

GMS Flash Alert

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Bulgaria - Eased Immigration Requirements for Short-Term Assignees, Intra-Corporate Transfers

On 30 September 2016, new Regulations for implementing Bulgaria's Labor Migration and Labor Mobility Act (the "Regulations") were adopted by the government. The Regulations set forth substantive and procedural regulations regarding access by foreign nationals to the Bulgarian labor market. The Regulations also introduce new standard application forms.

WHY THIS MATTERS

The changes introduced should facilitate the movement of cross-border workers into Bulgaria.

The new Regulations are expected to have a positive impact on organizations with global mobility programs and their employees on international assignment to Bulgaria because the changes introduced will facilitate the entry and stay of short-term inbound international assignees and intra-corporate transferees. In this regard, the Regulations also aim to cut down processing times, ease administrative burdens, and save costs such as application and processing fees.

Background

In May 2016, the new Labor Migration and Labor Mobility Act (the "Act") was adopted.¹ The Act contains provisions that:

- revise and streamline the rules that apply to foreign nationals (particularly short-term inbound assignees) working in the country, and

- harmonize domestic legislation with the European Union (EU) rules on intra-corporate transfers, the so-called “ICT Directive.”²

This process of codification and harmonization was completed with the newly-adopted Regulations dated 30 September 2016.³

Liberalization of Immigration Requirements for Short-term Inbound Assignees

A key aspect of the new legislative framework concerns the rearrangement and liberalization of the rules for short-term inbound assignees. Under the new legislation, foreign organizations that are planning to send their employees (non-EU/EEA/Swiss nationals) to Bulgaria on short-term assignments to undertake service activities may benefit from accelerated immigration clearance and work-permit procedures. Previously, such assignees (with some exceptions) were required to obtain a work permit in advance of coming to Bulgaria, which can be a time-consuming process. Now, short-term assignees may avail of a “one-off registration,” which takes approximately 10 days (from the submission of the applicant’s documents). This one-off registration procedure, which must take place prior to coming to Bulgaria, applies only to assignments that are up to three months within a 12-month period.

On the other hand, for assignments that are longer than three months, a work permit is still required. According to the new legislation, the issuance of a work permit to long-term assignees sent to Bulgaria can take approximately two months.

Harmonizing Bulgaria’s Legal System with EU Rules on Intra-Corporate Transferees

With the adoption of EU legislation on intra-corporate transfers⁴, Bulgarian law has been modified to transpose the EU ICT Directive into domestic law. As such, foreign nationals transferred by their foreign employer for the purposes of work or training to a Bulgarian entity belonging to the same corporate group shall be able to obtain a work and residence permit, known as type “ICT–intra-corporate transfer.” Under the ICT regime, for the first time, intra-corporate transferees within a corporate group to one member state may work at a corporate group in a different member state under eased conditions.

Another important development under the new legislation is that foreign employees who have already obtained a work and residence permit type “ICT–intra-corporate transfer” in another EU member state shall be able to live in Bulgaria for up to 90 days. They shall be able to work in Bulgaria subject to the condition that they meet the requirements for access to the labor market.

Differences with Previous Legislation

Previously, there were similar procedures for arranging the transfer of an employee within the same corporate group; however, the permit that was issued was in a different format that was not recognized in other EU member states.

In the now-revoked legislation, relations between the transferee and the corporate entity were arranged by means of an employment contract with the Bulgarian company. By contrast, under the new legislation, no local contract needs to be signed.

The new rules apply for transfers of managers, experts, and trainee employees; whereas previously, the intra-corporate transfer was applicable only to managers and experts.

Another difference concerns the maximum period of the transfer. Under the previous legislation, the maximum period of the transfer was five years for a manager and three years for experts. Now, however, it is three years for both managers and experts, and one year for trainee employees.

KPMG NOTE

In practice, it may appear to be more favorable for foreign employers to send and rotate short-term assignees between home and host locations, rather than sending them on a single long-term assignment. Foreign companies operating in Bulgaria may benefit from the liberalization of the immigration requirements for short-term inbound assignees.

The new rules concerning the intra-corporate transferees expand the possibilities for foreign employers, in terms of the type of employees they send but also from where and to where (within the same corporate group) they send their foreign employees.

It should be noted that immigration and work permit procedures initiated prior to the Regulations coming into effect must be completed according to the terms of the previous legislation.

FOOTNOTES:

1 Labor Migration and Labor Mobility Act promulgated in State Gazette issue 33 dated 26 April 2016, effective as of 21.05.2016 (except for Section VIII of Chapter II regarding freelancers which shall become effective as of 1 January 2017).

2 For a related story on transposing the EU's ICT Directive into domestic law (in this case, Germany), see GMS [Flash Alert 2016-123](#) (1 November 2016).

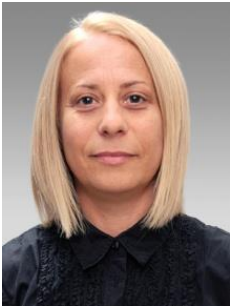
3 Regulation for the Implementation of Labor Migration and Labor Mobility Act promulgated in State Gazette issue 79 dated 7 October 2016, effective as of 30 September 2016.

4 The ICT Directive's official name is: Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-company transfer. See EU's [Europa website](#).

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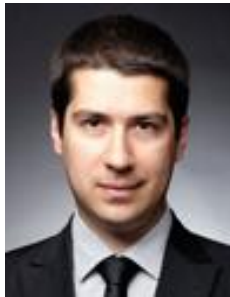
Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in Bulgaria:



Juliana Mateeva

Partner - Legal Advisory
Tel. +359 2 96 97 600
jmateeva@kpmg.com



Nikolay Dzhonev

Manager - Legal Advisory
Tel. +359 2 96 97 600
ndzhonev@kpmg.com



Desislava Minkova

Senior Lawyer - Legal Advisory
Tel. +359 2 96 97 600
dmminkova@kpmg.com

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