



Global Immigration alert

November 2024

Netherlands

Restrictions proposed on assignment of highly skilled foreign nationals by Dutch companies

Executive summary

The Dutch Minister of Asylum and Migration recently proposed restrictions and additional obligations for recognized sponsors that assign knowledge migrants (i.e., highly skilled workers) to other Dutch employers on a commercial basis. In addition, the Minister provided an update regarding the introduction of measures to prevent unwanted knowledge and technology transfer via knowledge migrants and recognized sponsors.

Background

Dutch entities can hire knowledge migrants only if they have registered with the Dutch immigration authorities as a [recognized sponsor](#). Companies that are not recognized sponsors may hire foreign knowledge workers via employment/payroll outsourcing agencies that are recognized sponsors. In these cases, the knowledge migrant is directly employed by the agency, remains on its payroll and provides services to the hiring company as a contractor.

Restrictions on recognized sponsors

In a letter to the parliament sent on 8 November 2024, the Dutch Minister of Asylum and Migration proposed that in general, employment/payroll outsourcing agencies will no longer be allowed to assign knowledge migrants on a commercial basis to other Dutch entities. This restriction will not apply if the hiring company:

- ▶ Has already applied to become a recognized sponsor, is awaiting a decision on their application and urgently needs the services of a knowledge migrant. This exception also applies in case of a merger or takeover.
- ▶ Is a startup or scale-up company that does not meet all the requirements to become a recognized sponsor.

The authorities will assess these instances on a case-by-case basis and may grant the assigned knowledge migrant a non-renewable residence permit with a maximum validity period of two years.

In the letter, the Minister also proposed an alternative measure in lieu of restricting employment/payroll outsourcing agencies from assigning knowledge migrants to other Dutch entities. If the authorities adopt this alternative, agencies would be able to continue assigning knowledge migrants to other Dutch entities without restrictions. However, these individuals would be issued residence permits with a validity period of up to one year only (instead of two years). The Minister clarified that the former option is preferred.

In addition, the Minister's letter proposed that employment agencies be required to:

- ▶ Provide details of non-recognized sponsor companies to which the knowledge migrant will be assigned when applying for a residence permit for these individuals, including the reason for requiring a contractual arrangement
- ▶ Meet an "obligation to report" that will be introduced in the future, wherein agencies will be required to notify the authorities if they lose contact with foreign nationals that they assigned to other entities
- ▶ Inform all foreign employees of their rights and retain proof that they have done so

Prevention of unwanted knowledge and technology transfer

In the same letter, the Minister clarified that the Ministry of Economic Affairs is exploring potential measures to prevent abuse of the current knowledge migrant scheme, particularly unwanted knowledge drain. These measures will be aimed at mitigating risks to national security and the business climate in the Netherlands while facilitating the attraction and retention of international talent needed in the Dutch knowledge economy.

The Minister informed that a concept framework has been developed for assessing potential recognized sponsors doing business in the field of highly sensitive technologies. Under this framework, the authorities will assess whether these companies have ties to, or are at risk of being influenced by, any entity that may have an intention to conduct undesirable activities in the Netherlands. This assessment framework was launched on a pilot basis in the summer of 2024, and initial results are expected to be shared with the parliament before the end of the year.

The Minister has not proposed a timeline for the implementation of specific measures.

Impact on employers

These changes are expected to impact recognized sponsors that assign knowledge migrants to other Dutch companies on a commercial basis, as well as the latter group. Companies may consider applying to become recognized sponsors to mitigate the impact of these changes and avoid potential business disruptions.

In light of these changes, EU Blue Cards could become a potential alternative to highly skilled migrant permits for assigned knowledge migrants. However, the Netherlands has the option to set a limit on the number of non-EU nationals who can obtain EU Blue Cards. Although no quota currently applies, the authorities may consider implementing limits in the future.

Key steps

EY will continue to monitor these developments. Should you have any questions, we encourage you to contact one of our immigration professionals.

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EYG no. 010546-24Gbl

2101-3682263
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