a prior labour market test, as long as the worker's qualification is recognised as equivalent to a German qualification under the Assessment and Recognition of Foreign Professional Qualifications Act.

Recommendations:

The residence title should be requested in due time when planning an employee´s assignment in Germany, because processing the application can take a long time.

The required residence title should be granted before starting to work in Germany, otherwise there is a serious risk of high fines.

2. Which social security system is competent?

In general, the social security system of the country where the employee works is competent. Employees in Germany receive a net remuneration, social security contributions are deducted by the employer and paid to the social security agency by them. Social security contributions comprise benefits to health insurance, state pension funds and unemployment insurance.

In order to facilitate the international transfer of employees, Germany has signed social insurance agreements with countries including Australia, Brazil, Canada, China, India, Israel, Japan, South Korea, Turkey, and the USA. Within the EU, the dispatch of employees is facilitated by EU regulations. This allows transferred employees to remain within the national social insurance of their home country, if they are posted to Germany for a limited time, and when certain conditions are met.

In this case, the employer does not have to pay German social security contributions for the employees temporarily located in Germany. However, he should assure to receive a certificate of coverage from the social security authority in the home country stipulating, that the employee will continue to be socially secured there.

Recommendations:

Employers shall always consider whether they might benefit from a change into German social security system.

Domestic regulations might set a burden to stay in its social security system.

3. Is the employee liable for taxes in Germany?

The question as to whether a foreign national working in Germany is liable to German tax laws cannot be simply answered with a "yes or no". German tax law allows for quite some strategic options. Therefore we can only provide an overview of the very general regulations.

Not every person in Germany is subject to German tax. German tax law distinguishes between residents of Germany and non-residents. If the residence or permanent address (more than 182 days a year) is in Germany, EU / EEA nationals and third country nationals are fully liable to taxes in Germany. This means all the income, regardless of whether it was earned within Germany and / or abroad, must be taxed in Germany (principle of global income).

To avoid a double taxation, Germany has a variety of national regulations and has entered into a number of international treaties. Germany is one of many signatory states of the Treaty for the Prevention of Double Taxation, most of which follow the OECD Model Convention. The Treaty for the Prevention of Double Taxation in general allows to set off taxes paid in one country against the tax payable in the other to prevent double taxation.

Individuals with neither residence nor permanent address in Germany may be subject to a limited income tax, if they earn income in Germany. According to the Income Tax Act (v – EStG) limited income tax liability then only applies to domestic income.

Under certain circumstances, taxpayers with these restricted obligations can be treated as persons with unlimited tax liability upon application.

In cases where the employment relationship with a foreign national invokes German tax laws and the employer does not have a seat or branch in German, the employee is personally liable for the taxes. Whereas normally employers deduct the tax portion from the gross salary and pay it to the tax authorities, there is no such obligation for the non-German employer. Therefore, the foreign nationals often receive a gross salary with the obligation to pay the taxes themselves. By experience we know that obligation is often not fulfilled. Evidently, this can cause serious problems for the employee situated in Germany.

Recommendations:

Check if there is a Treaty for the Prevention of Double Taxation to prevent double taxation.

Employees might benefit from an application for full tax liability in Germany.

The employer shall always transfer the taxes to the German tax authorities and disburse the net salary.

4. Which specific mandatory employment conditions apply?

Mandatory employment conditions under German Law for employees and also posted workers / employees are at least the, provisions relating to working time, compliance with minimum wage (From 2017 €8.84 per hour), minimum holiday requirements (minimum paid statutory holiday is 20 workdays on the basis of a five-day week), provisions to temporary work and lending of personnel, provisions on security, health and hygiene at working place, maternity / paternity rights, protection of disabled, equal treatment of men and women, and continued remuneration.

Recommendations:

Make sure whether or not the employment conditions agreed upon with the employee correspond with the German laws.

5. What happens in case of termination of the assignment?

In general, due to international private law, parties are free to determine the applicable law to their employment relationship. If there is no such agreement the employment contract is subject to the laws of the country where the employee usually lives and works (Rome I regulation).

This principle does not apply if all circumstances reveal that the employment contract shows a closer correlation to another state. Then the law of the other state is applicable. As in the case of an international assignment, the employee is only temporarily seconded to Germany, the laws of the employee's home country will usually apply to its employment relationship. Termination of the employment contract itself will in that case be governed by the laws of the employee's state of origin.

If the approval by the Federal Employment Agency was required to get access to the German labour market it is important to know, that the loss of the employment due to termination has to be reported to the Federal Employment Agency immediately. The Federal Employment Agency can then stipulate a subsequent expiration of the residence permit. Search for employment can be taken into account.

Recommendations:

It is useful to explicitly determine the national law applicable to the employment relationship and agree upon rules concerning termination of employment contract. It should be agreed upon that after termination the employee will have to return to their home country where the original employment conditions resume.

GREECE

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1. Does your employee need a work permit?

European Union citizens and their family members are allowed to move and reside freely within the territory of the Member States and the European Economic Area, pursuant to the European law. EU citizens have the right of residence on Greek territory for a period of up to three months without any conditions or any formalities other than the requirement to hold a valid identity card or passport. After three months EU nationals wishing to reside and work within the Greek territory shall be required to register by the relevant authorities (local police station) and get the registration certificate.

Third country nationals, meaning people who are not Greek nationals or nationals of any other EU Member State, may have the right to work in Greece or be treated equally with EU nationals as regards working conditions under the condition that they enter legally the country and apply for a residence permit. The Immigration and Social Integration Code (Greek Law 4251 / 2014 as amended by Law 4335 / 2015) regulating the right of residing and working in Greece is applicable to third-country nationals.

Furthermore, Greek law 4332 / 2015 transposed Directive 2011 / 98 / EU of the European Parliament and of the Council "on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State" and Directive 2014 / 36 / EU "on the conditions of entry and stay of third-country nationals for the purpose of employment as seasonal workers".

Directive 2011 / 98 / EU of the European Parliament and Council of 13th December 2011 provides a combined single permit for residence and work for third-country nationals wishing to be admitted to a EU country in order to stay and work or for third-country nationals who are already resident and have access to the labour market in a EU country. Certain categories on third-country nationals are not covered by the above Directive, such as those who have been granted EU long-term resident status. Authorities in EU countries must treat any application for this single permit for residence and work (new, amended or renewed) as a single application procedure. They must decide whether the application is to be made by the third-country nationals or by their employer (or by both). The single permit allows third-country beneficiaries to enjoy the right to work, reside and move freely in an EU country.

Third-country nationals are required to hold a valid national visa (Long-stay Visa-D Visa) in order to legally enter Greece and apply for a residence and work permit. A national visa means the authorization granted by the competent Greek consular authorities of the place of legal residence of the applicants, allowing them to enter into and reside within the Greek territory for more than 180 days and up to 365 days.

Some of the categories of residence permit for employment and business purposes are the Paid employment-provision of services or work, Special purpose employees, Investment activity and Highly qualified employment EU Blue Card.

For temporary residence; Third-country nationals who move from undertakings established in EU or EEA Member States with the purpose of providing services and Third-country nationals who move from undertakings in third countries with the purpose of providing services.

A ministerial decision issued within the last quarter of every other year, determines the maximum number of paid employment posts offered to third-country nationals per region and specialisation.

Recommendations:

Check whether in each limitations provided in the ministerial decision apply.

Commence the relevant procedures in due time before the undertaking of the obligations by the employee.

2. Which social security system is applicable?

If you work in Greece, you are entitled to the same social security benefits as a Greek (national) worker, and under the same conditions. Members of the family who are living in Greece can also claim benefits under the same conditions as the family members of a Greek worker.

Upon an expensive restructuring in the Greek social security system, the competent social security institution for all employees will be EFKA (translated into: Unified Entity for Social Security), beginning from 1 January 2017.

Social security contributions are paid by both the worker and the employer, for the risk of old age, invalidity, death, accidents at work and occupational diseases, sickness, maternity and unemployment. The amount of the employee's contribution is a percentage of gross pay, which is withheld by the employer from the person's pay packet, immediately or at most two months after the corresponding period. The amount of the employer's contribution, which is also a percentage of the employee's gross pay, is paid by the employer and is added to the wage bill.

In order to facilitate the mobility of the employees, Greece has signed several social insurance agreements with third countries (e.g. USA, Canada etc.). Based on their provisions transferred employees are exempted to pay security contributions in Greece, when certain conditions are met. In case of employees moving within the EU area, the coordination of the social security systems allows employees as long as their transfer has a limited duration, to remain secured with the social insurance organisation of their home country. In that case, the posted employee has to apply to the social security authorities of his home country for a certificate about his / her social security status, i.e. that the social security contributions are being paid in the employee's home country and that he / she will remain ensured with them.

Recommendations:

Verify in each case the application of a Bilateral Agreement or EU Regulations and ensure that the relevant documentation are submitted to the authorities.

3. Is the employee liable for taxes in Greece?

Greek law states that Greek-source income is taxable in Greece, whereas individuals who are Greek tax residents are subject to tax in Greece on their worldwide income.

The Greek tax law states that the residence of an individual for tax purposes is in Greece, if the respective individual has his permanent or main residence or habitual residence or centre of vital interest in Greece. Furthermore, an individual is considered as a Greek tax resident as of the first day of his residence in Greece if he / she resides continuously in Greece for a period exceeding 183 days, including short term stay outside Greece.

In this context, an individual spending more than 183 days in Greece shall, with certain exemptions, be presumed to be a Greek tax resident. Individuals not residing in Greece are taxed only on their income derived from a source therein. It is a rule that the taxpayer is obliged to prove to the tax authorities that he / she is not a Greek tax resident by submitting to the tax authorities documents described in relevant ministerial acts.

Greece has signed double taxation treaties with many countries, which are designed to ensure that income that has been already taxed in one treaty country isn't taxed again in another.

Recommendations:

Check if there is a Treaty for the Prevention of Double Taxation to prevent double taxation.

Check whether the employee could make use of the privileges of a tax expat regime.

4. Which specific mandatory employment conditions apply?

Pursuant to international private law, the individual employment contracts shall be governed by the law as defined in article 8 of the Regulation (EC) No 593 / 2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I). However, the Greek legislator regulates specific issues with mandatory rules which cannot be disregarded by the parties. Those specific labour issues entail the maximum limits of daily and weekly provision of work, overtime work, specific provisions for night work and the minimum wage limits.

As regards posted workers to Greece, according to the Greek Presidential Decrees 219 / 2000 and 101 / 2016 which have implemented the European legislation, companies who post employees in the Greek territory, whatever the law applicable to the employment relationship, shall ensure that they guarantee to these employees the terms and conditions of employment as applicable in Greece on the following matters: maximum work periods and minimum rest periods; minimum paid annual holidays; and minimum rates of pay, including overtime rates; this point does not include the supplementary occupational retirement pension schemes or the allowances specific to the posting such as expenditure on travel; board and lodging only if they are paid in reimbursement of expenditure actually incurred on account of the posting; the protection of children and young people at work; the protection of pregnant women or women who have recently given birth; the protection of health, safety and hygiene at work; Equality of treatment between men and women and other provisions on non-discrimination; and Putting employees at the disposal of a user enterprise by temporary employment agencies.

Recommendations:

Make sure that the mandatory rules of Greek labour law are applied.

The competent supervisory authority for the terms and conditions of the posted employees in Greece is the Labour Inspectorate of the Ministry of Labour Affairs.

5. What happens in case of termination of the assignment?

In general, according to international private law, parties can choose the applicable law to their employment relationship. In the absence of choice, the employment relationship shall be governed by the law of the country in which the employee habitually carries out his work in performance of the contract, even if he / she is temporarily employed in another country (Rome I).

In case of termination of the assignment, the employee normally returns to his / her home country, meaning the country from where the employee was posted to Greece. Termination of the employment contract itself will be governed by the chosen applicable law or the employee's home country as explained above.

If the employee has been granted a residence permit due to his / her employment in Greece, then, in case of termination of the assignment, the residence permit will be revoked or will not be renewed. In such case, the employee will have to leave Greece or search for another job.

Recommendation:

An assignment letter should be drafted providing for the duration of the assignment and the return of the employee.

HUNGARY

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1. Does your employee need a work permit?

With certain exceptions, foreign nationals need both a work permit and a residence permit in order to work in Hungary.

Nationals of EEA countries and their family members as well as refugees are, however, treated as Hungarian nationals and are exempt from the obligation to obtain a work or residence permit. This notwithstanding, there is a reporting obligation to comply with: the employer is required to report certain data to the employment centre when employing an EEA national.

In addition to the above, the most important exceptions, when no work permit is required include: (i) for managing directors or supervisory board members of Hungarian companies with foreign shareholders; (ii) for carrying out work that involves commissioning, warranty repair, maintenance or guarantee service activities performed on the basis of a private contract with a business entity established in a third country, if it does not exceed fifteen working days within a thirty-day period at any given time; (iii) for education activities in primary, secondary and tertiary educational institutions in a foreign language, if performed under a recognised international education program; (iv) for activities in the field of education, science or art for not more than ten working days per calendar year.

