

> Newsflash – 21 May 2007

Employment, Social Security and Immigration Law

Employment of citizens from the new EU member states

The recent expansion of the European Union to include Romania and Bulgaria does not only have monetary and economic consequences, but will also affect the European job market.

In principle, within the European Union, EU citizens benefit from the principle of the free movement of workers. In effect, EU citizens are not obliged to obtain a work permit. However, pre-existing member states have been given the possibility, within the framework of a transitional period, to totally or partially limit the free movement of workers and access to their job market for all citizens of the two new member states.

Belgium has used this possibility to restrict entry for Romanian and Bulgarian citizens. Exemption from having to obtain a work permit is consequently not currently in effect for these citizens and will not be until 1 January 2009. This period, however, can still be prolonged. Nevertheless, we must state that there is, on the one hand, a possibility of exemption (free movement of services) and, on the other hand, the possibility of more easily applying for a work permit (profession said to be "problematic").

1. The free movement of services

The free movement of services is in effect starting from the date on which the member state joined.

People employed by a company established in a member state of the European Economic Area who supply services in Belgium are exempt from obtaining a work permit, on the condition that:

- they are legally employed in the member state where they live; and
- the authorisation to work, if any, that they needed in Romania or Bulgaria is valid for at least the duration of the services that they will provide in Belgium.

This means that the citizens of the new member states that are employed legally by an employer from one of the member states and who come to Belgium with this employer to supply services do not have to possess a work permit or authorisation to work.

2. Bottleneck professions

As of 1 May 2006, the rules concerning work permits and authorisation to work were relaxed for employing a person whose profession is said to be "problematic".

In concrete terms, requesting employment in a problematic profession no longer requires the following formalities:

- an additional job market study by the national job centre;
- a medical certificate confirming the worker's aptitude for the work;
- an employment contract conforming to the Royal Decree of 9 June 1999.

Furthermore, the work permit can be granted even if the worker concerned has already entered Belgian territory with the intention of working before an employer has requested a work permit.

Other than these exemptions, obtaining a work permit remains compulsory for citizens of the two new EU countries.

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