

GLOBAL MOBILITY

AN OVERVIEW FOR HUMAN RESOURCE PROFESSIONALS

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CONTENTS

1. Acknowledgements.....	2
2. Foreword by Gyan Nagpal.....	4
3. Introduction by Poorvi Chothani.....	6
4. Argentina by Héctor Gabriel Celano.....	8
5. Australia by Maria Jockel.....	17
6. Brazil by Maria Luisa Soter.....	29
7. Canada by Jacqueline R. Bart.....	39
8. The People’s Republic Of China by Frank S. Hong.....	52
9. France by Karl Waheed.....	59
10. Germany by Gunther Mavers.....	69
11. Hong Kong by Catherine Lau.....	85
12. India by Poorvi Chothani.....	91
13. Israel by Tsvi Kan-Tor and Amit Acco.....	101
14. Italy by Marco Mazzeschi.....	116
15. Japan by James Minamoto and Chisato Higashio.....	123
16. Kenya by Sonal Sejpal and Jacqueline Nyabwa.....	132
17. Mexico by Enrique Arellano.....	144
18. The Netherlands by Ted Badoux.....	154
19. The Philippines by Lozano A. Tan and Russel L. Rodriguez.....	167
20. Romania by Ruslan Bocancea.....	178
21. Russia by Timur Beslangurov.....	187
22. South Africa by Zahida Ebrahim.....	202
23. Spain by Marla Bojorge.....	213
24. Sri Lanka by Sithie Tiruchelvam.....	220
25. Switzerland by Renuka Cavadini.....	229
26. Thailand by Jeremy A. Weber and William F. White.....	235
27. United Kingdom by Poorvi Chothani.....	250
28. United States of America by Poorvi Chothani.....	256
29. Author’s Profiles.....	265

ISRAEL

Tsvi Kan-Tor & Amit Acco

SUMMARY

The State of Israel is situated on the Eastern Mediterranean, bordering Lebanon and Syria to the north and northeast, Jordan and the West Bank to the east and the Gaza Strip and Egypt to the southwest. Israel is the world's only predominantly Jewish state, with a population of 7.6 million people, of whom 5.7 million are Jewish. Arab citizens of Israel form the country's second-largest ethnic group, which includes Muslims, Christians and Druze. Israel has two official languages, Hebrew and Arabic.

Israel declared independence on May 14, 1948 and from its inception has been a liberal democracy with a parliamentary system and universal suffrage. The Prime Minister serves as head of government and the Knesset serves as Israel's legislative body.

Whilst Jerusalem is the center of Government and politics, Tel Aviv is the country's capital of business and finance. Israel is considered one of the most advanced countries in Southwest Asia in economic and industrial development. It has the second-largest number of startup companies in the world and the largest number of NASDAQ-listed companies outside North America.

In 2009, Israel had the 49th highest gross domestic product and 29th highest Gross Domestic Product (GDP) per capita (at purchasing power parity) at \$206.4 billion and \$28,393, respectively. The New Israeli Shekel (ILS) was announced as one of 17 freely convertible currencies according to the CLS list.

LEGAL SYSTEM

Israel has no written constitution. The Basic Laws however function as an unwritten constitution and in 2003, the Parliament of Israel (*Knesset*) began to draft an official constitution based on these laws.

Israel's legal system combines English common law, Civil law and Jewish law. It is based on the principle of precedent and is an adversarial system, where the parties in the suit bring evidence before the court. Court cases are decided by professional judges rather than juries.

VISAS

Employer or Sponsoring Entity

An Israeli bona fide employer (or a well-known global foreign bona fide employer) must sponsor either visitor visa or work permit application.

The bona fide sponsoring company does not necessarily have to be the actual employer. For example, in many Information Technology (IT) projects that are being carried in Israel by Indian companies (such as ERP rollout), it is acceptable by the various governmental bodies that the Israeli host company sponsors the work permit applications for the Indian IT specialists, while their employment with the Indian company continues throughout the assignment.

In such cases the Indian engineer will remain on his Indian employer payroll, while the Israeli sponsor will be obliged to keep full compliance in the employment, in terms of immigration and

labour laws (including but not limited to payment of the prevailing wages, providing adequate housing, payment for over time, providing medical insurance, etc.).