It is the employer's obligation to apply for the work permit. The general rule is that the employer needs to register its demand for workers for a certain position prior to applying for a work permit for a foreign employee for that particular position and it was established that no Hungarian national applicant satisfied the criteria for that position. This condition precedent, however, does not apply under certain conditions, e.g. in case of so-called "key employees", where the procedure is also faster than the regular procedure.

Subject to specific criteria defined by law, there is also an option where the work permit and the residence permit can be applied to in one proceeding.

Recommendations:

All particulars of the employment (including family status and nationality of the employee as well as purpose of employment) should be discussed thoroughly with local counsel prior to applying for the work permit to choose the fastest and easiest way.

2. Which social security system is applicable?

Hungary's social security rules with respect to EU and Swiss nationals are in harmony with Regulation (EC) No. 883 / 2004 of the European Parliament and of the Council. The main rule is that the social security system of the country where the employee works is applicable. However, with respect to EU nationals (or where there is a bilateral treaty in place between Hungary and a third country), the social security system of the home country can remain applicable, if the employee is posted for work to Hungary for a period not exceeding 24 months. The social security authority in the home country of the employee can issue a certificate (so-called A1 form) which confirms that social security contributions are being paid in the employee's home country. If such certificate is presented to the employer, then the no social security contributions are payable in Hungary. Certain bilateral treaties create exemption only for pension contributions.

Recommendations:

An advance declaration stating the employee's intention to work in Hungary might be necessary in order for the employee to stay covered by the home social security.

3. Is the employee liable for taxes in Hungary?

Hungarian residents are required to declare their worldwide income in Hungary, while non-residents are, in principle, only liable to pay taxes on their Hungarian source income. Please note that the distinction here is made on the basis of the residence, not the nationality of the employee. Work performed under an employment contract in Hungary generally qualifies as a Hungarian source income.

In order to avoid double taxation, Hungary has entered into tax treaties with many countries. The tax treaties follow the tax regime under the OECD double tax treaty model. When determining if an employee is subject to personal income tax in Hungary, it is always to be verified if there is a tax treaty in place with the relevant other jurisdiction and the provisions of such treaties are to be carefully examined. Under the double tax treaties, the income from salaries are, as a general rule, taxable in the state where the employee is a resident. However, under certain conditions, Hungary might be eligible to tax the income of a non-resident employee. (If this is the case, then either the exemption method or the tax credit method can be applied to eliminate double taxation.)

Recommendations:

Always check the bilateral tax treaties.

4. Which specific mandatory employment conditions apply?

If a foreign company employs a worker in Hungary in an employment relationship that is not governed by the Hungarian Labour Code, with limited exceptions, certain mandatory provisions of Hungarian law (including collective agreements) will still be applicable. These include provisions that govern the maximum working time and minimum rest periods; the minimum duration of annual paid leave; the amount of minimum wages; occupational safety; the conditions of employment or work by pregnant women or women who have recently given birth, and of young people; and the principle of equal treatment. These provisions also apply where employment is provided at the Hungarian branch of a foreign employer, or of an employer that belongs to the same group of companies as the foreign employer.

In addition to the above, Hungarian legislation or jurisprudence has not yet determined which provisions of the Hungarian Labour Code will qualify as "overriding mandatory provisions" as defined under Article 9 of Regulation (EC) No. 593 / 2008 of the European Parliament and of the Council. There is an academic common understanding, though, that the provisions relating to collective redundancy or termination protection for union representatives will qualify as such.

Recommendations:

Make sure mandatory rules of Hungarian labour law are applied.

5. What happens in case of termination of the assignment?

Pursuant to the provisions of the EC Directive, the parties are free to determine the applicable law to their employment relationship, as long as in doing so they do not derogate from the mandatory provisions which cannot be overridden of the laws of the land where the employee usually works. If the parties did not define the governing law for the employment relationship, then the law of the country where the employee works is applicable.

Consequently, as long as the mandatory provisions of the Hungarian Labour Code are considered, the law of the jurisdiction of the employer posting the employee to work in Hungary can govern the terms and conditions how such assignment can be terminated. This is definitely advisable to be clearly and unambiguously regulated in the assignment letter.

Recommendations:

Make sure that the assignment letter contains an explicit choice of law to avoid application of conflicting regulations.

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1. Does your employee need a work permit?

Non-EEA nationals will usually require a work permit to work in Ireland.There are nine different types of permit available and which permit is appropriate will depend on the duration of the proposed stay and the nature of the work to be undertaken. The two most popular permits are the Critical Skills Permit, which is designed to attract highly skilled people into the labour market with the aim of encouraging them to take up permanent residence in the State and the Intra Company Transfer Permit which is designed to facilitate the transfer of senior management, key personnel or trainees who are non-EEA nationals from an overseas branch of a multinational corporation to the Irish branch. Each work permit will have its own specific criteria which will need to be met. However for all permits, the Department of Jobs, Enterprise and Innovation must be satisfied that at the time of application at least 50% of the employees in the Irish entity are EEA nationals.

If the non-EEA national who has been granted a work permit is from a visa required country they will need to make a separate visa application.

Recommendations:

Consult the list of jobs on the Departments Highly Skilled Eligible Occupations list before deciding on what permit to apply for.

If applying for more than one work permit, register as a Trusted Partner which aims to turnaround applications within two days.

2. Which social security system is applicable?

Most people employed in Ireland over 16 years of age are required to make social insurance contributions. The amount paid is based on earnings and the type of work. The employer is responsible for Pay Related Social Insurance (PRSI), though employees may have to contribute also. The amount of PRSI paid depends on the social insurance class which is determined by earnings and the type of work

If an employee has come from a country covered by EU Regulations or Bilateral Social Security Agreements, then their social insurance contributions may be protected and they may be able to combine their insurance records from Ireland and another country in order to qualify for a pension or social insurance payment.

Recommendations:

Confirm in advance which social insurance system will apply to the employee and what the advantages or disadvantages will be for them.

3. Is the employee liable for taxes in Ireland?

Generally an employee will be charged Irish tax on their world-wide income earned or arising in a tax year during which they are resident, ordinarily resident and domiciled in Ireland for tax purposes.

For any tax year during which a person is non-resident and not ordinarily resident in Ireland they will be charged tax on their income from Irish sources only. The extent of liability to Irish tax may also be influenced by domicile status and in certain circumstances by a double taxation agreement.

Residence status for Irish tax purposes is determined by the number of days present in Ireland during a given tax year. A person will be resident in Ireland for a particular tax year in either of the following circumstances:

i. if they spend 183 days or more in Ireland for any purpose in that tax year
ii. if they spend 280 days or more in Ireland for any purpose over a period of two consecutive tax years you will be regarded as resident in Ireland for the second tax year. However, if they spend 30 days or less in total in Ireland in either tax years, those days will not be reckoned for the purpose of applying this test

Recommendations:

Clarify if the individual is resident or domiciled in Ireland.

Check the application of any relevant double taxation agreements.

4. Which specific mandatory employment conditions apply?

Foreign nationals working legally in Ireland are entitled to the full range of statutory employment rights and protections in exactly the same manner as an Irish worker.These rights are governed by a range of detailed employment legislation. Everyone is entitled to a written statement of their terms and conditions of employment, a minimum wage rate, an average working week of no more than 48 hours, breaks during the working day, paid annual leave, Public holiday benefit, to be paid in a legal manner and to receive a pay slip each time they are paid.

"Posted Workers" – individuals employed in one EU member State but posted to another Member State by their employer for a temporary period are guaranteed the same minimum protections as are enjoyed by non-posted workers in Ireland.

Recommendations:

Seek local advice to ensure compliance with Irish employment legislation.

Ensure all contracts of employment include required provisions.

Set out a clear grievance process to ensure any issues arising are addressed quickly.

5. What happens in case of termination of the assignment?

We would always recommend to employers that they address, at the outset, what is to happen when the assignment is due to come to an end. Any such document or letter should provide clarification on the duration of the assignment, confirmation of the name of the employer, any details for the relocation of the employee back to their home country and re engagement or re instatement with their original employer. In the event that the employment relationship ends at the end of the assignment consideration will need to be given to who is the employer. In any secondment agreement it should specify what jurisdiction is applicable however if the employee is carrying out their duties in Ireland and under control of an Irish entity it would normally be possible for them to institute their proceedings in Ireland.

Recommendations:

Provide the employee with a clear secondment letter addressing the issue of termination of the assignment and the consequences of this.

ITALY

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1. Does your employee need a work permit?

Pursuant to Legislative Decree no. 30 / 2007, which implemented European Directive 2004 / 38 / EC, EU citizens and their family members have the right to move and reside freely within the territory of the European members. They do not need to apply for a work permit to work in the Italian territory.

With regards to extra-EU foreign nationals (i.e. any citizen outside the European Union or the Schengen area), should they intend to work in Italy, firstly they have to legally enter Italy thorough a valid passport and an entry visa which allows a short stay (i.e. no longer than ninety days). In order to stay for a longer period, it will be necessary the obtainment of both the entry visa and a residence permit.

The residence permit can be released for certain reasons only[1] and its duration is linked to these reasons. In particular, the maximum duration of a permit for employment reasons cannot be longer than:

i. nine months in case of seasonal employment contract / s;
ii. one year in case of fixed term employment contract; and
iii. two years in case of permanent employment contract; or
iv. two years in case of autonomous work

The entrance in Italy for subordinate work (which requires also the execution of a contract to stay for subordinate employment reasons), seasonal work or self-employment must take place within the framework of the entry quotas established in periodic decrees (usually annual), the so-called 'decrees-flows' ("Decreto Flussi"), issued by the President of the Council of Ministers on the basis of the criteria set out in the three-year program document on immigration policy. They normally contain a reserve of allowances for citizens of countries with which Italy has concluded specific agreements for the regulation of entry flows.

Notwithstanding the indicated limitations, Italian law provides for some exceptions to the yearly restrictions for particular categories of extra-EU workers who wish to enter Italy, with specific regards to: (a) managers or highly qualified personnel of foreign companies having an office or a branch in Italy; (b) university mother tongue professors or lecturers; (c) translators or interpreters; (d) artists and performers; (e) journalists; (f) professional nurses to be assigned to clinics and health facilities.

Moreover, said restrictions do not apply to persons authorised to stay for professional training reasons, who carry out temporary periods of training at Italian employers or to workers seconded in Italy. In this latter case persons can be admitted to entry into Italy by bypassing the yearly limit through the application by the employer for a nulla osta, to be released by the Italian Government, upon completion of the relevant procedures. If the nulla osta is released, the foreign worker can then apply for the relevant visa.

Recommendations:

Verify whether the entrance in Italy for work reasons of extra-EU foreign nationals is subject to the limitations of the Decreto Flussi or whether exception can be applied.

Ascertain the necessary procedure to be followed and the documentation to be provided in order to obtain the nulla osta (if it is the case), the entry visa and the residence permit.

Start the relevant process in due time, since obtaining the necessary documentation from the competent Italian authorities requires a certain period of time.

2. Which social security system is applicable?

As general principle, the Italian social security legislation aims at granting the foreign worker an equal treatment with respect to the Italian workers.

The principle applies, not only for pensions, but also for the other social security and welfare benefits, of course in compliance with the requirements and conditions laid down by Italian law. As a consequence, the foreign workers employed in Italy have the same rights as the Italian citizens and therefore these rights can be considered as accrued even if there are no Social Security Agreements executed with the country of origin of the worker.

Under the Italian social security standpoint, the territoriality principle pursuant to which the social contributions are due in the country where the labour activity is performed, has to be followed. Generally speaking, the foreign worker or a stateless person who works in Italy, must be ensured in accordance with Italian regulations.

By virtue of the principle of territoriality, the regulations in force in the country where the work is carried out (concerning types of insurance coverage, amounts, taxable salary) are to be applied, even if there are exceptions according to which the worker is allowed to keep the insurance scheme of the country of origin.

Said exceptions are indicated in bilateral agreements between Italy and non-EU countries and in EU Regulations on social security which have the specific aim to realise the coordination between the different social security systems, so as to avoid double contribution in the country of origin of the employee and in that of the work, providing that during the employment in the country which executed the relevant agreement, or because part of the EU, and for the established duration, it can be applicable to the worker the social security scheme of the country of origin[2], in accordance with application of appropriate administrative procedures.

Recommendations:

Verify whether Bilateral Agreements or EU Regulations can be applied and which are the relevant documentation / forms to be filled in.

3. Is the employee liable for taxes in Italy?

The income tax is charged on each person who is fiscal resident in Italy and in relation to all types of income earned anywhere in the world (so called "worldwide taxation income").

For the purposes of income tax, a person is considered resident if he / she is registered in the municipal registry of residents for most of the tax period, i.e. for at least 183 days (184 for leap years), and has, in the territory of Italian State, the domicile (principal place of business and interest) or the residence (habitual residence). In other words, a person is considered tax resident in Italy if he / she has

Notes

[1] Application for a residence permit is allowed for the following reasons: 1) custody; 2) pending reacquisition of citizenship; 3) asylum (only if the refugee status has already been recognised and has requested the renewal of the residence permit for asylum); 4) family; 5) self-employment; 6) employment (for all types of employment, even to seasonality); 7) employment - awaiting for employment; 8) mission; 9) religious reasons; 10) choice of residence; 11) scientific research; 12) statelessness (only if the status of statelessness has already been recognised and has requested the renewal of the residence permit for stateless); 13) study (in cases where the stay is longer than 3 months).

