



# **European Migration Network**

## **Ad-Hoc Query on permits to attract highly skilled workers**

**Requested by FR EMN NCP on 22th october 2009.**

**Question sent to DE, ES, IT, NL.**

**Compilation produced on [19<sup>th</sup> march 2010 ]**

**Responses from DE, ES, NL**

*Disclaimer: The following responses have been provided primarily for the purpose of information exchange among EMN NCPs in the framework of the EMN. The contributing EMN NCPs have provided, to the best of their knowledge, information that is up-to-date, objective and reliable. Note, however, that the information provided does not necessarily represent the official policy of an EMN NCPs' Member State.*

### **1. Background Information:**

As part of the transposition into French legislation of the recent European Directive 2009/50/EC, the Ministry of Immigration would appreciate informations on permits to attract highly skilled workers in your country.



It would be very much appreciated if we could receive our answers by **30th october 2009**

### **2. Responses<sup>1</sup>**

|  |  |                                         |                                                                                                                                    |
|--|--|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|
|  |  | <b>Wider Dissemination?<sup>2</sup></b> | 1- What are the residence permits that your country gives to highly skilled workers who are nationals of countries outside the EU? |
|--|--|-----------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|


<sup>1</sup> If possible at time of making the request, the Requesting EMN NCP should add their response(s) to the query. Otherwise, this should be done at the time of making the compilation.

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|    | Germany | Yes | <p>1. Highly skilled workers can obtain a residence permit for employment purposes in two ways.</p> <p>1.1 On 1 January 2005, Section 19 of the Residence Act (Aufenthaltsgesetz) entered into force, which foresees that highly qualified foreigners may be granted a settlement permit in special cases. Highly qualified persons are, in particular,</p> <ul style="list-style-type: none"> <li>a) scientists with special technical knowledge,</li> <li>b) teaching personnel in prominent positions or scientific personnel in prominent positions, or</li> <li>c) specialists and executive personnel with special professional experience who receive a salary corresponding to at least twice the earnings ceiling of the statutory health insurance scheme (the calculation of the earnings ceiling was changed as of 1 January 2009; the minimum salary for 2009 is now EUR 63,600 p.a.).</li> </ul> <p>The term "in particular" means that this list is not final.</p> <p>1.2 Foreigners who are highly qualified, but do not meet the requirements of Section 19 of the Residence Act, may be granted a temporary residence permit on the basis of Section 18(4) of the Residence Act in conjunction with the relevant section of the Employment Ordinance. This residence permit can be extended. Section 18 of the Residence Act also entered into force on 1 January 2005. Under it, a residence permit may be granted to managers (for example managers of a company which does business outside Germany), scientists, researchers or developers, businesspeople or highly qualified workers who have obtained a university degree or a comparable education (see Sections 4, 5, 6 and 27 of the Employment Ordinance).</p> <p>Self-employed or freelance workers may be granted a residence permit pursuant to Section 21 of the Residence Act.</p> <p>Spouses and minor, unmarried children may be granted a temporary residence permit for family reunification purposes, which may be prolonged. This residence permit gives them the same rights to pursue an economic activity which the holder of the original permit enjoys (Sections 27, 29(1) and (5), 30 and 31 of the Residence Act).</p> <p>The entry into force of the Directive Implementation Act on 28 August 2007 translated the Council Directive 2005/71/EC of 12 October 2005 (Research Directive) into national law by creating the preconditions for granting a residence permit to "researchers" pursuant to Section 20 of the Residence Act. One precondition for the residence permit is that the foreigner has concluded a valid agreement on conducting a research project with a research organisation recognised by the Federal Office, that he is suited and qualified to conduct this research project and that he holds the necessary university degree which usually gives access to doctorate programmes.</p> |
|  | Spain   | Yes | <p><b>1.- In accordance with Spanish legislation, no specific type or model of permit exists for foreign workers (non-EU) who wish to enter and stay in Spain for the purpose of performing an activity as "highly qualified" personnel.</b></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |

