

BACKGROUND

EUROPEAN UNION: Mobility Provisions of the Comprehensive Economic and Trade Agreement (CETA) with Canada

EXECUTIVE SUMMARY

The European Parliament has approved a comprehensive trade agreement with Canada that liberalizes trade and tariff regimes and contains several provisions expanding mobility for Canadian professionals, including business visitors, investors, intra-corporate transferees and graduate trainees, and individuals performing services under a contract.

Introduction

The agreement has been seven years in the making and it could take a few more years before it is fully implemented by individual EU countries. The European Parliament approved CETA's provisional implementation, but the accord must be ratified by the EU's 38 national and regional parliaments before it takes full legal effect.

Mobility Provisions

The CETA provides legal certainty for trained workers, who temporarily enter the EU or Canada to do business. Whenever investment is liberalized, intra-corporate transferees are guaranteed access.

Under the CETA, "key personnel" includes intra-corporate transferees, investors, and business visitors for investment purposes.

- **Intra-corporate transferees (ICTs)**

The CETA contains expanded provisions for multinational companies transferring personnel between affiliated offices in Canada and the EU. All ICTs must have a minimum tenure of one year with the overseas office and be transferred within the same corporate enterprise. The ICT routes include Senior Personnel (up to three years), Specialists (up to three years), and Graduate Trainees (up to one year) for university degree holders transferred for purposes of training or career development.

- **Investors**

Investor work permits will be available for individuals who will establish, develop or administer the operation of an investment in a supervisory or executive role and to which they have committed a substantial amount of capital. The investor work permits will be valid for one year, extendable.

- **Business visitors for investment purposes**

Business visitors for investment purposes are exempt from work permits. They are defined as: individuals working in a managerial or specialist position, who are responsible for setting up an enterprise, but do not engage in direct transactions with the general public and do not receive remuneration from a source in the host country. The permissible duration of stay is 90 days in any six-month period.

Short-term Business Visitors

Short-term business visitors are exempt from work permits and may be granted stays of up to 90 days within any six-month period. Permissible activities include: meetings and consultations, research and design, marketing research, attending training seminars, attending trade fairs and exhibitions, taking orders or negotiating sales for a supplier. Short-term business visitors may not engage in selling goods or services to the general public, receive remuneration from a source in the host country, or supply a service in the framework of a contract between a consumer in the host country and an entity that has no commercial presence in the host country.

Contractual Services and Independent Professionals

Under the CETA, work permits will be available for contractual services suppliers and independent professionals in designated professions for a duration of 12 months in any 24-month period or the length of the contract, whichever is less.

A contractual services supplier must be providing services on a temporary basis as an employee of an enterprise with a service contract not exceeding 12 months. The employee must have been employed with the enterprise for at least one year immediately preceding the application for entry and must possess at least three years of professional experience in the sector related to the contract. The employee must have a university degree or equivalent, professional qualifications if required by the host country, and must not receive any other remuneration besides what is paid by the enterprise employing the supplier for contractual services.

An independent professional must be engaged in the supply of services on a temporary basis as a self-employed person established in the home country and must have obtained a service contract not exceeding 12 months. The individual must possess at least six years of professional experience in the sector that is the subject of the contract, a university degree or equivalent, and professional qualifications if required by the host country.

Recognition of Professional Qualifications

The CETA also provides a framework for EU Member States and Canada to agree on mutual recognition of professional qualifications. The framework allows the relevant professional associations on both sides to negotiate and agree on conditions for mutual acceptance of qualifications. Once the associations agree on the procedures, the agreements become legally binding and ensure that the qualifications of Canadians and EU nationals are recognized by the relevant authorities.

Canada’s Implementation

Canada has begun implementing many of the provisions and the mobility categories are expected to provide expanded opportunities for European nationals traveling to Canada for certain activities. Read the BAL backgrounder on Canada’s implementation of CETA mobility provisions on [BAL’s Global Trends page](#).

EU Implementation

On the European side, the mobility provisions may provide Canadian nationals with some expanded opportunities, depending on what is currently available in each Member State. In general, CETA may provide advantages to Canadians entering the EU for business activities, visiting for investment purposes, and providing temporary services under a contract. Most EU countries have adopted the EU directive on ICTs, so CETA may provide little additional advantages for ICT routes.

Here is a look at several key European countries and how the CETA, if implemented, will affect mobility opportunities for Canadian professionals.

Before CETA						
Category	U.K.	Ireland	Netherlands	France	Germany	Denmark
ICT Senior Personnel	Tier 2 (ICT) category requires 1 year of experience or salary of more than 73,000 GBP (3 months of experience for Graduate Trainee ICTs).	ICT category for key personnel available for 2 years initially, extendable to maximum 5 years.	EU Directive on ICTs. ICT Transfer Permit (EU and NL). Minimum salary requirement.	EU Directive on ICTs. Must hold position in senior management or provide expertise. Salary commensurate with role.	EU Directive on ICTs. Canadian nationals with an ICT card from another EU country can apply for Mobile ICT card. Minimum salary requirement.	No ICT provision.
Short-term Work	Short-term workers need work permits.	Employment permits available for “contract for services” for length of the contract,	Short-term work restricted, with some exemptions.	Short-term work restricted but there are exemptions, e.g., auditing, fitting,	Short-term work restricted. There are only a few exemptions.	Short-term workers need work permits.