[2] By way of example, please make reference to Article 12 of Regulation (EC) No 883 / 2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems (to be applied to nationals of a Member State, stateless persons and refugees residing in a Member State who are or have been subject to the legislation of one or more Member States, as well as to the members of their families and to their survivors) according to which "A person who pursues an activity as an employed person in a Member State on behalf of an employer which normally carries out its activities there and who is posted by that employer to another Member State to perform work on that employer's behalf shall continue to be subject to the legislation of the first Member State, provided that the anticipated duration of such work does not exceed 24 months and that he / she is not sent to replace another posted person."

the centre of his / her vital interests in Italy: this verification requires a deep analysis to be carried out on a case by case basis.

Even non-residents, if they have "produced" income or possess property in Italy, are required to pay taxes to the Italian State, subject to certain exceptions provided for by the bilateral agreements executed between the Italian State and that of residence in order to avoid double taxation.

As general rule, it is considered produced in Italy and therefore subject to taxation by the Italian State the income originated in the Italian territory and derived, for example, from: employment activities, independent work, etc., pensions and similar allowances, and immovable property (land and buildings) located in Italy.

In particular, with regard to the income of employees and similar, it is subject to taxation (and therefore to be declared in Italy) if:

i. perceived by the individual resident in a foreign country with which Italy has not executed a convention against double taxation;
ii. perceived by the individual resident in a foreign country with which Italy has executed a convention against double taxation that provides for taxation of such an income both in Italy and in the foreign country;
iii. perceived by the individual resident in a foreign country with which Italy has executed a convention against double taxation that provides for taxation of such an income only in Italy.

In the first two cases the taxpayer is entitled in his / her country of tax residence, to require the refund of the tax paid in Italy.

As for wages paid by a private employer, in almost all conventions (such as those with Argentina, Australia, Belgium, Canada, France, Germany, UK, Spain, Switzerland and the United States) it is indicated the exclusive taxation in the country of residence of the recipient when the following conditions exist simultaneously:

i. the worker residing abroad carries out his / her activity in Italy for less than 183 days, and
ii. the remuneration is paid by an employer residing abroad, and
c. the burden is not borne by a permanent establishment which the employer has in Italy.

In such cases the salaries should not be declared to the Italian State.

Recommendations:

Verify if a person can be considered as tax resident in Italy.

In order to mitigate any possible negative fiscal impact on the foreign employee who shall perform his / her activity in Italy, evaluate the opportunity to negotiate with the same a tax equalisation clause.

4. Which specific mandatory employment conditions apply?

The Rome Convention dated 19 June 1980 on the law applicable to the contractual obligations has been transposed into the European law through Regulation no. 593 / 2008. Article 8 of this Regulation, with regards to individual employment contracts, states four criteria in order to identify the law governing the relevant contract:

i. the law chosen by the parties, lacking which
ii. the law of the country in which or, failing that, from which the employee habitually carries out his work in performance of the contract (the country where the work is habitually carried out shall not be deemed to have changed if he is temporarily employed in another country)
iii. where the law applicable cannot be determined pursuant to paragraph (ii), the law of the country where the place of business through which the employee was engaged is situated, or
iv. in case it appears from the circumstances as a whole that the contract is more closely connected with a country other than that indicated in paragraphs (ii) or (iii) above, the law of that other country shall apply.

Should the parties choose the law applicable to the relevant employment contract, it has been stated that in no case such a choice of law could deprive the employee of the protection afforded to him by provisions that cannot be derogated under the law that, in the absence of choice, would have been applicable pursuant to the mentioned paragraphs (ii), (iii) or (iv).

With regards to the secondment of workers in the framework of the provision of services, Directive 96 / 71 / EC of the European Parliament and of the Council of 16 December 1996, as amended by Directive 2014 / 67 / UE of the European Parliament and of the Council dates 15 May 2014, requires that each Member State has to cause that, whatever the law applicable to the employment relationship, the undertakings guarantee workers posted to its territory the same terms and conditions of employment applied in that Member State with regards to some specific matters[3].

Italian Legislative Decree no. 136 dated 17 July 2016 contains the provisions of law aimed at implementing Directive 96 / 71 / EC, as amended. Article 4 of the same states that it has to apply to the employment relationship between undertakings (established in a Member State that post in Italy one or more workers) and posted workers, during the period of posting, the same "working and employment conditions"[4] provided for the workers carrying out similar activity in the place where the posting takes place.

Recommendations:

Ascertain that both parties know the provisions of law they intend to apply to the employment contract.

In case of secondment, verify whether the terms and conditions of the employment contract are not less favourable than those provided to workers who work in Italy.

5. What happens in case of termination of the assignment?

The termination of a cross-border posting can be caused by different reasons:

i. expiry of the period of secondment; it is common to find in the agreement between the employer that posted the employee and the same employee, a provision pursuant to which the former undertakes to grant the latter, at his / her return in the workplace of origin, same tasks, position and role he / she had in the country of origin before his / her departure; should on his / her return the employee do not find these conditions, the potential dispute should be based on the law applicable to the employment relationship;
ii. before the expiring term of the secondment, in case the posted employee is requested to come back for reasons relating to the organisation of the employer that posted the employee; the agreement between the employer that posted the employee and the same employee generally provides this possibility;
iii. breach by the posted employee of his / her duties; in such a case it is also necessary to verify the agreement between the employer which posted the worker and the company at which he / she was seconded in order to understand (i) which party is entitled to challenge the non-performance of the employee, (ii) what agreements have been reached between the two companies to rule this specific situation. Finally, it is necessary to previously check which the applicable law is.

Notes

[3]The matters, as ruled by law, regulation or administrative provision and / or by collective agreements, relate to:

i. maximum work periods and minimum rest periods;
ii. minimum paid annual holidays;
iii. the minimum rates of pay, including overtime rates;
iv. the conditions of hiring-out of workers, in particular the supply of workers by temporary employment undertakings;
v. health, safety and hygiene at work;
vi. protective measures with regard to the terms and conditions of employment of pregnant women or women who have recently given birth, of children and of young people;
vii. equality of treatment between men and women and other provisions on non-discrimination.

[4]Article 2 of Legislative Decree no. 136 dated 17 July 2016 defines "working and employment conditions" as those conditions ruled by law of collective contracts relating to the same matters as per footnote 6 above.

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1. Does your employee need a work permit?

Citizens of the EEA (the EU plus Iceland, Lichtenstein and Norway) and Switzerland do not need a work permit while working in the Netherlands, except those from Croatia, whose citizens need a Dutch work permit.

As of 1 April 2014, foreign nationals from outside the EEA and Switzerland must apply for a combined residence and work permit ("GVVA") if they intend to work in the Netherlands for longer than three months. A foreign national, or his employer, applies to the Immigration and Naturalisation Service (IND) for just one permit to live and work in The Netherlands. Some groups of foreign nationals do not need to apply for a GVVA. However, they must still apply to the Employee Insurance Agency (UWV) for a work permit (TWV). These groups are:

i. foreign nationals who intend to work in the Netherlands for less than three months;
ii. seasonal workers;
iii. students;
iv. asylum seekers;
v. employees of an international company who are seconded to the Netherlands;
vi. Croatians.

Breaking these rules may cause (large) penalties for the employer.

Recommendations:

Make sure whether the foreign national needs a work permit. If he does, apply to the Immigration and Naturalisation Service or to the Employee Insurance Agency (UWV).

Make sure the employee with an (temporary) assignment in the Netherlands does not work illegally.

2. Which social security system is applicable?

The answer to the question which social security system is applicable in case of a temporary assignment in the Netherlands depends on the situation:

1. Citizens of EEA or Switzerland

In case the foreign employee is a citizen of the EEA (the EU plus Iceland, Lichtenstein and Norway) or Switzerland, the basic rule is that the social security system of the Netherlands is applicable while the EU Regulation 883 / 2004 stipulates that the social security system of the country in which the employee actually works applies.

However, if certain conditions are met the social security system of the home (EEA) country may apply (which also leads to a social security contribution exemption in the Netherlands). To become eligible for this exemption, the foreign employee must obtain a so-called 'A1-statement' (a form stating that the employee is covered by social security in the home country) before entering into assignment.

2. Non-EEA citizens

In case the foreign employee is a non-EEA citizen, the above mentioned EU Regulation 883 / 2004 does not apply. However, the Netherlands have signed several bilateral agreements with several countries[5] regarding the coordination of social security systems. Based on the specific bilateral agreement, the social security system of the Netherlands or the home country may apply.

In case the social security system of the home country applies, the foreign employee must obtain an A1-statement as well.

In case the foreign employee is a non-EEA citizen and the Netherlands do not have a bilateral agreement with the home country, the question which social security system(s) is (or are) applicable depends on both Dutch and foreign law.

Recommendations:

Check whether EU Regulation 883 / 2004 or a bilateral agreement applies.

If desirable (and possible), obtain a temporary exception (A1-form) to avoid Dutch social security during the assignment.

3. Is the employee liable for taxes in the Netherlands?

An employee working in the Netherlands will become subject to Dutch personal income tax, either as a resident or a non-resident taxpayer. Non-resident taxpayers are taxed only on their Dutch income, saving and investments. Resident taxpayers are taxed on their world-wide income, savings and investments.

A foreign employee on an assignment in the Netherlands, shall in principle be seen as a Dutch tax resident. As a result of that, Dutch taxation will take place on a word-wide income, unless a tax treaty for the avoidance of double taxation leaves a taxation right (for certain items of income) to other (home) countries. If there is no tax treaty, the employee will be subject to the Double Taxation (Avoidance) Decree 2001.

If an employee is recruited from abroad to work in The Netherlands or is transferred to The Netherlands from abroad, the employee has - compared to local employees - additional costs incurred during a temporary stay outside the home country, so-called 'extraterritorial costs'. An employer may grant the foreign employee a tax-free reimbursement for the actual extraterritorial costs incurred. However, it may be difficult for an employee to prove the deductibility of such costs according to the Dutch law. Therefore, the Dutch tax authorities can issue a so-called 30%-ruling.

The 30%-ruling is a special tax regime for highly skilled migrants transferred to The Netherlands or recruited from abroad to work in The Netherlands. If a foreign employee meets certain requirements, the employer can grant the employee a tax-free allowance as a reimbursement for the additional costs of a temporary stay outside the home country. The granted tax-free expense allowance can be up to a maximum of 30% of the gross salary, subject to Dutch payroll tax. However, if any additional extraterritorial expense allowance is reimbursed by the employer separately, this will be deducted from the 30%-ruling.

Recommendations:

Check whether the employee is considered to be a Dutch tax resident.

Check whether the employee qualifies for the favourable 30%-ruling.

Consult a tax advisor if necessary.

4. Which specific mandatory employment conditions apply?

Directive 96 / 71 / EG (the Posting of Workers Directive) stipulates that the Netherlands must ensure that certain minimum employment conditions which apply in their jurisdiction are complied with the posted workers (temporarily) employed in their territory as well. The Netherlands implemented this directive in 1999 with the Terms of Employment (Cross-Border Work) Act (the "WAGA").

The WAGA stipulates that provisions apply by operation of law to workers carrying out work in the Netherlands for a limited period whose employment contract is governed by other than Dutch law, insofar as these provisions relate to one of the following matters:

i. maximum working hours and minimum resting periods;
ii. the minimum number of days leave during which the employer is obliged to pay wages;
iii. minimum wage, understood to include remuneration for overtime but exclude supplementary company pension schemes;
iv. conditions for providing workers;
v. health, safety and hygiene at the place of work;
vi. protective measures relating to the terms and conditions of employment and working conditions of children, the young and pregnant workers or those who have recently given birth;
vii. the equal treatment of men and women, as well as other anti-discrimination provisions.

The foregoing does not prevent that (foreign) provisions that are more favourable for the employee are applied, in which case the Dutch mandatory provisions can be superseded.

Recommendations:

Check whether the employment conditions agreed upon with the employee are (at least) in line with Dutch mandatory law.

5. What happens in case of termination of the assignment?

Regulation 593 / 2008 / EG (Rome I) stipulates that parties are free to determine the applicable law to the employment relationship, as long as they do not derogate from Dutch mandatory law (including the under question 4 mentioned mandatory applicable employment conditions). In the absence of a choice of law, the employment contract will be governed by the laws of the country where the employee usually works.

In case the assignment of a temporary foreign employee does not last very long (no longer than maximum five years pursuant to case law), the laws of the home country usually stay applicable (apart from the fact that mandatory Dutch law applies in any case). However, this depends on all circumstances (such as the applicable social security system, allowances for moving costs and repatriation etc.) and therefore it is advisable to make an explicit choice of applicable law to the employment relationship.

While it is in the Netherlands in principle not allowed to unilaterally terminate an employment agreement without prior approval of the government or the judge, it is advisable to agree that the assignment can be terminated without prior notice in which event the employee shall return to his home country where the original employment conditions and the laws of the home country will resume.

