

September 29, 2015
2015-118

flash Alert

A Publication for Global Mobility and Tax Professionals by KPMG's Global Mobility Services Practice

Belgium – New Restrictions on Certain Labor Access to Brussels- Capital Region

by Nele Godefroid, Jeroen
Vandenbossche, and Sophie
Nys, KPMG Tax and Legal
Advisers, Brussels (KPMG Tax
and Legal Advisers in Belgium
is a KPMG International
member firm)

The Brussels-Capital Region recently implemented, by means of a 9 July 2015 decree, a work permit obligation for persons with the status of long-term residents in another European Union (EU) member state for the first 12 months of employment in the Brussels-Capital Region.¹ This follows the transfer to the regions² of certain decision-making powers related to the employment of foreign workers.

The decree takes retroactive effect as from 1 July 2015.

The governments of the Flemish Region and Walloon Region had already implemented such a labor market restriction in their respective regions.³

Why This Matters

Third-country nationals with the status of long-term residents in an EU member state will see their rights to work restricted by virtue of this decree. They will have to obtain a work permit for the first 12 months of their employment, whereas since 1 July 2015, they were able to claim a work permit exemption due to the abolition of certain transitional provisions.

In addition to the Brussels-Capital Region, this decision to impose restrictions to the Belgian labor market had already been taken by the governments of the Flemish Region and the Walloon Region.

Background

The access by long-term residents to the labor market of another EU member state (other than their member state of residence) is regulated in article 21 of the EU Regulation 2003/109 dd. 25 November 2003. This article also stipulates that an EU member state can limit the access to its labor market for these long-term residents of another EU member state for a period of a maximum of 12 months.

The abolition as from 1 July 2015 of the transitional provisions regarding access to Belgium's labor market for Croatian nationals⁴ has, given the modifications to Belgium's immigration legislation, the effect of an open labor market with no restrictions for third-country nationals who have acquired the status of long-term resident in another EU member state. Considering that the Brussels labor market is likely to be affected by third-country nationals with this status, the government of the Brussels-Capital Region decided to implement with retroactive effect a work permit obligation for the first 12 months of employment in the Brussels-Capital Region for such individuals.

This Decree is compliant with the position of the European Commission which recently reiterated that the member states are entitled to restrict access to their labor markets by third-country nationals with the status of long-term resident for a period of a maximum of 12 months.

Work Permit Obligation for Long-Term Residents in another Country of the European Union for Employment in Brussels

Just like in the Flemish and Walloon regions, third-country nationals with the status of long-term residents in another EU member state have to apply for a work permit for the first 12 months of employment in Brussels according to article 9, 20° of the Royal Decree of 9 June 1999 on the employment of foreign workers in order to legally work in the Brussels-Capital Region⁵. An exemption in favor of such individuals is foreseen by the Decree provided they have been employed in Brussels for a continuous period of 12 months with a valid work permit⁶.

Footnotes:

1 Arrêté du Gouvernement de la Région de Bruxelles-Capitale du 9 juillet 2015 modifiant l'arrêté royal du 9 juin 1999 portant exécution de la loi du 30 avril 1999 relative à l'occupation des travailleurs étrangers, en ce qui concerne l'accès au marché de l'emploi de résidents de longue durée et de ressortissants d'un nouvel Etat membre de l'Union européenne, p. 57801, *Moniteur Belge/Belgisch Staatsblad*, publié le 14 septembre 2015.

2 Belgian Act of 8 August 1980 (la loi spéciale du 8 août 1980 de réformes institutionnelles).

3 Decree of 26 June 2015 (Arrêté du Gouvernement flamand du 26 juin 2015 modifiant l'arrêté royal du 9 juin 1999 portant exécution de la loi du 30 avril 1999 relative à l'occupation des travailleurs étrangers) and Decree of 2 July 2015 (Arrêté du Gouvernement wallon du 2 juillet 2015 modifiant l'arrêté royal du 9 juin 1999 portant exécution de la loi du 30 avril 1999 relative à l'occupation des travailleurs étrangers en ce qui concerne le régime transitoire applicable aux ressortissants des nouveaux Etats membres de l'Union européenne et en ce qui concerne l'accès au marché de l'emploi des ressortissants de pays tiers résidents de longue durée dans un autre Etat membre).

4 For prior coverage, see GMS [Flash Alert 2015-075](#) (12 June 2015).

5 See footnote 1.

6 Article 2,35° of the Royal Decree of 9 June 1999 (l'arrêté royal du 9 juin 1999 portant exécution de la loi du 30 avril 1999 relative à l'occupation des travailleurs étrangers).

* * * *

6 – 8 October 2015: Save The Date! KPMG's Global Mobility Forum in Rome!

Deploying Talent in the Borderless Economy

If you think it has become easier to deploy talent in the global economy, it is time to reconsider. The trend toward stricter immigration regulation defies the borderless economy. Taxes present significant hurdles to the free movement of employees across geographies. The diversity of labor laws complicates decisions with respect to benefit plan offerings and participation in the cross-border environment. The cost of compliance has never been higher.

Please 'Save the Date' in your calendar today and join us in Rome at KPMG's Global Mobility Forum to discuss and better understand the challenges of deploying talent in the borderless economy.

Venue: Rome Cavalieri Hotel, Rome Italy

For further information please contact your local KPMG People Services or Global Mobility Services representative or send an e-mail to: GO-FMFORUM@kpmg.com .

The information contained in this newsletter was submitted by the KPMG International member firm in Australia.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com> .