<sup>2</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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|                                                                                     |        |     | <p>Despite the foregoing, it is important to point out that Spanish law has contemplated and foreseen a specific scheme for this type of foreign worker, precisely:</p> <ul style="list-style-type: none"> <li>• <b>A.-</b> As of the year 2000, foreign workers who wish to enter Spain and are included within one of the “highly qualified” categories set forth in Article 41 of Organic Law 4/2000 are required to hold a residence permit (in other words, are not required to hold a work permit and the national employment situation is NOT considered). In general, this is the case with technicians, scientists, professors and foreign directors who are invited or hired by public administrations. Under these circumstances, despite being exempt from the obligation of holding a work permit, the activity of these “highly qualified” workers is limited to the development of those tasks by virtue of which a residence permit was granted them. The duration of this permit is that of the activity to be performed with a limit of 1 year when the permit is the initial one and of 2 years in the event of renewals.</li> <li>• <b>B.-</b> In the year 2007, an Agreement of the Council of Ministers approved the Instructions which determine the procedure for authorising entry, residence and work in Spain for foreigners in professional activities that involve reasons of economic, social or labour interest, or related to research and development work, or teachers who require a high degree of qualification, or artistic actions of special cultural interest. The main differences with regards to the previous procedure are as follows: <ul style="list-style-type: none"> <li>- <b>The workers are holders of an initial residence and work permit for salaried employment although the national employment situation is NOT considered for the granting of the work permit.</b></li> <li>- <b>The categories of “highly qualified” foreign workers are similar to those set forth in Organic Law 4/2000 (see the preceding section), though the main difference is that they are hired (generally, though not exclusively) by natural or legal persons.</b></li> <li>- <b>The processing times of resolutions are shorter.</b></li> <li>- <b>One of the most outstanding characteristics is that foreign workers who enter Spain by virtue of this procedure are entitled to the reunification of family members who, if they comply with requirements laid down in regulations, may obtain a temporary residence permit without a work permit or a residence and work permit for salaried employment.</b></li> </ul> </li> </ul> |
|  | France | Yes | <p>1- Two permits (valid for 3 years) were created by Act of July 24, 2006 to attract highly skilled workers :</p> <p>1-1: The temporary residence permit marked "skills and talents" ("carte compétences et talents": CCT):</p> <p>It's valid 3 years.</p> <p>.</p> <p>It relates the alien residing in France or not, likely to participate because of his skills and talents, to economic development or to radiation, including intellectual, scientific, cultural, humanitarian or athletic of France and the country of his nationality. This permit is given by the Ambassador of France in the country in which he resides abroad or by the Prefect of the department of residence on the basis of criteria determined each year by the National Commission of skills and talents. It is issued in France.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

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|                                                                                     |                           |                   | <p>The alien can perform any work under the project presented by him when he applied for this card. This scheme is not applicable to Algerian nationals because they are governed by a special agreement. Family members receive a temporary residence permit "private and family life" of 1 year, which allows them to work</p> <p>1-2: The temporary residence permit marked "employee on mission" ("salarié en mission"):</p> <p>It's valid 3 years.</p> <p>The employment situation is not enforceable against the foreign worker.</p> <p>It relates:</p> <p>a). The alien seconded by an employer based outside France when the assignment takes place:</p> <ul style="list-style-type: none"> <li>- between institutions within the same company</li> <li>- between companies within a group. The employee must show a work contract in the company dating back at least 3 months.</li> </ul> <p>The gross earnings of the employee is at least equal to 1.5 minimum salary ("SMIC").<br/>The temporary assignment is at least 3 months.</p> <ul style="list-style-type: none"> <li>- The alien brings his expertise to a French company in the same group - or following a specific training for the implementation of a project abroad.</li> </ul> <p>b). A foreign holder of an employment contract with a company based in France where the introduction is made:</p> <ul style="list-style-type: none"> <li>- between institutions within the same company</li> <li>- between companies within a group.</li> </ul> <p>The gross earnings of the employee is at least equal to 1.5 minimum salary ("SMIC").<br/>Family members of an employee who is on a mission continuously for 6 months in France receive a temporary residence permit "private and family life" of one year renewable and allowing them to work.</p> |
|  | <p><b>Italy</b></p>       | <p><b>Yes</b></p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|  | <p><b>Netherlands</b></p> | <p><b>Yes</b></p> | <p>A) The residence permit for highly skilled workers. The duration of the residence permit of highly skilled migrants depends on the duration of the working contract. The maximum term of the residence permit for highly skilled migrants is five years. There is no working permit required.</p> <p>Granting this residence permit is mainly based on an income criteria. Migrants who are 30 years or older must have a yearly income</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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|  |  |  | <p>of €49,087; migrants who are younger than 30 years must have a yearly income of €35,997)The highly skilled migrant must be in the possession of the working contract before he applies for a residence permit.</p> <p>B) The residence permit for talented migrants.</p> <p>Granting this residence permit is based on the possession of a Masters degree which is acquired from specific institutions around the world, age, language skills, specific talents. Migrants under this category can acquire a residence permit for a year and live in the Netherlands while searching for a job position. The migrant needs a minimum of 35 points; a maximum of 40 points can be rewarded.</p> |
|--|--|--|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

|                                                                                     |             | Wider Dissemination? <sup>3</sup> | 2- How many of these permits were given in 2008 and 1st half of 2009?                                                                                                                                                                                            |
|-------------------------------------------------------------------------------------|-------------|-----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|    | Germany     | Yes                               | <p><b>Residence permits:</b></p> <p>a) (Section 18 Residence Act) 2007: 28.761.</p> <p>b) (Section 21 Residence Act) 2007: 891.</p> <p>Data for 2008 will be published soon.</p> <p><b>Settlement permit (Section 19 Residence Act) 2007: 151, 2008: 157</b></p> |
|    | Spain       | Yes                               | <p><b>According to the Regulation 862/2007, the number of residence permits granted in 2008 to Highly Skilled Workers was: 2884</b></p> <p><b>The data for 2009 are not yet available</b></p>                                                                    |
|    | France      | Yes                               | <p>2- Statistics 2008 and August 2009:</p> <p>-« CCT »: 2008: 472. August 2009: 363.</p> <p>-“Salarié en mission”: 2008: 1 839. August 2009 : 1 369</p>                                                                                                          |
|  | Italy       | Yes                               |                                                                                                                                                                                                                                                                  |
|  | Netherlands | Yes                               | 2008: Jan – June: 2828                                                                                                                                                                                                                                           |

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