Recommendations:

Explicitly agree a choice of law (with respect to mandatory Dutch law) in an assignment letter and explicitly agree the length of the assignment and the consequences of termination of the assignment.

Notes

[5]Argentina, Australia, Belize, Bosnia, Canada, Chile, Ecuador, Egypt, Philippines, Hong Kong, India, Israel, Japan, Jordan, Cape Verde, Canal Islands, Kosovo, Macedonia, Man, Morocco, Monaco, Montenegro, New Zealand, Panama, Paraguay, Serbia, Suriname, Thailand, Tunis, Turkey, Uruguay, United States, South Africa and South Korea.

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1. Does your employee need a work permit?

Before employing a non-EU / EFTA citizen the company should obtain a work permit for this individual unless for some reason this person is exempt from the obligation to hold a work permit (e.g. holds the Card of the Pole, is a student of full-time studies in Poland or has graduated from such studies in Poland, or holds a permanent residence card issued in Poland. There are also some exemptions for citizens of neighbouring countries). The process of obtaining a work permit usually takes approx. 1.5 months. Work permits are issued on the employer's request for an indicated foreigner and for a specified period (not more than three years but it can be renewed).

There are five types of work permits under Polish law that depend on character of relationship between the parties (e.g. agreement with the Polish company, posting of workers, performing functions in the management board of Polish company).

Based on the work permit, the foreigner should apply for a visa with a right to work at the Polish consulate in the country of his / her origin. The visa should be issued for the period corresponding to the period for which work permit is valid but not more than year (one year is the maximum period of validity of a long term visa).

If a foreigner's work in Poland is required for a period longer than the work permit and visa allow for, the foreigner may apply for a temporary residence and work permit – during one procedure both further work and stay of the foreigner may be legalised. Alternatively the company may apply for the work permit extension and the foreigner may travel to the country of his / her origin in order to obtain a new visa.

Recommendations:

Make sure whether or not the employee requires a work permit to legally work in Poland and if so obtain a work permit for the employee before employing him / her.

The company should keep in its records the original copy of the work permit and a copy of the foreigner's visa / temporary residence card.

2. Which social security system is applicable?

As a general rule, the social security system of the country were the employee performs work is applicable. There are, however, exceptions resulting from EU law (especially Regulation No. 883 / 2004[6]) that in some circumstances (e.g. in case of posting of workers) the home countries social security system remains applicable.

In that case, the employer should request a certificate of coverage from the social security authority in their home country to prove that social security contributions are being paid in the employee's home country where the employee will continue to be socially ensured. The employer will be exempt from paying social security contributions in Poland.

Some exemptions may also result from bilateral agreements executed between Poland and other countries (e.g. USA, Canada, Australia, Ukraine).

Recommendations:

Verify which social security system will be applicable to the employee.

If an employee's domestic social security system is applicable – apply for A1 form to avoid Polish social security legislation during the assignment.

If possible consider whether applying for the exception with regards to social security system is applicable.

3. Is the employee liable for taxes in Poland?

As a general rule every person whose place of residence is located in Poland should pay personal income tax in Poland. A person is treated as having a place of residence in Poland when his / her "centre of personal and economic interests" is in Poland and / or who stays in Poland for a period longer than 183 days a year. Such persons are called Polish tax residents and have unlimited tax obligations in Poland which means that they are obliged to pay taxes in Poland on their worldwide income (regardless where the income was earned).

Foreigners who are not Polish tax residents are obliged to pay taxes in Poland only on the income obtained in Poland.

The above mentioned rules may be modified by double taxation treaties executed between Poland and other countries.

Recommendations:

Check if there is a double taxation treaty executed between Poland and the employee's home country to prevent double taxation.

4. Which specific mandatory employment conditions apply?

In principle, parties are free to determine the applicable law for their employment relationship, as long as in doing so they do not derogate from the mandatory provisions of the laws of the land where the employee usually works (lex loci labori). In the absence of a choice of law, the employment contract is, in principle, subject to the laws of the land where the employee usually works.

In case of posting employees to Poland the employer should remember about the terms resulting from the act on posting of workers within the framework of the provision of services of 10 June 2016 (the "Secondment Act") that implements the rules specified in the Secondment Directive[7]. According to the Secondment Act its provisions are applicable not only to employers whose company is registered in one of the EU member states but also to companies registered outside of the EU.

According to the Secondment Act, the seconding employer is obliged to grant the employee working conditions that are not less favourable to the employee than those resulting from the Polish labour code. This concerns:

i. working time and rest periods;
ii. number of days of vacation leave;
iii. minimum wage (which in 2017 is PLN 2000 gross per month);
iv. remuneration and additional pay for overtime;
v. health and safety rules;
vi. protection of pregnant employees and employees on maternity leave;
vii. hiring young adults and children;
viii. non-discrimination rules;
ix. hiring temporary workers.

Moreover, the seconding employer should:

i. indicate a person who is residing in Poland, who will be authorised to intermediate in contacts with the State Labour Inspectorate and to send and receive documents and notifications.
ii. make a statement on a standard form to the State Labour Inspectorate enabling the Inspectorate to carry out an audit;
iii. keep certain documentation concerning the employee in a written or electronic form in Poland during the term of secondment.

The Act also authorises the State Labour Inspectorate to verify the secondment terms (whether they are compliant with the law).

Recommendations:

Make sure that mandatory provisions of Polish law are respected.

5. What happens in case of termination of the assignment?

To avoid any doubts in this regard it is recommended to regulate the rules of shortening the assignment period in the assignment letter / agreement.

Usually when the assignment ends the employee returns to his / her home country and keeps performing work for the employer based on the basic employment contract (executed with the seconding company). The rules of terminating the basic employment contract will follow from the laws that govern the employment contract.

Recommendations:

Regulate the rules of shortening the assignment period in the assignment letter (to avoid any doubts in that respect).

Notes

[6] Regulation (EC) No. 883 / 2004 of the European Parliament and of the Council of 29.04.2004 on coordination of social security systems, with relevance for EEA and Switzerland

[7] Directive 96 / 71 / EC of the European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services.

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1. Does your employee need a work permit?

As a rule, foreign employees should obtain a work visa in order to work in the Portuguese territory. However, certain employees may be exempt from that obligation. This exemption mainly regards nationals from the European Economic Area (EEA) and their family members, as well as non-EEA nationals with a residency permit.

There are different types of work visas, depending on the personal situation of the foreign employee. The most common are (i) temporary stay visas for carrying out an employed or self-employed activity of temporary nature; (ii) temporary stay visas for transfer of employees who are nationals of States that are part of the World Trade Organisation and who have been transferred for purposes of providing services or taking part in vocational training in Portugal; and (iii) residence work visa. There are also special types of visas for highly qualified or skilled persons (both temporary stay visas and residence visas).

Each type of visa has its own specific conditions for granting and special procedures to follow. For instance, to apply for a residence work visa, the employer must declare the intention of hiring the foreign employee to the Portuguese Employment Institute - Instituto de Emprego e Formação Profissional (IEFP) – in order for the Institute to ensure that the job vacancy has not been occupied by a citizen with preferential rights (i.e., unemployed citizens registered at IEFP).

Regardless of the type of work visa the foreign employee is applying for, the procedure may take several weeks, and sometimes even a couple of months. Therefore, it is very important to take such timeframes into account when applying for a work visa.

Recommendations:

Make sure the employee assigned to Portugal has a work visa, or benefits from an exemption, before entering the country.

When planning the assignment, initiate the procedure to apply for a work visa in due time.

2. Which social security system is applicable?

In principle, the social security system of the country where the employee works is applicable. However, the coordination of social security systems within the European Union, provided by Regulation (EC) No. 883 / 2004, as well as some other international conventions and bilateral agreements signed with countries outside the European Union (for instance, Brazil), provide that the social security of the home country may remain applicable if certain conditions are met.

In fact, under the European Regulations, should an employee be assigned to work in another EU-State, for a period up to 24 months, such an employee may continue to be subject to the home country's legislation and social security system.

Whenever the social security system of the home country is to remain applicable, the employer should request a certificate of coverage, or an A1 form (within the EU) from the social security authority in the home country, in order to prove that social security contributions are being paid there. In this case, the employer (and the employee) will be exempt from paying social contributions in Portugal.

Recommendations:

Apply for a temporary exception - either by submitting the A1 form, if the assignment is within EU-States; or a certificate of coverage, if outside EU-States.

3. Is the employee liable for taxes in Portugal?

Employment income is subject to Personal Income Tax (PIT) in Portugal if the employee is resident for tax purposes in Portugal, if such income derives from work performed in Portugal or if the income is due by entities with residence, head-office, effective place of management or a permanent establishment in Portugal, to which such payment is attributable. As a general rule, employment income is subject to withholding by the employer.

Notwithstanding the above, the rules foreseen in the applicable double tax treaties entered into with Portugal may determine that taxation cannot occur in Portugal under certain circumstances.

Employment income obtained by resident individuals will be taxed at progressive rates that vary from 14.5% to 48%, according to the respective taxable income bracket, plus the PIT surtax of up to 3.21% (during 2017) and, eventually, a solidarity surcharge of 2.5%, applied to the taxable income between €80,000 and €250,000, and 5%, to taxable income higher than €250,000.

Portugal has approved a "Non-habitual residents' regime" applicable to individuals who become tax resident in Portugal and were not resident in the five preceding years. Apart from other tax benefits, under this regime, employment income, when the individual's activity is considered to be of "high added value", is subject to a 20% PIT special rate (and not to the general PIT progressive rates), plus the PIT surtax up to 3.21%.

The "high added value activities" include, for instance, the activities of engineers, auditors, IT consultants, top managers and investors, board members and managers of companies promoting productive investments, if allocated to eligible projects under the Investments Tax Code.

Recommendations:

Correctly assess the employee's tax residency.

Determine if any double tax treaties apply.

If applicable and pertinent, request the "Non-habitual residents' regime" status.

4. Which specific mandatory employment conditions apply?

Directive 96 / 71 / EC (the Secondment Directive) determines that EU Member States should guarantee that minimum provisions regarding working time, vacation days, and minimum wages were complied with, regarding employees assigned to work in their territory, regardless of the law applicable to the employment relationship.

The Portuguese Labour Code implemented the Secondment Directive, setting forth that employees assigned to work in Portuguese Territory are entitled to the employment conditions provided by law and collective bargaining agreements, regarding the following matters: safety at work; maximum duration of work schedule; minimum rest periods; paid vacations; minimum wages and paid overtime work; conditions for hiring employees by temporary employment agencies; conditions for the occasional hiring of employees; health, safety and hygiene at work; maternity and paternity protection; protection of minors; equal treatment and non-discrimination.

Therefore, all rules concerning the above mentioned conditions are mandatory provisions under Portuguese law and apply to foreign employees. However, the above does not prevent the application of foreign provisions more favourable to employees.

Recommendations:

Check whether mandatory provisions are being complied with or whether the assignment conditions provide, at least, equivalent protection to foreign employees.

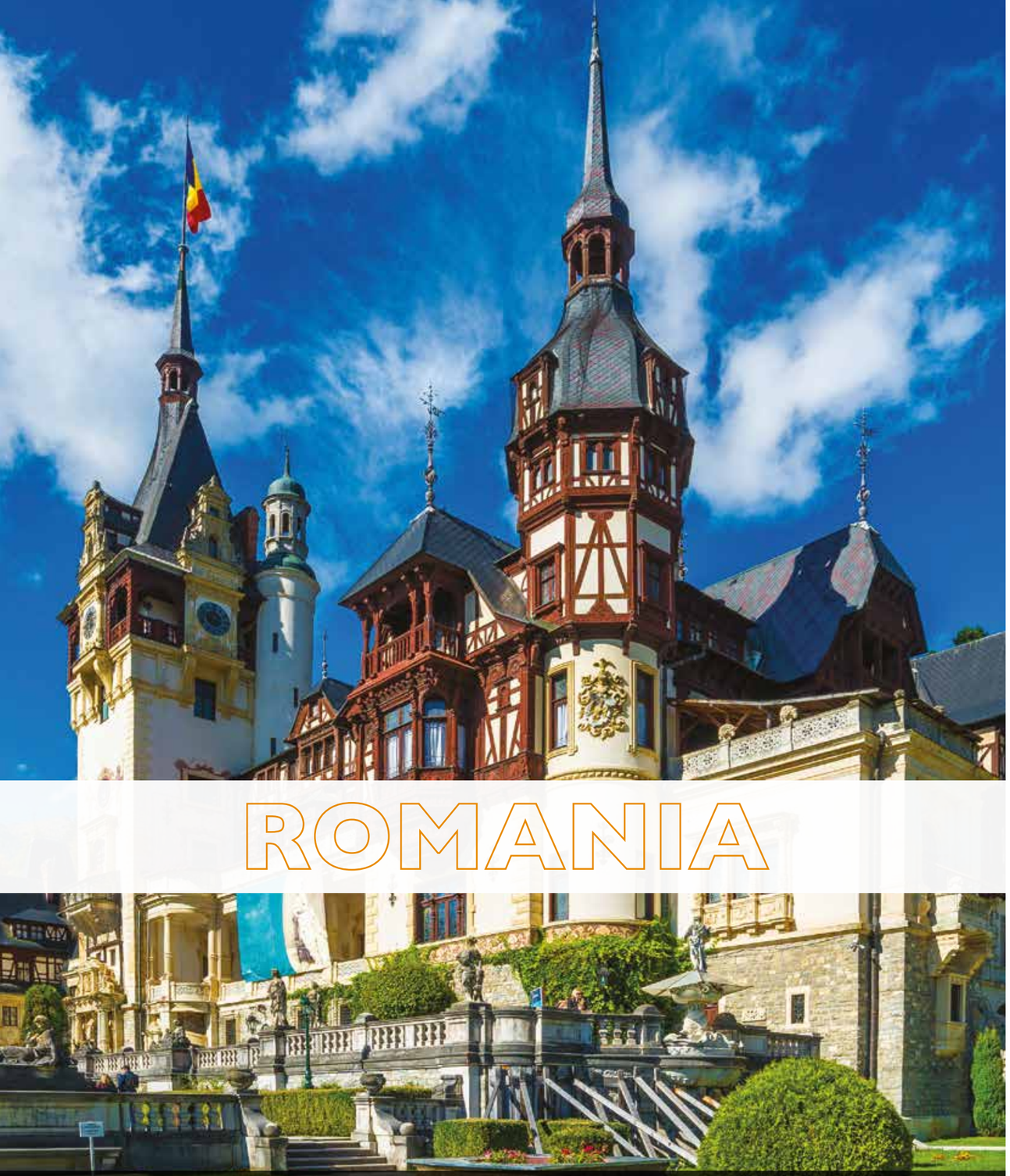
5. What happens in case of termination of the assignment?

