



GLOBAL IMMIGRATION UPDATE – OCTOBER 2023

Posted on October 16, 2023 by Cyrus Mehta

FEATURE ARTICLE

DIGITAL NOMADS: AN OVERVIEW – Where are we now? This article provides an update on digital nomads in several countries.

COUNTRY UPDATES

INDIA – In a developing and increasingly complex story, Canada's Prime Minister has accused India's government of involvement in the murder of a Sikh separatist leader in Canada. This has precipitated counter-moves by India.

ITALY – The Italian government has announced the number of foreign workers allowed in Italy for 2023-2025 and application periods for work permit applications. Also, non-European Union (EU) workers who have already worked abroad for Italian companies or companies participated in by Italian firms can obtain a work permit that will not be subject to yearly quotas.

UNITED KINGDOM – The government of the United Kingdom (UK) is implementing a full-scale digitalization project and seeks to enhance the efficiency of immigration procedures by harnessing advanced technology. Also, fines for employing someone unauthorized to work in the UK will increase next year.

Details:

Feature Article

DIGITAL NOMADS: AN OVERVIEW

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SPAIN

Aided by regulations promoting the start-up ecosystem, Spanish immigration authorities have been processing visas and residence permits related to international remote work since the Start-Up Act was implemented in late 2022.

A visa and residence permit for international remote workers regulated through the Start-Up Act allows holders to stay in Spain while carrying out work or professional activity remotely for companies located outside the national territory. Visas are processed through Spanish consulates and granted for a period of up to one year, while residence permits are processed in-country and can be granted for a period of up to three years.

In general, to qualify for this visa or residence permit, applicants must: (1) work for a company located outside Spain (with some exceptions for individuals who are self-employed); (2) work using exclusively computer, telematics and telecommunication media and systems; and (3) hold a university degree or have a minimum of three years of relevant experience in their field.

Such a permit-holder exercising an employment activity may only work for companies located outside the national territory. A permit-holder who is self-employed may undertake professional activity for a company located in Spain provided that the percentage of such work does not exceed 20% of the total professional activity.

Dependents of holders of a visa or residence permit for international remote work may obtain residence permits as dependents and be eligible to work in Spain.

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ITALY

On March 28, 2022, Italy introduced in its law a visa for digital nomads and remote workers.

[The law](#) provides that the requirements and conditions for the issuance of these visas should have been established with a further decree that was to be issued within 30 days, i.e., by the end of April 2022, but until now no further actions have been taken and the program is on hold.

Digital nomads and remote workers are defined as "citizens of a third country

who carry out highly qualified work activities through the use of technological tools that allow to work remotely, autonomously, or for a company based outside Italy." (See under Art. 6-*quinquies* (b) in *Modificazioni apportate in sede di conversione al decreto-legge 27 gennaio 2022, n. 4.*)

For these categories of workers, it is not necessary to apply for a work permit before applying for the visa. However, to be issued the visa, applicants must show proof of valid and comprehensive health insurance, covering all risks in Italy, and be committed to respecting all relevant tax and security obligations in Italy.

This permit seems applicable to both:

- Nationals of a third country who are self-employed or employed for a non-resident company in the territory of the Italian State; and
- Nationals of a third country who carry out their activities in Italy.

The new law has only established some general principles. Digital nomads:

- Do not need to apply for a work permit in Italy before applying for the visa at the consulate; but
- Must submit proof of comprehensive health insurance, covering all risks in Italy;
- Most likely must prove they have performed the work for a significant amount of time, prove they meet a minimum income requirement, and submit (as requested for self-employment visas) their latest tax returns; and
- Must comply with Italian tax and social security obligations.

Similar to the self-employment visa, almost total discretion on the issuance of the visas is left to Italian consulates. This will most likely create confusion, because each consulate may use different criteria to assess an application and grant or deny the visa.

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Country Updates

INDIA

In a developing and increasingly complex story, Canada's Prime Minister has accused India's government of involvement in the murder of a Sikh separatist leader

in Canada. This has precipitated counter-moves by India.

Justin Trudeau, Canada's Prime Minister, said the Canadian government had evidence that India's government was involved in the murder of Hardeep Singh Nijjar, a Sikh separatist leader in Canada.

As a result, India has [suspended visa services](#) for Canadians until further notice, citing [security reasons](#), and asked Canada to [reduce its diplomatic presence](#) in India. This involves [about 40 diplomatic staff](#). The visa services suspension affects all Canadian nationals without valid visas, including students, tourists, and business visitors. The suspension also applies to Canadians in third countries who wish to apply for an Indian visa, and includes the Indian E-visa. The suspension does not apply to Canadian citizens who hold an Overseas Citizen of India card.

