

Mobility Perspectives

March 2019

Mobility perspectives of Grant Thornton in The Netherlands provides the international mobility community with background information on mobility topics. In this issue:

- Brexit update on immigration, tax and social security.
- Stricter checks on the 30% ruling.
- Data protection and assignments to Japan.
- UK: The impact of a 'no deal' Brexit on EU data protection.

Update on Brexit

Immigration

In case of a no deal Brexit, British nationals will no longer be able to live and/or work in the Netherlands based on EU regulations. They will need work and residence permits as of that date. In order to facilitate the no deal scenario, the Dutch Government intends to implement a transition period of 15 months from the date of the Brexit. During this transition period, British nationals and their family members currently in the Netherlands, will be able to continue to live/work in the Netherlands and will be approached by the IND (Immigration and Naturalisation Services) to apply for the necessary permits. For British nationals whom would like to come to the Netherlands after the Brexit, the regular immigration procedures will need to be followed (i.e. work and/or residence permits). It is expected that entry visa will not be required.

Social security

The Dutch Government announced that it will introduce transitional measures for social security as well with respect to British nationals living in the Netherlands and Dutch (and other) nationals living in the U.K. and benefitting from Dutch benefits. Details were not yet disclosed as the Minister stated that he would inform Parliament of these at a later stage.

Tax

The Dutch Government announced that it is considering transitional measures for the current tax year (2019). Based on the transitional measures, certain tax benefits and treatment for British nationals will be continued for 2019 as if they were still EU nationals. The transitional measures would also apply for companies. The transitional measures are currently being prepared and further details will be announced at a later stage.



Stricter checks on the 30% ruling

The Dutch Tax Authorities announced that they intend to increase checks on the conditions for the 30% ruling, specifically documentation with respect to the so called '150km zone'.

The list of supporting documents in this respect is, but not limited to:

- Registration and deregistration documents from the local authorities.
- Bank statements (cash withdrawals and debit payments) in combination with employee's C.V..
- Rental agreement in combination with related payment documents.
- Utility bills.
- Overview of municipal taxes as tenant of the property.

It is strongly recommended to have these (or other) supporting documents as part of the employee's file in connection with a request for the 30% ruling.

Data protection and international mobility

Since coming into effect on May 25th, 2018, the EU regulation on data protection (GDPR) has been widely integrated in the EU and has influenced other parts of the world.

Japan

On January 23, 2019, the European Commission adopted its so called 'adequacy decision' on Japan. As of that date, personal data can flow freely between the EU and Japan. Japan is now one of 13 countries which has the obtained 'adequacy status' from the EU based on strong data protection guarantees.

UK

What is the impact of a no deal Brexit on EU data protection?

In the absence of an agreement between the EU/EEA and the UK (no deal Brexit), the UK will become a third country from March 30, 2019. This means that a free flow of personal data is no longer allowed; the transfer of personal data to the UK has to be based on one of the instrument mentioned in the GDPR such as Standard Contractual Clauses or Binding Corporate Rules. Organisations should prepare to take the following steps in case of a no-deal Brexit:

When transferring data from the **EU to the UK**, you should:

1. Identify what processing activities will imply a personal data transfer to the UK.
2. Determine the appropriate data transfer instrument for your situation.
3. Implement the chosen data transfer instrument to be ready for 30 March 2019.
4. Indicate in your internal documentation that transfers will be made to the UK.
5. Update your privacy notice accordingly to inform individuals.

When transferring data from the **UK to the EU**:

According to the UK Government, the current practice, which permits personal data to flow freely from the UK to the EU/EEA, will continue in the event of a no-deal Brexit. To this end, the UK Government's and the ICO's website should be regularly consulted.

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