Under an international assignment, the employee is, in principle, temporarily seconded to the Portuguese territory. Therefore, as a rule, the provisions of the employee's home country will usually apply to the employment relationship, with the exception of the mandatory provisions indicated in Question 4 above. This means that termination of the assignment will be governed by the laws of the employee's home country.

In any case it is recommended that the parties enter into an assignment agreement, or at least an assignment letter, in order to determine the terms and conditions of the assignment, and agree upon the rules regarding the termination of the assignment. The agreement or assignment letter should clearly provide the length of the assignment and the return of the employee to his / her home country, as well as any other specific provision regarding termination of the assignment before its end, e.g. the need for prior notice and its length.

Recommendations:

Enter into an assignment agreement or draft an assignment letter that rules the terms and conditions of the assignment and, in particular, its termination and return of the employee to his / her home country.



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1. Does your employee need a work permit?

Under the Romanian law, the rule is that foreign employees (non-EU / EEA / Swiss Confederation citizens[8]) may be employed or seconded in Romania based on a prior work permit / approval (to be issued for employment or secondment). The law also provides a number of exceptions from this rule, several categories of employees and employers being exempted from the obligation to obtain a work permit.

However, Romanian law governs the following categories of work permits for employment:

i. work permit for permanent workers;

ii. work permit for seasonal workers;

iii. work permit for probationers;

iv. work permit for sportsmen;

v. work permit for cross-border workers;

vi. work permit for highly skilled workers.

In case of secondment, there are two types of permits:

i. work permit for posted employees;

ii. work permit for ICT employees.

Each type of permit refers to a specific situation and may be granted only by complying with certain legal requirements (general and specific). The cumulative fulfilment of such requirements must be proved with supporting documentary evidence.

The request for the issuance of the employment / secondment permit must be filed by the employer / beneficiary of services rendered with the Immigration Authority and is to be answered within 30 days. However, the proceedings may take longer in cases of improper fulfillment of legal requirements.

The work permit / approval is needed to obtain a long-stay visa or residence permit for employment or assignment purposes. As such, after obtaining the work authorization, foreigners (with several exceptions) are required to obtain a long-stay visa as to enter Romania and afterwards a stay permit which shall extend the right to stay granted by the visa. Obtaining a long-stay visa and afterwards a residence permit for employment or assignment purposes assume separate proceedings to be followed.

Finally, EU / EEA / Swiss Confederation citizens are not obliged to obtain a prior work permit or a visa. However, after obtaining the capacity of employees in Romania, they are required to apply for a registration certificate.

Recommendations:

The work permit must be obtained prior to work commencing.

Make sure from the very beginning that the request filed with the authorities is accompanied by all relevant documents provided under the law.

2. Which social security system is applicable?

Romanian Social security system may be applicable, however there are some exceptions inclusively EU regulations or other agreements to be observed upon each and every case.

An employee posted in Romania shall be subject to the social security system applicable within its employer's state provided that the anticipated duration of secondment does not exceed 24 months. To avoid payment of social contributions in Romania, it is necessary to obtain the portable document attesting the applicable law. Such a certificate will offer exemption from the payment of social contributions (pensions and other) outside the origin country.

Recommendations:

Make sure to obtain an A1 certificate.

3. Is the employee liable for taxes in Romania?

From fiscal point of view, residents (other than Romanian residents / citizens) are taxable for all their incomes, whatever the origin country of such income. On the contrary, non-residents are obliged to pay taxes only for their Romanian incomes source. If the incomes source is not Romanian, the employees are not liable for taxes in Romania.

For determining the capacity of a resident or non-resident, any natural person newly arrived in Romania and staying for 183 days or more during any 12 consecutive months must fill in a standard form with the tax authorities.

The tax authority analyses the conditions of residence according to the specific situation of the individual by taking into account the provisions of the Convention for the avoidance of double taxation, the Romanian Fiscal Code, as applicable, the documentation provided, the tax residence certificate issued by the foreign tax authority, the standard form as completed and any other documents that may help to determine the individual's fiscal residence.

Whether an individual is considered to be both a resident of Romania and of another state which is signatory party to a double taxation treaty, the fiscal residence of such natural person is to be established upon several criteria among which the following are essential:

i. residence in Romania;

ii. permanent living in Romania - having a house which may be owned or rented and which remains available for the individual concerned and / or their family;

iii. the centre of an individual's interests are in Romania;

iv. presence in Romania for a period or periods which exceed 183 days during any consecutive 12 months to be ended in the fiscal year concerned.

The tax authority's analysis determines whether the non-resident individual keeps the foreign state residence under the Convention for avoidance of double taxation or acquires the fiscal residence in Romania.

Recommendations:

Visit Romanian tax authorities both on arrival in Romania and on departure.

Correctly describe your personal circumstances to the tax authorities.

4. Which specific mandatory employment conditions apply?

Romanian Labour Code applies to any foreigners hired under an individual labour agreement, who performs work for a Romanian employer and on the Romanian territory. As a rule, Romanian Labour Code observes the EU provisions in force.

Romanian Labour Code applies also to posted employees. Directive 96 / 71 / EC has been implemented in Romanian by means of Law no. 344 / 2006 regarding the posting of employees in the framework of the provisions of services.

As such, whatever the law applicable to their employment relation, employees posted in Romania benefit from the working conditions established by Romanian law concerning: the maximum working time and minimum rest; the minimum paid annual holidays; the minimum wage; the conditions of provision of employees by employment agencies; health and safety conditions; protection measures for pregnant women or those who have recently given birth, and for children and youth; equal treatment between men and women and other provisions on non-discrimination.

However, there is no prohibition or limitation against applicability of more favourable working conditions for employees seconded by EU / EEA / Swiss Confederation companies to Romanian entities.

Under Romanian law, foreign companies (not established in EU / EEA / Swiss Confederation) posting employees on the Romanian territory as well as foreign employees working in Romania may benefit from equal treatment as the EU / EEA / Swiss Confederation companies.

Recommendations:

Make sure that you understand the terms of assignment as offered by the employer.

Make sure that minimum mandatory provisions of Romanian law are observed by employer / beneficiary of services rendered.

5. What happens in case of termination of the assignment?

The answer is given by the applicable law which can be either the law chosen under the parties' agreement or the law determined as per the Rome I Regulation.

If the applicable law has not been agreed by parties, the labour relation is subject to the law where the employee usually works. However, being temporarily assigned in another state shall not mean a change of the usual working place.

As well, if the applicable law cannot be determined as per the employee's usual working place, the labour contract is to be determined by the law governing the employer.

In cases where Romanian law is applicable, termination of assignment means compliance with the Romanian labour provisions. Such provisions may differ as per the reasons of termination which at their turn are limitedly stipulated by the law.

On the contrary, if the applicable law is determined by the employee's usual working place, as a consequence, termination of assignment shall follow the rules of the applicable foreign law.

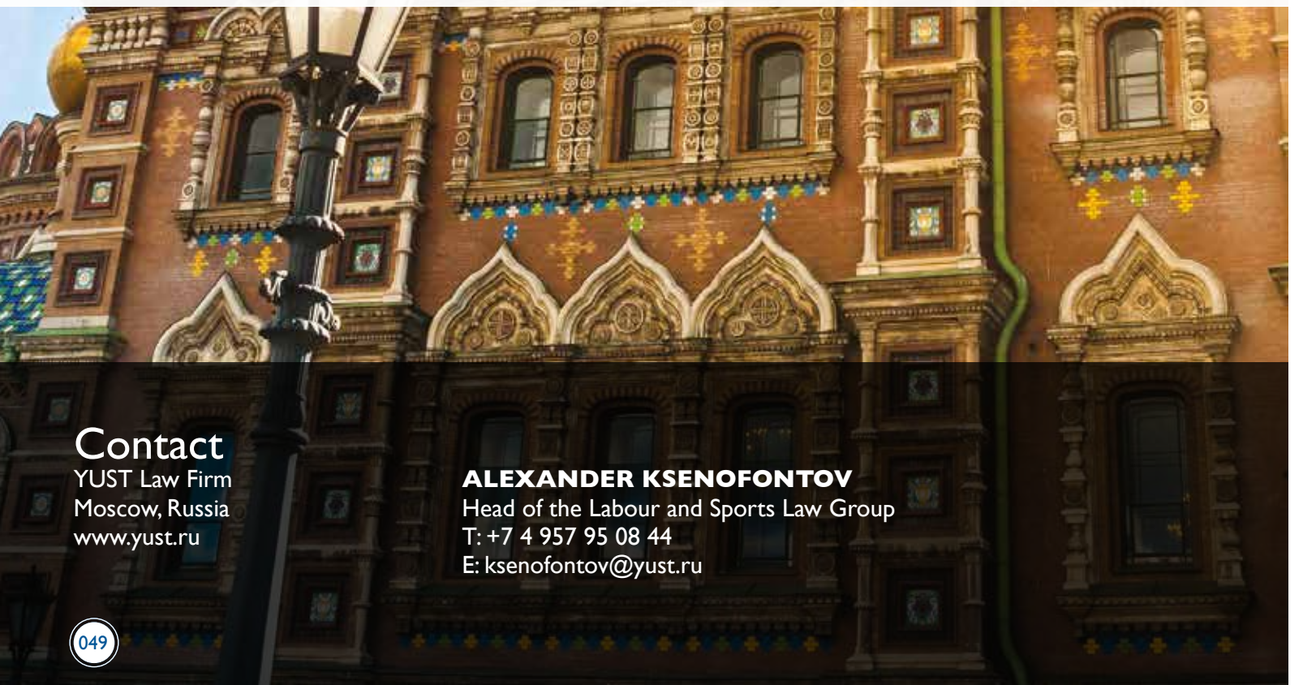
Recommendations:

As to avoid a possible conflict of laws, it is advisable to previously determine the applicable law.

Notes

[8] EU / EEA / Swiss Confederation citizens and their family members are entitled to dependent / independent work on the Romanian territory under the same conditions as Romanian citizens; Thus, no work permit is required.

RUSSIA



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1. Does your employee need a work permit?

Generally, in order to engage a foreign employee in the Russian territory the employer should obtain a permit for engagement and use of foreign employees, and the foreign employee himself – a work permit.

A foreign company may engage foreign employees in the Russian territory if it has a subsidiary, a branch or representative office in Russia.

In some cases, permits for work in Russia are not required. For example, for foreigners who have a temporary or permanent residence permit in Russia; foreign journalists accredited in Russia; foreign specialists sent to Russia by a producer or supplier of equipment for instalment and service works with this equipment supplied to Russia; for guest artists; in other cases provided by law.

In some cases, a permit is not necessary for the employer, while the foreign employee still requires it. This procedure exists in case of employment in Russia of foreign citizens that do not require a visa for stay in Russia, foreign highly qualified specialists (generally, with monthly income no less than Rubles167,000 – about US$2,700), family members of foreign highly qualified specialists, foreign students that study in Russia for their main professional educational program, foreign citizens sent for work in Russia by a foreign company registered in a WTO member state, foreign citizens employed by a resident of Vladivostok free port.

As a rule, issue of permits for work in Russia and corresponding invitations for entry into Russia is limited by a quota established by the Government of Russia.

However, the law provides for cases where permits are issued regardless of the quota.

Quotas do not apply for permits and invitations to foreign highly qualified specialists, foreign citizens sent for work in Russia by a foreign company registered in a WTO member state, foreign citizens employed by a resident of Vladivostok free port.

In most cases a foreign citizen, along with a work permit, requires a working visa for residence in Russia with the purpose of work.

