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Our reference
2052213

Please quote date of letter and our ref. when replying. Do not raise more than one subject per letter.

Date 13 March 2017
Concerning Implementation of the EU Intra-Corporate Transfer (ICT) Directive

Dear Mr Van Campen,

Thank you for your letter on the implementation of the EU Intra Corporate Transferee (ICT) Directive. In response I would like to answer the four questions, mentioned in your letter as follows.

1. Change to Highly Skilled Migrant (HSM) permit

I can confirm that holders of an ICT-permit can change to the HSM-permit on expiry of the ICT-permit. There is no need for the ICT and his family to leave the Netherlands. The employee may move to another position and/or another entity of that company as long as he fulfils the conditions of the HSM-scheme: the salary criterion and the entity at which he works should be a recognized sponsor.

2. The six-months period between ICT-assignments

In consultation with the ministry of Social Affairs and Employment a waiting period of six months was chosen to underline the temporary nature of the residence of the ICT. Until now I have not had many signals that this could be a problem, probably because the HSM-permit provides for a solution. If this 6-months period causes serious problems to employers than I am open for a further dialogue.

3. Education qualifications for trainees

In accordance with article 2, paragraph 1, read in conjunction with article 3, sub g, of the ICT Directive, a master's degree is required for trainees in article 3.30d, paragraph 1, sub e, of the Aliens Decree. As a result of this requirement trainees without a master's degree do not fall within the scope of the ICT-directive. They have the opportunity to apply for a national residence permit.

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

Article 21 of the Aliens Act stipulates the conditions for the granting of a permanent residence permit. The main condition is that the third country national should have lawfully stayed in the Netherlands for at least five years directly before he applies for the permanent residence permit. In accordance

with paragraph 1, this stay should be based on article 8, sub a, c, e or l of the Aliens Act. The ICT-permit and the HSM-permit concern a stay based on article 8, sub a. So time spent in other EU-countries as a result of intra EU mobility counts to this five years period as long as the ICT holds the Dutch ICT-permit.

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In conformity with paragraph 1 sub f, the third country national should hold a residence permit with a non-temporary nature at the moment of the application. Contrary to the ICT-permit the HSM-permit is a non-temporary residence permit.

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The conclusion is:

- a. the third country national should hold an HSM-permit at the time of the application for a permanent residence permit;
- b. immediately before this application the ICT should have had legal residence in the Netherlands for at least five years;
- c. a part of these five years could be covered by the ICT-permit.

Yours sincerely,
On behalf of the State Secretary for Security and Justice,


C. Riezebos
Director Migration Policy