

EU service providers and hiring expat staff 17/11/2005 00:00



New regulations for EU service providers scheduled to come into force in December may make hiring expat employees less of a struggle. Our immigration expert explains.



Your query is right on the button! There have been some interesting new developments recently. Kindly note the following.

On 28 September 2005 the members of the *Tweede Kamer* - the Dutch House of Representatives - were informed about the new regulations for EU service providers and their employees. These regulations are likely to come into effect on December 1, 2005. (Please note the European Commission can have the final say on whether the Dutch scheme is implemented.)

Under the plan, an EU service provider (including companies located in the new EU-member states Poland, Estonia, Latvia, Hungary, Lithuania, the Czech Republic, Slovenia, and Slovakia), intending to deliver services in the Netherlands, is not required to arrange for Dutch work permits for its employees if and when certain rules are followed.

The EU service provider is exempted from the general work permit requirement for the Netherlands if:

1. the EU service provider is located in one of the countries of the European Union and is not just a 'PO Box company' (postbusonderneming);
2. the activities of the EU service provider are other than temporary and contract staffing (uitzendarbeid);
3. before the start of activities in the Netherlands the Dutch Central Employment Office (CWI) is duly and correctly notified.

The EU service provider can notify CWI in various ways. It can make use of a specific notification form. The notification form contains questions regarding the EU service provider, the nature of its business activities, its official registration numbers, the name

and address of the Dutch service receiver, the nature of the intended services, the duration of the services, and details regarding the assigned employees.

The EU service provider can also decide to notify the authorities by making use of so-called E-101 forms. These forms are usually issued by the competent social security agency located in the country where the service provider is headquartered. Before issuance of E-101 forms the competent social security agency will establish if the service provider in question is a genuine enterprise, and if it has official employment agreements with the employees involved.

Note that these new regulations apply to EU service provider employees with Polish, Estonian, Latvian, Hungarian, Lithuanian, Czech, Slovenian, and Slovakian nationalities, and also to their employees with non-EU nationalities. With regard to these non-EU employees the Dutch Central Employment Office will demand to see convincing proof of local work — and residence permits.

As far as the general Dutch work permit requirement for Dutch employers of staff with new EU-member state nationalities is concerned the following applies. For certain occupations Dutch work permits can be easily obtained after a simplified work permit application procedure.

From November 2005 – January 2006 these occupations are: sailors and steersmen for inland navigation, butchers and skinners of furred animals in the furred animal industry. For other occupations the regular work permit application procedure is applicable. The general Dutch work permit requirement for staff with new EU-member state nationalities remains in force till May 1, 2006. What happens after that remains a mystery for now. It is up to the Dutch cabinet to decide if a new extension is required.

17 November 2005

Patrick R. Rovers,
lawyer with Van Velzen CS

This column is for informative purposes only, is general in nature, and is not intended to be a substitute for competent legal and professional advice. Dutch and European rules and regulations regarding foreigners, policies, procedures, work permits, visas, residence permits etc. are continuously subject to change.