Recommendations:

Find out what permits are required for employment of a foreign citizen in Russia in a specific case.

Process the necessary permits in advance.

2. Which social security system is applicable?

Generally, foreign employees in Russia are subject to partial compulsory pension insurance. Insurance payments to the Russian Pension Fund are made by the employer. Foreign highly qualified specialists are not subject to compulsory pension insurance – insurance payments are not made for them.

Foreign employees, except foreign highly qualified specialists, are also subject to compulsory social security in case of temporary incapacity and in connection with maternity; therefore, they can receive benefits from the Russian Social Insurance Fund. Insurance payments to the fund are made by the employer.

Most foreign employees must have medical insurance during their stay in Russia, either at their own expense or at the expense of the employer.

Recommendations:

A foreign employee should be provided with a medical insurance policy that will cover primary healthcare and special medical aid in emergency form.

3. Is the employee liable for taxes in Russia?

Income from work in Russia is subject to Russian individual income tax. In most cases, the tax is calculated, withheld from the employee's income and paid to the state budget by the employee's tax agent – the employer.

For foreign citizens that are not Russian tax residents (reside in Russia for less than 183 days within 12 consecutive months) the tax rate is 30%, and for Russian tax residents and foreign highly qualified specialists regardless of their tax resident status the rate is 13%.

Recommendations:

It is reasonable to obtain the status of a foreign highly qualified specialist for the employee to decrease the tax rate to 13%.

4. Which specific mandatory employment conditions apply?

In Russia, there are limitations regarding the number of working hours, minimum duration of days off and vacations and public holidays.

The employer must provide the employee with working conditions in compliance with state labour safety requirements.

Salary must be paid no less than once every half month.

A fixed-term employment contract may only be concluded in cases provided by law. For example, for execution of works established in advance (a project). In cases of absence of legal grounds to conclude a fixed-term employment contract, the employment contract shall be concluded for an indefinite term. For example, a fixed-term employment contract cannot be concluded only because the employee is a foreign citizen.

Recommendations:

Check whether the working conditions provided for a certain foreign employee comply with the minimal standards of Russian employment legislation.

5. What happens in case of termination of the assignment?

It should be taken into account that the list of reasons for termination of an employment contract in Russia is strictly limited by law.

Recommendations:

If possible, select a suitable ground for conclusion of a fixed-term employment contract that may be terminated due to expiry without severance pay to the employee.

Take into account that in cases of reduction, the employee is entitled to a severance payment at the employer's expense, and in case of dismissal by agreement of the parties the employee's consent usually depends on whether the employer is ready to make a severance payment.

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1. Does your employee need a work permit?

EEA countries' Nationals - Nationals and their family members of any of the European Economic Area countries (EEA) do not need a work permit in the Slovakia, even if they are still required to register in Slovakia.

Non-EEA countries' Nationals - Non-EEA countries nationals should, as a general rule, obtain a work permit in order to be allowed to work in Slovakia. Slovak law provides for over 15 exceptions to the general work permit requirement and it is certainly worth checking the eligibility of the particular foreign employee for the statutory exception.

Work permits are only granted in exceptional circumstances. The most important categories of employees eligible for a work permit are highly skilled persons in an area of the education, science, technology and research, leading management personnel or personnel working for businesses in Slovakia having a "strategic investor" status. Slovak authorities are reluctant to issue work permits in cases where the relevant job position may be occupied by a Slovak national registered on the list of unemployed job seekers maintained by the Slovak Unemployment Office.

Further to a work permit, each non-EEA country national is required to obtain a proper type of the residency permit in Slovakia allowing him / her to stay and work in Slovakia.

It is very important to note that, as a general rule, the work permit and the residency permit should be applied for prior to the employee's entry into Slovakia and might take up several weeks, even months.

Recommendations:

Ascertain the necessary procedure to be followed and the documentation to be provided in order to obtain the work permit, the national visa and the residence permit.

Start the relevant process in due time since obtaining the necessary documentation from the competent Slovak authorities requires a certain amount of time.

2. Which social security system is applicable?

In general, if a person (notwithstanding where such person comes from) is employed or works in Slovakia, the social security system of Slovakia shall apply.

Due to the coordination of the social security systems within the European Union and certain bilateral international treaties that Slovakia signed with countries outside the European Union (e.g. Australia, Canada, Israel, South Korea, Macedonia, the Russian Federation, the United States of America, Serbia, Ukraine, Turkey and Quebec). The social security system of the home country can remain applicable, if certain conditions are met.

To take advantage of the social security system of the home country, the employer needs to obtain and submit to the Slovak authorities a certificate of coverage by the social security authority in the home country evidencing that social security contributions are being paid in the employee's home country, in which the employee will continue to be socially insured.

Recommendations:

Ascertain if it is possible to benefit under the bilateral international treaties or European Union regulations and which are the relevant documentation / forms to be filled in.

In case of the temporary assignment of the European Union member country national, apply for a temporary exception (A1 form) to avoid Slovak social security during the assignment.

3. Is the employee liable for taxes in Slovakia?

Only Slovak residents (i.e. persons of any nationality with a permanent residence in Slovakia or who stays in Slovakia for at least 183 days in the relevant calendar year) are taxable in Slovakia and should declare their worldwide income in Slovakia. Non-residents are, in principle, only liable to pay taxes on their Slovak source income and will have to declare their worldwide income in their home country. Slovakia has concluded double taxation avoidance treaties with a number of countries, most of which are based on the OECD double taxation avoidance model treaty. These double taxation avoidance treaties provide rules to determine which country is competent to tax the employee in the event of international employment. As the double taxation avoidance treaties take precedence before the Slovak taxation laws, it should consequently be verified on a case-by-case basis in which country the employee shall be liable for taxes and what the impact thereof will be.

In order to avoid the employee encountering any positive or negative impact on its salary due to the possible difference in taxes between the home and host country, many employers choose to agree on a tax equalisation. Hence, should the employee be liable for taxes in the host country during its assignment, a tax equalisation implies that the hypothetical home country taxes on the employee's salary are calculated and, insofar necessary, withheld from its salary, guaranteeing the employee the same net income as it would have earned in its home country. The company will bear the costs of possible extra taxes or enjoy a possible benefit should the taxes in the host country turn out to be lower than those in the employee's home country.

Recommendations:

Check if there is a double taxation avoidance treaty available to provide for the most favourable tax regime.

4. Which specific mandatory employment conditions apply?

Directive 96 / 71 / EC of The European Parliament and of the Council of 16 December 1996 concerning the posting of workers in the framework of the provision of services for international assignment, intended to protect posted workers by obliging the European Union member states to ensure that the minimum provisions regarding working time, vacation days and minimum wages normally applicable in their jurisdiction are complied with vis-à-vis the posted workers employed on their territory, has been implemented in Slovakia. Namely, the Act No. 311 / 2001 Coll., the Labour Code, as amended, is the implementation of this Directive in Slovak law.

In general, at least the following rules should be complied with and thus qualify as mandatory provisions under Slovak law: provisions relating to working time, provisions relating to public holidays, provisions relating to temporary work and posting of personnel, provisions relating to the well-being and safety at work, provisions relating to the protection of salary and minimum wages, provisions ensuring equal treatment of men and women and banning the discrimination and provisions relating to the employment of women, juveniles and employees taking care of a child below 3 years of age. The foregoing does not prevent that (foreign) provisions that are more favourable for the employee are applied, in which case the Slovak mandatory provisions can be superseded.

Recommendations:

Check the mandatory rules of Slovak labour law to be applied.

5. What happens in case of termination of the assignment?

In principle, parties are free to determine the applicable law to their employment relationship, as long as in doing so they do not derogate from the mandatory provisions of the laws of the land where the employee usually works (lex loci labori). In the absence of a choice of law, the employment contract is, in principle, subject to the laws of the country where the employee usually works.

Under Slovak law, upon the termination of the assignment, the posted employee returns back to its original employer. For clarification purposes, we usually recommend the assignment agreement to explicitly determine the applicable law to the employment relationship (with respect for the mandatory provisions under Slovak law) and agree upon rules regarding termination of the assignment.

Please note that Slovak law explicitly prohibits covenants prohibiting the employment of the posted employee by the host employer after the assignment termination.

Recommendations:

Deal with the termination of the assignment in the assignment agreement.

Notes

[9] A Non-EEA country national must obtain a residence permit for the purpose of work.

[10] A national visa is issued, if needed in relation to obtaining a residence permit or fulfillment of obligations of Slovakia arising from international agreements or if in the interests of Slovakia. A visa is issued by the Slovak Embassies and consular posts in the foreign national's country of origin or permanent residence upon obtaining a prior standpoint from the Ministry of Interior of the Slovak Republic. If granted in relation to obtaining a residence permit, this type of visa allows stay in Slovakia and travel to other Schengen countries for up to 90 days in a period of 6 months, i.e. the time necessary for obtaining a residence permit.

A visa is not required to nationals of one of the following countries (including: Albania, Andorra, Antigua and Barbuda, Argentina, Aruba, Australia, Bahamas, Barbados, Bosnia and Herzegovina, Brazil, Canada, Chile, Columbia, Costa Rica, Croatia, Dominica, El Salvador, Federated States of Micronesia, Grenada, Guatemala, Honduras, Hong Kong, Iceland, Israel, Japan, Kingdom of Tonga, Kiribati, Lichtenstein, Macao, Malaysia, Marshall Islands, Mexico, Moldova, Nation of Brunei, Abode of Piece, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Saint Christopher (Saint Kitts) and Nevis, Saint Vincent and Grenadine, Samoa, San Marino, Serbia, Seychelles, Singapore, Solomon Islands, Switzerland, Taiwan, Tuvalu, Trinidad and Tobago, United Arab Emirates, United States of America, Uruguay, Vanuatu and Venezuela) whose citizens are exempt from any visa requirement for short-term stays not exceeding 90 days (the Holy See not exceeding 30 days) on the following grounds: tourism, mission, business, invitation or sporting events, study. In any case of long stay (i.e. exceeding the 90 days), the foreign national must obtain a visa, even if the person is a citizen of a country not subject to a visa requirement for transit or short stay.

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1. Does your employee need a work permit?

Non-EEA citizens require a permit to work in Spanish territory. Citizens of the EEA countries (EU member countries plus Norway, Iceland and Liechtenstein) and Switzerland do not need a work permit even if they are still required to register in the country of employment.

There are several types of work (and residence) permits depending on the nature of the employment, the qualification or other personal circumstances of the applicants.

An employer who wants to hire a non-EEA citizen has a duty to apply before the competent immigration office for a work permit for the employee. Amongst the documents to be provided, along with the application, is a certificate stating that the job position offered to the non-EEA citizen is included in a shortage occupation list approved by the government, or, alternatively, a certificate issued by the Public Employment Service stating that no suitable candidates from Spain or EEA countries have been found for such job position. Such national employment situation requirement is due to the current high level of unemployment existing in Spain and it has few exceptions.

Once the work permit is granted, the foreign employee has to apply in person for a visa in the Spanish consulate in his / her country of residence and travel to Spain within the following 90 days. With a very few exceptions, work permits cannot be obtained while the beneficiary is in Spain with a tourist visa.

One such exception are the non-EU / EEA family members of EU / EEA / Swiss citizens who can apply at any time and also while they are already in Spain for a work and residence permit to accompany or join their EU / EEA / Swiss relatives in Spain.

One of the main exceptions to the Spanish national employment regime relates to the non-EU / EEA employees temporarily assigned to Spain in the framework of a transnational provision of services.

One of the most recent alternatives to obtaining a work and residence permit in Spain is the Golden Visa or Investor Visa, introduced in 2013 with the aim of stimulating foreign investment in the country. Under the golden visa regulation any non-EU / EEA citizen who meets the requirements and invests at least €500,000 in real estate, amongst other kinds of investments, would be granted a work and residence permit, extendable to his / her family members, for the entire time the investment is maintained. This law has also introduced a simplified work and residence permit for non-EU / EEA highly qualified professionals.

2. Which social security system is applicable?

As a general rule, Spanish Social Security applies to all employees who carry out their work in Spanish territory regardless of their nationality or the nationality of their employer. The only exception is applicable to the employees temporarily assigned in Spain coming from an EEA country, Switzerland or a third country with a bilateral agreement on social security in force with Spain (which are The United States of America, Australia, Mexico, Japan, Russia, Brazil, Argentina, Colombia, Ecuador, Venezuela, Korea, Uruguay, Dominican Republic, The Philippines, Chile, Morocco, Tunisia, Cabo Verde, Paraguay, Peru, Ukraine and Andorra) who can maintain the coverage of the Social Security of their country of origin and are not being obliged to contribute to the Spanish Social Security for the length of their of temporary assignment in Spain

These employees can maintain the coverage of the Social Security of their country of origin and are not being obliged to contribute to the Spanish Social Security for the length of their temporary assignment in Spain, which is a maximum of 24 months for the EEA countries as well as most of the third countries with bilateral treaty (5 years for the USA).

Employees temporarily assigned to Spain from a third country without bilateral treaty on social security must register with the Spanish Social security and contribute, even though they might already be covered by the social security of their country of origin.

