



Global Employer Services Immigration and social security

Intra Corporate Transferees Directive

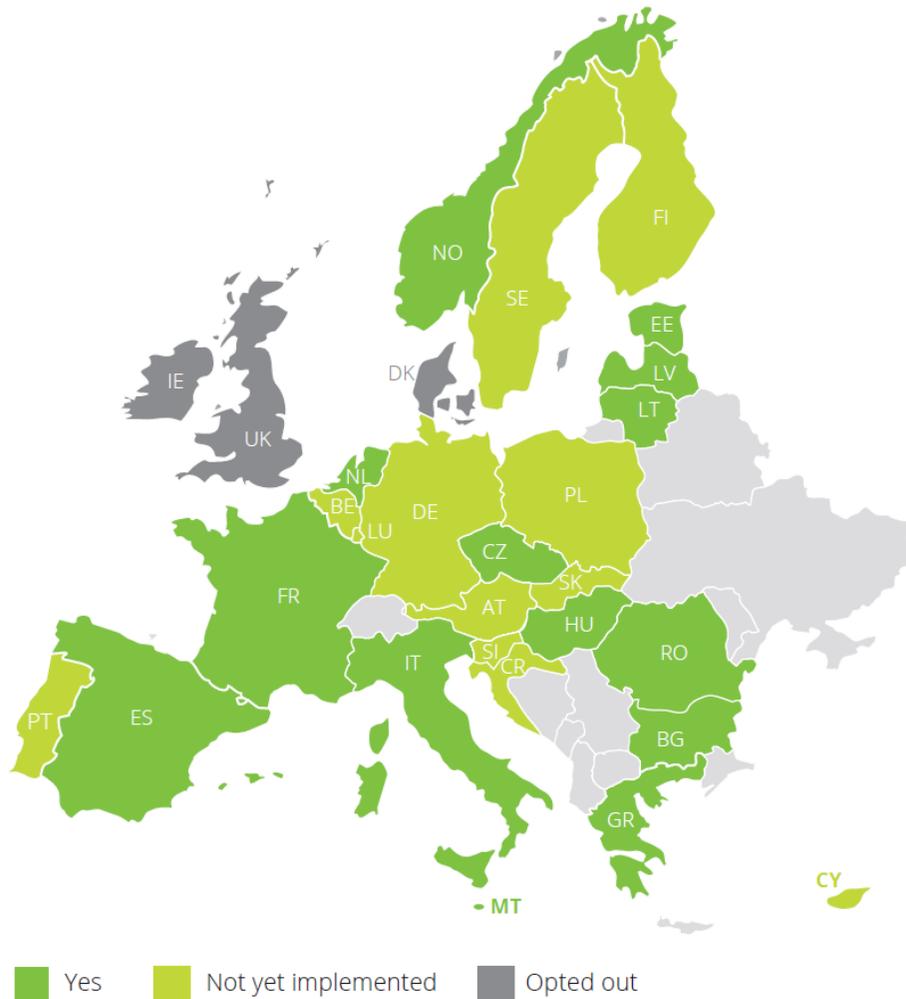
In 2014, the European Council adopted the proposal for a Directive on the conditions of entry and residence of third-country nationals, within the framework of an intra-corporate transfer.

25 participating EU Member States had 30 months to transpose this Directive (by 29 November 2016). As with other EU policies on legal migration of third-country nationals, the UK, Denmark and Ireland opted out of this Directive.

The ICT Directive complements past harmonisation initiatives such as the EU Blue Card and Single Permit Directives. Its objective is to “make it easier and quicker for multinational companies to temporarily assign highly skilled employees to subsidiaries situated in the EU. Moreover, the Directive will facilitate mobility of intra-corporate transferees between Member States during their assignments”.

Intra-corporate transferees within this Directive’s scope are non-EU nationals assigned from a multinational company’s entity to another entity of the same group in a different country. The ICT Directive foresees, among others, transparent and harmonised conditions for admission, residence and work, intra-EU mobility and certain guarantees to uphold labour and social security standards for highly-skilled profiles (i.e. trainees, managers and specialists).

As with other EU Directives, this one is binding as to the result to be achieved and leaves the form and methods used to Member State discretion when implementing the rules in national legislation. So far, of the 25 participating countries, 13 have implemented the ICT Directive rules.



In a number of countries (such as Austria, Finland, Germany, Luxembourg, Poland, Slovakia and Sweden), the implementation of the ICT Directive is expected shortly, or at least in the course of 2017. In several other countries (such as Belgium, Croatia, Cyprus, Portugal and Slovenia), it is yet to be seen when the ICT Directive will be implemented.

Once the rules of this Directive are implemented in Member State national legislation, intra-corporate transferees are (subject to certain conditions) exempt from Schengen visa obligations and are able to enter, stay and work in other Member States without the need to apply for another work permit, for a period of up to 90 days. In view of long-term mobility (more than 90 days) the conditions are stricter. The Directive also foresees benefits for intra-corporate transferees' family members. These family members will be able to apply for their visa/residence permit at the same time as the assignee and can therefore accompany the assignee from the start of the assignment. They can also be provided with a right to work in the host Member State for the duration of the transfer.

It is clear that the ICT Directive's implementation meets the demand of many international companies by allowing their non-EU nationals to work in different EU countries while

having to go through the immigration formalities in only one EU country.

While using the ICT permit however, companies need to be careful. When working in different EU member states, the EU coordination rules on social security (as laid down in Regulation 883/2004) will become applicable, and may in some situations activate the social security scheme in the EU country where the individual resides. Furthermore, it is important such a set-up does not constitute a forbidden chain-secondment, which may be in contradiction with local labour law. In all instances, it will be important to make sure that the link of subordination remains with the assigning employer outside of the EU, and that attention is paid to the contractual set up of these ICT assignments.

Deloitte Belgium's immigration and social security services team will provide updates and is readily available to provide more detailed information.

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