

Ministerie van Veiligheid en Justitie
Dhr K. Riezebos
Directeur Migratiebeleid
Postbus 2500 EA, Den Haag.

23 February 2017

Dear Mr Riezebos,

Implementation of the EU Intra-Corporate Transfer (ICT) Directive

Permits Foundation is an international not-for-profit foundation campaigning globally for the right to work of partners of internationally assigned staff. Our [sponsors](#) are 40 international companies and public sector organizations, many of which have significant operations in the Netherlands.

Fortunately, the Netherlands has already recognized the needs of working partners some years ago. We are writing to you now on broader aspects of the EU ICT Directive 2014/66/EU.

A number of our sponsor companies have raised concerns relating to the implementation of the Directive in the Netherlands. Some of the questions were discussed at a recent meeting, attended also by your senior policy advisor Jan Verboom, who has been most helpful in bridging the different interpretations.

We kindly request your clarification or comments on the following points:

1. Change to Highly Skilled Migrant (HSM) permit after ICT assignment

A key concern has been around the maximum length of assignment as an ICT employee.

We are relieved that the IND website now includes a [FAQ](#) (page 4) clarifying that an ICT permit holder may apply for a Highly Skilled Migrant permit after three years, or after one year as a trainee, while still on an employment contract with the company outside the EU. We understand that this is possible while the employee is resident in the Netherlands and the Dutch company to which he or she is assigned is a recognized sponsor.

To complete the picture, we would appreciate confirmation that the employee and family do not need to leave the country, that there is no elapsed period before applying for the HSM permit, and that the employee may move to another position or to another group company that is a recognised sponsor.

2. Six-month period between ICT assignments.

Many companies have expressed surprise and concern about the requirement in the Netherlands for the maximum six-month lapsed period between ICT assignments, as this was not required by the Directive. We envisage that the provision to allow an ICT to apply seamlessly for a HSM permit will provide a welcome practical solution for many employers. However, some companies may still have problems with a six-month gap if business plans change after the employee moves to another country, or if intra-EU mobility is important. The question has also been raised by Dutch companies that have a three-year graduate training scheme which involves rotating through assignments, subject to changing opportunities, in the Netherlands, Europe and outside the EU.

We would appreciate to have a further dialogue on this point.

3. Education qualification for trainees

Which diploma does a trainee require to be eligible for the ICT permit? And what are the possibilities for a trainee who does not meet the required level?

We note that Article 3 of the Directive, in both the English and the Dutch versions, specifies a university degree / diploma, whereas some other language versions refer simply to higher education. The IND site mentions a university degree in [FAQs \(page 2\)](#) and a master's diploma on the [ICT overview page](#).

Employers who recruit university graduates who have studied in countries where a bachelor degree is the norm would have difficulty with a master's requirement. Until now, they have been able to recruit or transfer these trainees in line with the HSM salary requirements.

4. Building up residence rights after an ICT has changed to HSM permit

If an ICT employee changes to a HSM permit, will the time spent as an ICT immediately before the HSM permit count towards the five-year qualification period for Dutch permanent residence?

We look forward to your reply.

Yours sincerely,



Michiel van Campen

Executive Director Permits Foundation