3. Is the employee liable for taxes in Spain?

If employees are residents in Spain they are subject to Spanish taxation on their worldwide income, whereas non-residents are liable to pay Spanish taxes on Spanish income only.

To clarify who is resident or non-resident the employee should check the following criteria used by the Spanish authorities. Employees living in Spain for six months (183 days) or more of the calendar year (not necessarily consecutively) or having their main 'vital' interests in Spain (e.g. their business or their family) will be classed as Spanish residents for tax purposes. They will need to submit a Spanish tax return and pay Spanish income tax at progressive scale rates on their worldwide income.

On the other hand, if they live in Spain for less than six months (183 days), they will be classed as non-residents and will only be taxed on their Spanish income at flat rates with no deductions.

As this might lead to a possible double taxation by paying taxes both in Spain and in the home country of the employee, Spain has signed many treaties with several countries to avoid it. Therefore, it is necessary to check on a case-by-case basis where the employee is liable for taxes according to the treaties.

Furthermore, there is a special tax regime for foreigners going to work in Spain. Under that regime, they are only taxed in Spain on Spanish income at a flat rate of 24 percent up to €600,000 for up to five years from the year of arrival in Spain.

However, it is necessary to fulfil some requirements for those spending more than 183 days a year in Spain but have not been resident in Spain in the last 10 years. They can apply to this special regime within six months of arriving in Spain and they can get reduced taxation for up to five years.

4. Which specific mandatory employment conditions apply?

Thanks to the efforts of the European Union, posted employees are protected with some minimum rights in accordance with European Directives.

Directive 96 / 71 / EC, concerning the posting of employees in the framework of the provisions of services, was implemented in Spain in Law 45 / 1999. The Directive states that Member States should ensure to employees posted to their territory that the terms and conditions of employment cover the following matters: provisions relating to working time (maximum work periods and minimum rest periods), provisions relating to paid annual holidays, provisions relating to temporary work and lending of personnel, provisions relating to the health, safety and hygiene at work, provisions relating to the protection of salary and minimum wages and provisions relating to equality of treatment between men and women and other provisions of non-discrimination, including protective measures of pregnant women.

This above-mentioned Directive was implemented in Spain in Law 45 / 1999 and it states that any employers posting employees to Spain should comply with Spanish Labour Law, regarding some employment conditions as salary, avoidance of workplace discrimination, children labour rules, right to strike, honour and privacy, and more. However, mandatory rules for minimum protection in force in the host country must not prevent the application of terms and conditions of employment which are more favourable to employees.

Furthermore, enforcement Directive 2014 / 67 / EU establishes measures and provisions aimed at ensuring a better uniform implementation, application and enforcement of Directive 96 / 71 / EC. This new framework includes measures to prevent abuse and circumvention of applicable rules under Directive 96 / 71 / EC.

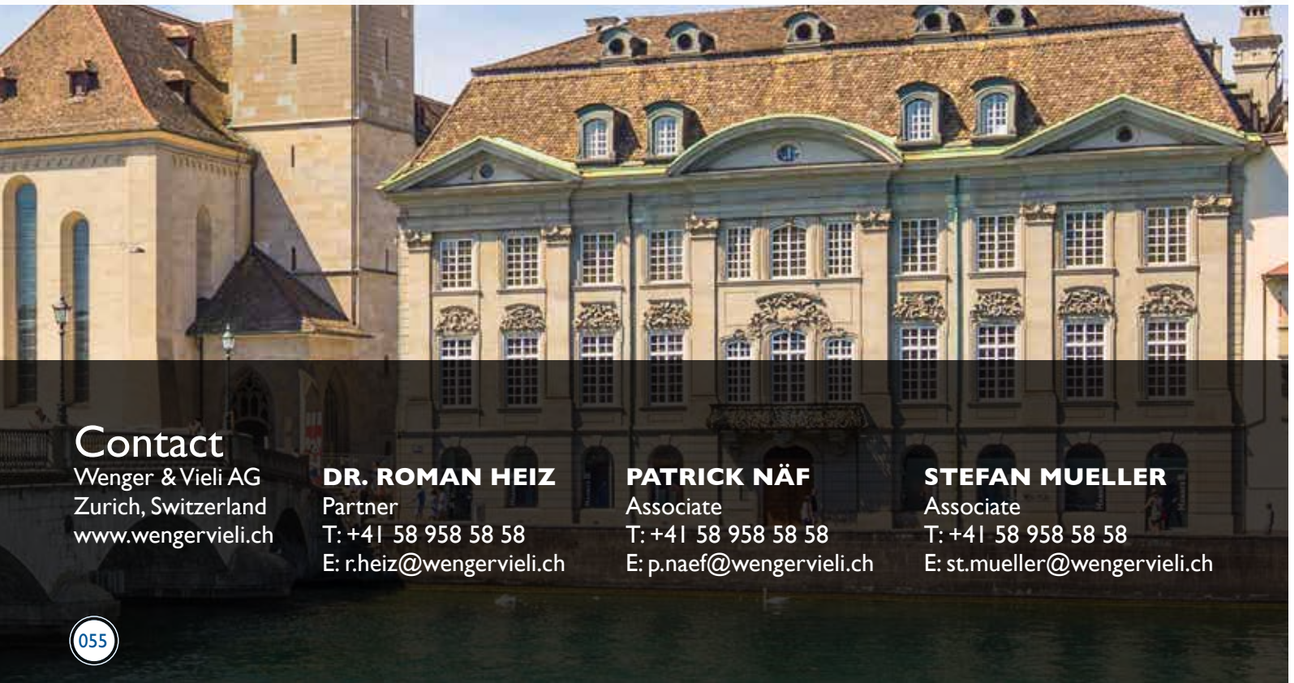
5. What happens in case of termination of the assignment?

First of all, within the framework of an employment relationship, parties may choose the governing law. But such choice of the law may not, however, have the result of depriving the employee of the protection afforded to him by provisions that cannot be derogated from an agreement under the law that, in the absence of choice, would have been applicable.

If there is no choice of law by the parties, the employment agreement is, in principle, subject to the laws of the country in which or from which the employee usually works in performance of the contract. But temporary changes are not taken into account and the country where the work is carried out don't change. To the extent that is not possible to determine the land, the contract shall be governed by the law of the country where the place of business through which the employee was engaged is situated. Finally, the above mentioned rules are not absolute because it is possible to apply another law to the contract if that law is more closely connected with a country other than that indicated before. In that case, the law of that other country shall apply.

Consequently, it is highly recommended to determine the applicable law in the employment agreement and also check if termination clauses are stated on it.

SWITZERLAND



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While Switzerland is not part of the European Union, it has signed the Agreement on the Free Movement of Persons (AFMP) with EU / EFTA member states, which lifted the restrictions on EU / EFTA citizens wishing to live or work in Switzerland. The AFMP came into force on 1 June 2002 and has been extended to newer EU member states as well. Switzerland enforces strict quotas of work permits vis-à-vis non-EU / EFTA nationals as well as certain permits concerning EU / EFTA nationals.

1. Does your employee need a work permit?

Generally, foreign employees need to apply for a work permit in order to be allowed to work within Switzerland. Certain foreign employees, namely nationals of any of the EU / EFTA member states to the exclusion of newer member states and their family members do not need to apply for a work permit but are granted a residence permit along with a work permit when they are taking up residency in Switzerland based on the AFMP, provided they are already in possession of a Swiss local employment agreement.

Regarding nationals of non-EU / EFTA countries, Swiss law is quite restrictive in terms of granting work permits. As a rule, only applications for work permits by exceptional foreign employees are usually granted. The categories of employees who are eligible for a work permit are generally limited to highly skilled individuals (with higher education and a substantive income of at least CHF 100,000 gross), leading personnel (employees with executive function) or other qualified employees.

Investors and entrepreneurs as well as persons who are part of an executive transfer between internationally active companies under the General Agreement of the Trade of Services (GATS) may be admitted to Switzerland in deviation from the general principle set forth above.

There are different types of work permits depending on the employee's personal situation as well as the type of work. The most common work permits in relation to assignments of employees are the short-term work permit ("L"-permit) and the long-term work permit ("B"-permit). While the "L"-permit allows the foreign employee to work for a maximum of one calendar year within Switzerland, the "B"-permit is granted for a maximum initial period of five years and may be prolonged thereafter. Employees transferred under the GATS as part of an executive transfer are granted a "B"permit, which may be extended to a maximum period of five years, depending on the employee's nationality. Thereafter, such foreign employees must apply for a general "B"-permit. Persons with an unlimited residency permit in Switzerland ("C"-permit) are entitled to work without restrictions.

Recommendations:

The work permit should be applied for by the employer possibly with the assistance of an immigration expert.

The employee should be in possession of a work permit before the entry into Switzerland. Thus, the duration of the various application processes should be taken into account.

Should a work permit be required, then the application process must be initiated in due time well before the start of the employee's assignment in Switzerland, taking into account the handling time of the immigration authorities.

2. Which social security system is applicable?

In general, an employee may only be subject to one security system at once. For EU / EFTA nationals the AFMP sets forth the principle that the employee is generally subject to the social security system of the state were the employee works (principle of "place of employment"). Nevertheless, based on the AFMP and its decrees with the European Union and other bilateral agreements with countries outside of the European Union, the social security system of the home country may remain applicable if certain conditions are met.

In cases where the social security system of the home country of the foreign employee remains applicable during the assignment, the employer should coordinate with the social security authority in the employee's home country to ensure the correct payment of the social security contributions and, at the same time, apply for the exemption from the payment of social security contributions in Switzerland.

Recommendations:

The employer should examine whether the employee may not be subject to the social security system in Switzerland based on the decree with the European Union or other bilateral agreements with countries outside of the European Union before entering into the employment relationship.

In cases of non-applicability, the employer shall apply for a possible exemption from the payment of Swiss social security contributions with the Swiss social security authorities.

3. Is the employee liable for taxes in Switzerland?

Employees who are tax residents in Switzerland will be taxed on their worldwide income and wealth. This is the case, if individuals stay in Switzerland for at least 30 days while being employed or self-employed. A stay of at least 90 days in Switzerland without carrying out any professional activity also constitutes a tax domicile in Switzerland. Multiple tax residences may lead to double taxation. However, Switzerland has currently 111 double taxation treaties with other countries in force, which provide rules to avoid double taxation. Even if no tax residence has been established in Switzerland, income received from a professional activity which was carried out in Switzerland is generally taxable under Swiss law (tax at source).

If the employee is a tax resident in Switzerland and is in possession of an "L"- or "B"-permit, the income tax will be levied at source. The employer has the duty to levy the tax and to transfer it to the competent cantonal tax authority. If the tax is not levied, the employer will be held responsible and will be liable for the tax still due. Typical deductions are already reflected in the tax rate. The tax rates vary from canton to canton. Nevertheless, if additional expenses were incurred which are deductible, the employee has the right to request a formal tax assessment. If the taxable income amounts to at least CHF 120,000 a formal tax return has to be filed. An employee with a permit "C" has to file a formal tax return. The cantons can provide further thresholds regarding the personal income and wealth. Should those thresholds be met, a formal tax return has to be filed.

Some of Switzerland's double taxation treaties provide special rules regarding cross-border commuters. Furthermore, expats who work temporarily in Switzerland might take additional deductions.

Recommendations:

Deduct tax from the salary in case of a taxation at source.

Check if a double taxation agreement exists to avoid double taxation.

Check if the employee shall optionally file a tax return.

Check whether employees qualify as expats according to Swiss law.

4. Which specific mandatory employment conditions apply?

All employees working in Switzerland are subject to the mandatory provisions setting forth a legal minimal standard. Mandatory conditions primarily exist in the area of working hours, employee protection rights, health protection rights and, under certain circumstances, salary levels.

The maximum statutory weekly working hours are 45. Work in excess of these hours is permissible under certain circumstances, but generally leads to a compensation entitlement. The statutory minimal holiday entitlement is 20 days. Under Swiss law, a termination can be issued without invoking any reason or following a specific procedure (principle of "freedom of termination"). Notwithstanding the aforementioned, the continued salary payments during the notice period are considered mandatory rights. The concept of payment in lieu of notice is thus not familiar to Swiss employment law. The statutory employee protection rights against wrongful termination are also considered as mandatory law. For instance, an employer may generally not terminate an employee if he is unable to work for health reasons or if a female employee is pregnant during a certain period of time. These mandatory provisions are generally deemed not waivable and any agreement to the contrary would be void under Swiss law.

Swiss employment law does not set forth a statutory minimum wage. Collective bargaining agreements may contain minimum wage provisions for the certain economic branches. However, the collective bargaining agreements only affect a limited number of employees. As a special measure for preventing so-called "salary dumping" certain assignees working in Switzerland may not receive less than a customary salary at fair market value. If such an assignee is paid less than the customary salary the work permit may be denied upon application or if the salaries were not correctly declared upon obtaining the permit, the permit may be revoked and fines imposed.

