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## Implementation of the Intra-Corporate Transfer Directive on 29 November 2016

The Intra-Corporate Transfer Directive (2016/44/EU) (the “ICT Directive”) will be implemented in the Netherlands on 29 November 2016. The ICT Directive sets conditions for the residence of third-country nationals in the framework of an intra-corporate transfer to an EU Member State and the movement of third-country nationals between the Member States. This alert addresses the provisions of the ICT Directive, the main conditions for obtaining the new ICT permit and the changes resulting from the implementation of the ICT Directive for employers in the Netherlands.

## ICT Directive

The ICT Directive applies if (i) a manager, (ii) a specialist (key personnel) or (iii) a trainee with a non-EEA nationality who has his or her principal place of residence outside the EU and has an employment contract with a company located outside the EU is temporarily assigned to a branch in an EU Member State. The essentials of the ICT Directive are:

- the maximum duration of a permit: three years for managers and specialists and one year for trainees;
- intra-EU mobility during the assignment: an ICT permit allows residency and work in several Member States, shorter or longer than 90 days;
- a salary in line with the market; and
- family members of the assigned employee have access to the labour market.

## Conditions for obtaining an ICT permit in the Netherlands

The main conditions for obtaining an ICT permit in the Netherlands are the following:

- i. The employee must have been employed at the foreign group of companies for more than three months.
- ii. Managers and specialists must demonstrate that they have the required qualifications; trainees must have a master’s degree and five years’ work experience.
- iii. The salary is based on the salary criteria for highly skilled migrants.
- iv. The legislation regarding employment conditions must be observed.
- v. The terms of employment need to be of the same level that is required by statutory law and that is customary in

the applicable branch.

## Changes

The ICT Directive will make it easier and more efficient for employers to transfer managers, key personnel or trainees within the EU. On the basis of one residence permit with an “ICT” endorsement employers can transfer foreign employees to branches of the company in several EU Member States.

In the case of transfer as defined in the ICT Directive, a Member State may no longer apply other national residence schemes, however. Certain national schemes, such as the highly skilled migrants scheme, may therefore no longer apply in the Netherlands in some cases.

## Your Key Contacts



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