Canada, for its part, has not suspended visas for Indian nationals but said that it would ["adjust"](#) its diplomatic staffing in India after security-related threats.

On September 20, 2023, the government of India's Ministry of External Affairs issued an [advisory](#) for Indian nationals and students in Canada. The advisory counsels "utmost caution" for all Indian nationals in Canada or contemplating travel there. It also notes that Indian nationals and students from India in Canada must "register with the High Commission of India in Ottawa or Consulates General of India in Toronto and Vancouver through their respective websites, or the MADAD portal madad.gov.in. Registration would enable the High Commission and the Consulates General to better connect with Indian citizens in Canada in the event of any emergency or untoward incident."

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ITALY

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Foreign Workers

The Italian government has announced a cap of **450,000** on the number of workers from outside the European Economic Area (EEA) allowed in Italy for

2023–2025. The decree, dated September 27, 2023, was published in the Official Gazette on October 3, 2023. For the **year 2023, 136,000** quotas are available.

Applications for subordinate permit applications for subordinate work reserved to citizens of countries that have cooperation agreements with Italy can be submitted starting at **9 a.m. December 2, 2023**. Other subordinate permit applications can be submitted starting at **9 a.m. December 4, 2023**, while seasonal work permit applications can be submitted starting at **9 a.m.**

December 12, 2023.

Quota Categories

The *136,000 quotas* will be allocated among the following categories:

- **82,550** for **Seasonal Work** in the sector of agriculture; hospitality and tourism industry reserved for certain nationalities
- **53,450** (of which 52,770 are for **subordinate work**—work as an employee—and 680 are for **self-employment**)
- In the sectors of freight transportation on behalf of third parties, building, hospitality and tourism, mechanics, telecommunications, food, shipbuilding, transportation of passengers by bus, fishing, hairdressing, electricians, and plumbers:
- **2,000** for citizens of countries that promote media campaigns regarding the risks of involvement in irregular migration
- **25,000** for the following nationalities: Albania, Algeria, Bangladesh, Bosnia-Herzegovina, South Korea, Ivory Coast, Egypt, El Salvador, Ethiopia, Philippines Gambia, Georgia, Ghana, Jordan, Japan, Guatemala, India, Kyrgyzstan, Kosovo, Mali, Morocco, Mauritius, Moldova, Montenegro, Niger, Nigeria, Pakistan, Peru, Republic of North Macedonia, Senegal, Serbia, Sri Lanka, Sudan, Tunisia, and Ukraine
- **12,000** for citizens of countries with which Italy will have cooperation agreements
- **100** quotas (employee/self-employee) for employed or self-employed work, reserved for foreign nationals who have Italian ancestry and reside in Venezuela
- **200 quotas** (employee/self-employee) for employed or self-employed work, reserved for stateless persons and refugees

- **9,500 quotas for workers in family care and support services**
- **500** quotas for self-employment for:
 - Entrepreneurs intending to implement an investment plan of interest for the Italian economy, involving an investment of at least €500,000 and creating at least three new jobs in Italy
 - Freelancers/independent contractors who intend to practice regulated or controlled professions (i.e., individuals belonging to a professional association or enrolled in an official/public register) or professions that are not non-regulated but are considered representative at the national level and are included in the lists edited by the Public Administration
 - Holders of corporate offices or administrative/controlling positions (any of the following: Chairman, CEO, Member of Board of Directors, Auditor) in an Italian company, active for at least three years (requirements set in Visa Decree May 11, 2011 n.850)
 - Foreign citizens who intend to set up innovative start-up companies under certain conditions and who will have a self-employment relationship with the start-up
 - Internationally well-known and highest-repute artists, artists of recognized high professional qualification or artists who are hired by well-known Italian theaters, important public institutions, public television, or well-known national private television (requirements set in Visa Decree May 11, 2011 n.850)
- **Permit conversion for non-European Union (EU) nationals already in Italy/EU**
 - **4,000** quotas for conversions of seasonal work permits to standard, non-seasonal work permits (as an employee).

Work Permits

*Article 27 of Italian immigration law, which lists the exceptions to the quota system, has been modified to include this new category of workers. According to this amendment, workers who meet the specified requirements can be employed in Italy by the same companies or entities for which they have worked abroad without having to compete for a "quota" set by the *decreto flussi* (flow decree), which sets the numerical limits (quotas) for foreign workers entering the country. This measure aims to simplify the entry and employment*

of foreign workers who already have a work connection with Italian companies.

A new subparagraph (i-bis) is to be introduced to paragraph 1 of Article 27.