BACKGROUNDER

		maximum 24 months, extendable up to 5 years.		management, among others.		
Business Visas	Business visas generally issued for up to six-month duration with restrictions on activities.	Business visas generally 90 days within 180-day period.	Business visitor activities restrictive.	Business visitor activities restrictive. French Tech visas are less restrictive for employees in certain companies.	Business visitor visas less restrictive. Canadians are privileged nationals, have privileged access to employment market, can submit applications for work permits before or after entering Germany.	Business visitor activities restrictive. Canadian business visitors cannot work unless Fitter Rule applies (some foreign nationals working as fitters, consultants and instructors can work for 90 days without a Work and Residence Permit).
Business Visas for Investment	No comparable business visa.	Investment activities not mentioned in permissible Business Visa activities.	No comparable business visa.	No comparable business visa. An investor (set-up of commercial activity) visa currently exists.	No comparable business visa.	No comparable business visa. A start-up (entrepreneur) visa currently exists.
CETA Provisions						
	U.K.	Ireland	Netherlands	France	Germany	Denmark
<ul style="list-style-type: none"> ICT Specialists and Senior Personnel: 3 years or the length of the contract, whichever is less, with a possible extension of up to 18 months at the discretion of the party granting the temporary entry and stay. ICT Graduate Trainees: 1 year or the length of the contract, whichever is less. Short-term business visitors: expanded definition of business activities including meetings and consultations, research and design, marketing research, training seminars, trade fairs and exhibitions, sales, purchasing, after-sales or after-lease service: installers, repair and maintenance personnel, and supervisors, commercial transactions, tourism personnel, translation and interpretation. Business visitors for investment purposes: 90 days within any 6-month period. Contractual Services Supplier or Independent Professional: Natural persons employed by a business or independent professionals whose presence is required on a temporary basis to fulfil a service: for a period not exceeding 12 months. CETA requires 12 months' service with contractor and at date of submission 3 years' professional experience having reached age of majority. Must also have (i) a university degree or a qualification demonstrating knowledge of an equivalent level; and (ii) professional qualifications, if this is required to practice an activity pursuant to the laws or requirements of the Party where the service is supplied. If over 12 months, must have degree and professional qualification if necessary for activity and 6 years' experience. The length of stay of contractual services suppliers or independent professionals is for a cumulative period of not more than 12 months, with extensions possible at the discretion of the Party, in any 24-month period or for the duration of the contract, whichever is less. 						
Ratification Status						

BACKGROUNDER

	U.K.	Ireland	Netherlands	France	Germany	Denmark
Status	CETA has not been ratified.	CETA was provisionally implemented Sept. 21, 2017. Parliament must ratify it before entering fully in force.	CETA has not been ratified. Opponents have gathered two-thirds of signatures needed to trigger referendum on ratification by the Netherlands Parliament.	CETA has not been formally ratified. French Parliament expected to ratify in 2018.	CETA has not been formally ratified. There is no information as to when Germany is planning to ratify CETA.	On June 1, 2017, the Danish Parliament ratified CETA, but it has not yet been fully implemented and it is too early to assess its impact.
Benefits of CETA						
	U.K.	Ireland	Netherlands	France	Germany	Denmark
Benefits	CETA expands business visitor activities and contractual services activities.	<p>CETA has advantages for ICT Graduate Trainees, as no comparable visa currently exists in Ireland.</p> <p>CETA expands business visas for investment purposes, as Ireland’s current business visa does not include investment activities.</p> <p>It is unclear if CETA will benefit contractual services suppliers because of legal restrictions on contract for services permits.</p>	CETA expands business visitor activities and lowers threshold for short-term employment and contractual services activities compared to current Work Permit Waiver restrictions in the Netherlands.	CETA expands business visitor activities, even though French business visas are already more generous than others regarding business activities. CETA lowers threshold for contractual services activities.	<p>Since Canadians are already privileged nationals in Germany, CETA may have limited advantage.</p> <p>CETA lowers threshold for short-term employment.</p> <p>CETA expands business visitor activities.</p> <p>CETA provides advantage of streamlining recognition of professional qualifications for Canadians in Germany.</p>	<p>Denmark already allowed short-term work for ‘fitter’ activity before CETA.</p> <p>CETA expands business visitor activities and introduces ICT category.</p> <p>CETA has advantages for ICT Graduate Trainees, as no comparable visa exists in Denmark.</p>