5. What happens in case of termination of the assignment?

Under an ordinary assignment for a fixed term the employee is granted the work permit for the respective duration of the assignment. In case of an early termination of the assignment of an EU / EFTA national, the employee may seek other employment in Switzerland for a limited time. If the employee finds a new employment, a new residence and work permit may be requested. If not, the employee is required to leave Switzerland upon expiration of the permit. In case of a non-EU / EFTA national, the permit granted is usually tied to the specific employment and the employee is generally not allowed to perform other work without going through the entire application process again.

Recommendations:

Manage and observe the expiry date of the permit and apply for extensions in due time.

Be mindful of any restrictions or conditions stated in the permit regarding the change of employment.

TURKEY

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1. Does your employee need a work permit?

Unless otherwise provided in the bilateral or multilateral agreements to which Turkey is a party, all foreigners intending to work in Turkey are required to obtain a work permit prior to beginning their employment. The foreign employee and his / her employer would be subject to an administrative monetary fine if the employee starts to work in Turkey, without having obtained a work permit beforehand.

Press reporters who are subject to Press Law, members of foreign press organisations, foreigners who are exempted from working permission requirement in their employment in Turkey due to the reciprocity principle, international and European Union laws and foreigners who are employed or granted with working permission by the other Ministries, Public Institutions and Organisations are not included within the scope of the Law on Work Permits of Foreigners.

Additionally, foreigners are prohibited from working in certain professions and occupations. For example, foreigners are not allowed to work (i) as attorneys (ii) as notary publics (iii) as security guards at private or public institutions (iv) as customs brokers and assistant customs brokers (v) as dentists and nurses (vi) as veterinarians (vii) as directors in private hospitals.

A Turkish company who would like to recruit a foreigner is also required to meet certain criteria. These requirements are; (i) minimum five Turkish nationals as employees (ii) minimum TL 100,000 paid-in capital or alternatively minimum gross sales equal to TL 800,000 (iii) the wages of the foreign employee being equal to a Turkish national.

Foreigners residing outside Turkey shall apply to Turkish Consulates in their country of residence or citizenship. Foreigners with a valid residence permit (valid for a minimum of six months, except for residence permits for educational purposes) can apply directly to the Turkish Ministry of Labour and Social Security. The applications are generally concluded within 30 days by the Ministry of Labour and Social Security provided that all the documents are whole and complete. The foreign individual has the right to object to the Ministry of Labour and Security's decision within 30 days following the date of notification of the decision. In the event the Ministry rejects the objection it is possible to file a law suit against the Ministry's decision.

2. Which social security system is applicable?

As a general rule, all foreign employees who work in Turkey will be part of the Turkish social security system. Foreigners making social security contributions in their home countries do not have to pay the Turkish social security premiums if there is a reciprocity agreement between the country of citizenship and Turkey. Turkey has bilateral agreements with many countries, such as Germany, Canada, France, Netherlands, United Kingdom, Denmark, Belgium, Azerbaijan, Sweden, Switzerland, Albania and Bosnia-Herzegovina.

3. Is the employee liable for taxes in Turkey?

Any resident in Turkey will be considered as a taxpayer. A resident is considered as a person whose place of residence is in Turkey or a person who lives in Turkey for more than 6 months during a calendar year.

As for the worldwide income, the Turkish law is only concerned with income obtained in Turkey. Nevertheless, there are several double-tax treaties that Turkey has signed with different countries that may create an exception to this rule.

4. Which specific mandatory employment conditions apply?

Employment laws in Turkey apply to Turkish nationals and foreign nationals alike. In cases where the employee obtains a work permit in Turkey, he / she will be part of the Turkish Labour Law system and therefore will have the same statutory obligations, duties and liabilities as a Turkish employee. Therefore all mandatory conditions under Turkish law, such as provisions regarding the working time, occupational health and safety, maternity / paternity rights, protection of disabled, equal treatment of men and women etc. shall be applicable to foreign employees as well.

There is a specific condition regarding the salary to be paid to the foreign employee. The salary must be at a level that complies with the position and competence of the foreigner. Accordingly, considering the minimum wage amount effective at the application date, salary to be paid to a foreigner must be at least (i) 6.5 times the minimum wage amount, for senior executives and pilots as well as engineers and architects requesting preliminary permit, (ii) 4 times the minimum wage amount, for unit or branch manager as well as engineers and architects, (iii) 3 times the minimum wage amount, for persons to be employed for jobs requiring expertise and proficiency as well as teachers, (iv) 1.5 times the minimum wage amount, for persons to be employed for home services and other occupations. It is obligatory to make the payments by bank transfers.

5. What happens in case of termination of the assignment?

Work permits are provided for the specific job and the specific work place for which the foreign individual applies. The permit is only valid for working in that specific job. Therefore, if the foreign individual working in Turkey with a permit would like quit their job, their work permit would be cancelled. In that case, the employer is obliged to inform the Ministry that the employment is terminated within 15 days from the date of termination. In case the employee wants to work in another work place, a new work permit application needs to be filed by the new employer.

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This guide provides an overview of key aspects of international mobility in the UK. Some aspects of this are likely to change due to the result of the UK referendum on EU membership, particularly if the UK's membership of the single market ceases, but it is not yet clear what requirements will apply to EEA workers looking to work in the UK. This guide will be updated once there is greater clarity.

1. Does your employee need a work permit?

The UK operates a points-based system for migrants from outside the EEA and Switzerland, with different requirements for different visa categories (called "Tiers"). Migrant workers from outside the EEA and Switzerland who wish to work in the UK need to be sponsored by an employer unless they secure a Tier 1 visa. An employer looking to sponsor a migrant worker must have a sponsor licence and issue a Certificate of Sponsorship confirming that the individual meets the relevant criteria before the individual applies for their visa. The employer is also required to conduct "right to work" checks before the UK employment begins. This entails obtaining and retaining copies of specified documents evidencing the employee's right to work in the UK.

Tier 1: high-value migrants

This applies to certain entrepreneurs, investors and leading figures in science, humanities, engineering, medicine, digital technology or the arts.

Tier 2: highly skilled migrants

General

This applies to migrant workers who have been offered a skilled role by a UK employer. The UK employer must show that they have been unable to fill the role with a UK resident or an EEA worker (the "resident labour market" test).

The role must be sufficiently skilled (according to detailed Government guidance) and offer a minimum role-specific salary.

The Government grants a maximum of 20,700 Tier 2 (General) visas each year for employees whose annual salary will be beneath a specified threshold (currently £155,300).

Inter-company transfer (ICT)

This route permits multinational group companies who are looking to transfer employees from one group company outside the UK to another group company within the UK, either on a short or long-term basis. Short-term ICT visas will be for a maximum of 12 months. The employee must receive an annual salary of at least £41,500 to qualify for a long-term ICT visa.

Recommendations:

Employers who will need to transfer non-EEA / Swiss workers to the UK should obtain a sponsorship licence to enable them to do so.

Sponsorship licence-holders have strict obligations to maintain records and notify the Home Office of changes in migrant workers' circumstance. Compliance with these requirements is essential to avoid fines and / or suspension or revocation of the sponsorship licence. The employee's cooperation may be required; the secondment or employment agreement should therefore specify that the employee must provide information requested by the UK entity for immigration compliance purposes.

Ensure that the employer carries out "right to work" checks correctly.

2. Which social security system is applicable?

In general, employees working in the UK must pay UK social security contributions (called National Insurance contributions or NICs). The employer must deduct these from their pay and also pay employer's NICs in addition. Even if the employee is seconded to the UK and remains employed by their home employer, the UK entity is regarded as their "employer" for NIC purposes.

When an employee comes to the UK, special arrangements can apply for the employee to continue paying social security contributions in their home country for a period after coming to the UK (generally between one and two years, depending on the country). The UK also has special arrangements with all EEA countries and many countries outside the EEA that may mean that the employee can continue paying social security contributions in the other country for a longer period – especially if the employee is working in more than one country.

The main exemptions are where the employee comes from:

i. an EEA country or Switzerland and holds a valid Portable Document A1 (or E101) issued by that country's tax authorities covering the period in question;

ii. a country with which the UK has a Reciprocal Agreement (RA) or Double Contribution Convention (DCC) and holds a certificate issued by that country's authorities covering the period in question;

iii. a country not included above - even without a certificate, transitional arrangements may mean that the employee is exempt from paying UK NICs for the first 52 weeks of their UK employment if certain conditions are met.

Recommendations:

Where possible, ensure that an A1 / E101 document or the appropriate certificate (as applicable) is obtained by the employee prior to their employment commencing, and that it covers the period of the assignment.

Make a diary note to reassess the position in advance of when any A1 / E101 document or certificate expires, or transitional arrangements will expire.

3. Is the employee liable for taxes in the UK?

The first question to consider is whether the employee will be UK resident. The UK has a statutory residence test ("SRT") that depends on the number of days spent in the UK in any tax year (which runs from April 6 to 5 April of the following calendar year). This is of particular concern to employees who split their duties between the UK and another country or countries.

If the employee becomes UK resident they will generally be liable for UK tax on their worldwide income (including the earnings from their employer). A non-UK resident employee working in the UK will generally only be subject to UK tax on any income earned from duties carried out in the UK.

However, the position will be more complicated for employees who have income that risks being taxed in more than one country, especially where they carry out duties both inside and outside the UK or are only in the UK on a short secondment. In these cases, it may be necessary to consider any tax treaty between the UK and the other country. Where the employee has some earnings that are subject to UK tax and some that are not, the amount of UK tax due may depend on the number of days spent working in the UK compared to those working outside the UK.

If any of the employee's earnings are subject to UK tax, the employer will almost always have to deduct tax under the "Pay As You Earn" ("PAYE") system, and pay the tax over to HM Revenue and Customs. Even if only some of the earnings are subject to UK tax, there is a risk that the employer will be required to deduct PAYE against all of the employee's earnings. It will then be for the employee to claim back the excess tax in their UK tax return. However, in these cases, it should be possible for the employer to request consent from HM Revenue and Customs to deduct only against the UK taxable income. Without consent, the employer risks interest and penalty charges if it does not fully deduct.

With a few exceptions, employees will also be required to pay tax on any benefits they receive from their employer. However, where the employee does not intend to spend more than two years in the UK, it may be possible to provide some benefits in relation to accommodation and subsistence without them being subject to UK tax.

Recommendations:

Ensure that the UK entity operates the PAYE system correctly for any employee coming to work in the UK, even if their employment contract will remain with the non-UK employer.

If an employee will only be subject to UK tax on part of their earnings, obtain early agreement from HM Revenue and Customs as to whether PAYE can be operated on an amount less than the employee's full earnings.

Where an employee will not be spending all of their time in the UK, keep accurate records of time the employee spends (and works) inside, and outside, the UK. These may be needed for the SRT and also to determine how much of the employee's earnings are subject to UK tax.

It is much easier to keep these records throughout the year than to try to recreate the employee's movements after the end of the year in response to a tax enquiry.

If the employee is intending to work in the UK for less than two years, consider what benefits can be provided in a tax efficient manner.

4. Which specific mandatory employment conditions apply?

In general, employees ordinarily working in or based in the UK benefit from UK statutory employment rights. These include:

i. the National Minimum Wage (currently £7.20 per hour for workers aged 25 and over)

ii. 5.6 weeks paid annual holiday (including eight UK public holidays)

iii. statutory sick pay

iv. protection against discrimination in employment

v. protection for whistleblowers

vi. family-related rights, including maternity and paternity leave and pay, and shared parental leave

vii. protection against unfair dismissal (in general the employee must have 2 years' service to bring a claim, but there are important exceptions such as dismissals connected with pregnancy or being a whistleblower)

viii. protections related to TUPE transfers and collective redundancies

The fact that the contract of employment may not be governed by UK law would not prevent these statutory protections applying.

Recommendations:

Ensure that UK managers are aware of key statutory employment rights and their potential application to employees seconded or assigned to the UK.

5. What happens in case of termination of the assignment?

Whether the employee is seconded to work for a UK entity or is employed on a temporary basis by a UK entity, the secondment agreement or employment contract should deal with what happens on termination of the assignment. Employers should consider at the outset whether the employee's role in their home country will be kept open, whether the employee will be replaced on a temporary or permanent basis and what will happen if the employee's home role is no longer required.

The secondment agreement should also give the employer the right to terminate the assignment with immediate effect in certain circumstances and require the employee to return to their home employment (for example, if the employee ceases to be entitled to work in the UK).

UK employment or secondment agreements should contain business protection terms applying to the employee on termination of employment, including confidentiality obligations, a duty to return company property and, if appropriate, time-limited post-termination restrictions on the employee's ability to undertake employment with a competitor, solicit or deal with the employer's clients or poach the employer's staff. Such restrictions must be carefully drafted to improve the chances of their being enforceable.

The UK statutory protection against unfair dismissal will apply where the employee is ordinarily working in the UK at the time of their dismissal. If termination of the employment is contemplated, the employer should therefore consider whether this should take place in the UK or whether the employee should be required to return to their home country first. If it will take place in the UK, it is prudent to follow the requirements for dismissing an employee fairly, which includes procedural requirements. Employers should also remember to notify the Home Office of the termination if the employee is being sponsored under the Tier 2 regime.

Recommendations:

Ensure that the secondment agreement or employment contract contains appropriate terms relating to termination and business protection.

Consider carefully how the mechanics of termination of employment should be effected.