According to this, workers who have been employed for at least 12 months within the 48 months preceding the application, by companies headquartered in Italy or companies participated in by Italian firms, can be employed at the locations of the same companies or entities in Italy.

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UNITED KINGDOM

The government of the United Kingdom (UK) is implementing a full-scale digitalization project and seeks to enhance the efficiency of immigration procedures by harnessing advanced technology. Also, fines for employing someone unauthorized to work in the UK will increase next year.

Digitalization and Immigration-Related Technology

Technological developments in the UK are intended to expedite the submission and processing of visa applications and other immigration-related paperwork and modernize border operations by automating digital border processes. This initiative aims to enable Border Force and UK Visas and Immigration personnel to streamline current workflows, concentrating their resources on application categories that demand more time and effort due to their intricate legal aspects. The digital transformation of the UK immigration system is intended to bring the border management system and broader government in line with the demands of the 21st century.

Transition to Digital Immigration Status

By late 2024, the UK government intends to fully transition to a digital system for managing immigration status. This will enable individuals to apply for and verify their immigration status and cross borders without the need for physical travel vignettes or Biometric Residence Permits (BRPs). Some migrants have already begun receiving digital status as the default option. All BRPs are set to expire by December 31, 2024, in anticipation of these forthcoming changes.

Electronic Travel Authorisation Scheme

In March 2023, the government introduced the Electronic Travel Authorisation (ETA) scheme. Under this program, travelers from countries currently exempt

from the requirement to apply for prior UK visa clearance before visiting the UK must obtain an ETA before their journey. The primary goals of the ETA scheme are to enhance border security in the UK and streamline the travel process. The ETA scheme will be slowly introduced, first with selected Middle Eastern nationals. Beginning November 15, 2023, Qatar nationals traveling to the UK will require an ETA. Nationals of the following countries traveling to the UK will need an ETA beginning February 22, 2024:

- Bahrain
- Jordan
- Kuwait
- Oman
- Saudi Arabia
- United Arab Emirates

More countries on the non-visa national list (those countries whose nationals do not require prior UK visa clearance before visiting the UK) will be added to the ETA scheme, with the aim for it to be fully in place by the end of 2024 for all relevant non-visa nationals traveling to the UK. As details of the ETA are still to be finalized for non-Gulf countries, multinational corporations with frequent business travel should stay vigilant for updates and make necessary preparations for its implementation.

Sponsorship System Reforms

In response to calls for a simplified sponsorship system following Brexit, the Home Office unveiled a sponsorship roadmap in August 2021. This roadmap outlines proposed changes to the current process of hiring foreign nationals to make it more straightforward and efficient. The plan includes:

- Various IT improvements;
- Enhancements in customer service;
- Modifications to compliance procedures; and
- Strategies for engaging stakeholders.

These reforms aim to create a more user-friendly system that reduces the time required to sponsor a migrant worker. The IT transformation will be implemented in three phases, with the Home Office anticipating full operational capability by Q1 2024. All sponsors are expected to transition to the new system by this deadline.

Online Verification of Right to Work and Rent

As of April 2022, employers and landlords are now legally obligated to conduct online checks to verify an individual's right to work and rent status for most migrants. With limited exceptions, manual right-to-work verification for these individuals is no longer permitted. The Home Office has also introduced a digital service allowing British and Irish nationals to confirm their right to work and rent status online. Employers and landlords can opt to use an Identity Service Provider (IDSP) for these checks. However, manual checks of physical identity documents are still permitted for British and Irish nationals.

Employer Fines Increasing Next Year

The UK government [announced](#) that employer fines (also known as civil penalties) for employing someone without permission to work in the UK will increase next year. Below are some details:

- **Tripling of fines.** The fine for a first breach by a UK employer will increase from £15,000 to £45,000 per worker. For repeat breaches, the fine will increase from £20,000 to £60,000 per worker.
- **Increased need for compliance.** Full compliance with right-to-work checks is already a necessity for all staff working in the UK. These increased fees add an extra incentive for employers to ensure they have the correct prevention measures in place, including in relation to right-to-work checks and, for those sponsoring workers from overseas, sponsor license compliance.
- **More Home Office vigilance possible.** The government announcement noted that later this year, "the Home Office will consult on options to strengthen action against licensed businesses who are employing illegal workers." It is unclear what that will entail. It might, for example, mean that more compliance visits are made or increased information-sharing occurs between government departments. Stay tuned.

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Firm in the News

Cyrus Mehta was quoted in the *Times of India* on India's visa suspension for Canadians: [India's Visa Suspension Will Have Limited Impact on Biz.](#)

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