Temporary Visas

Business Visas

B-2 Business Visitor Visa – This visa is suitable for the purpose of conducting business, tourism and leisure. A valid passport and an entry visa, depending on the nationality of the visitor, are necessary for entry into Israel for these purposes.

The term “business trip” is not specifically defined under Israeli law. Nonetheless, it is clear that if the purpose of the proposed travel to Israel entails productive work of any kind, a work visa must be obtained. This is regardless of the expected duration of the individual’s stay in Israel.

An Indian national seeking to travel to Israel on business, must obtain a pre-entry visa from the Israeli Consulate with jurisdiction over their place of residence. The state of Israel operates two consulates in India: in Mumbai and New Delhi (depending on the area of residency of the assignee). Israeli law generally provides for only one type of visa category for both tourists and business travelers: The B-2 visa.

For business travelers, the B-2 procedure normally includes three separate bureaucratic steps: Submission of a visa application with the Ministry of Interior (MOI);

Issuance of the B-2 visa at the relevant Israeli consular post abroad, prior to entry into Israel; Extension of the B-2 visa at the MOI after arrival in Israel, if

necessary.

First Step: Visa Application

Israeli consulates in India normally require that business travelers be officially sponsored by an Israeli company. A company provides such sponsorship by filing an application with the MOI in Israel. The application must contain a detailed description of the proposed visit, and also provide complete details relating to the prospective visitor, including educational background, professional experience, accommodation arrangements, etc. Processing times for work permit applications currently range from two to four weeks.

If the application is approved, the MOI will issue instructions to the relevant Israeli consulate in India to issue the B-2 visa.

Second Step: Consular Processing in India

In accordance with the instructions issued by the MOI (as discussed above), the Israeli consulates in India will endorse the B-2 visa on the individual's passport. The visa will generally be valid for a single entry of up to 30 days only.

The individual will need at this stage to contact the Israeli consulate through VFS Visa Application Centre in New Delhi. VFS was appointed by the Israeli consulate to process the applications. The VFS website (<http://isr.vfsglobal.co.in/>) provides information and guidelines regarding the preparation of the documents. Following all VFS requirements closely will reduce the chances of your application being incomplete or not being processed.

Third Step: Visa Extension

Following entry into Israel, an application to extend a stay on a B-2 visa may be filed at the local offices of the MOI. Extensions may be given for up to an additional 90 days. Applications should include, among other things, an explanation regarding the need for the extension and a detailed description of the activities planned during the requested extension period.

Employment Visas

An Indian national who has been assigned to work in Israel must obtain a work permit and an appropriate entry visa prior to entering Israel. Israeli law generally provides for only one type of work status relating to the employment of foreign professionals and non-professionals alike: the B-1 visa category.

The process for obtaining a B-1 visa includes four separate bureaucratic steps:

- Submissions of a work permit application with the Semech Unit operated by the MOI (Semech unit);
- Filing of a subsequent visa application;
- Issuance of a short term single entry B-1 visa at the relevant Israeli consular post abroad prior to entry into Israel;
- Extension of the B-1 visa at the MOI after arrival in Israel, and obtaining a multiple entry visa for the entire B-1 approval period;

First Step: Work Permit Application

An Israeli bona fide employer (or a well-known global foreign bona fide employer) must sponsor either visitor visa or work permit application. There is no separate category or provision for a self-employment working permit. A work permit application must contain a detailed description of the job position offered and also provide complete details relating to the prospective employee, including educational background, professional experience, proposed salary in Israel, local hiring efforts made etc. Processing times for work permit applications currently range from four to eight weeks.

If the application is approved, Semech Unit will issue a B-1 recommendation letter to the MOI.

Second and Third Steps: Visa Application and Consular Processing

Upon issuance of the Semech Unit recommendation letter, an application should be filed with the MOI, asking that it instruct the relevant Israeli consular post in India (Mumbai or New Delhi) to issue a B-1 work visa to the Indian national. Processing times for this notice short-term single entry currently range from two to four weeks.

Under the MOI regulations, short term single entry B-1 visas must be sought at the consulate prior to entry into Israel, as petitions for B-1 visa classification cannot be made by way of change of status.

Fourth Step: Visa Extension in Israel

Following entry into Israel, an application for a new long-term multiple entry B-1 visa stamp for an extended validity period (up to one year) must be processed at the local MOI. This latter step should be completed as soon as the individual arrives in Israel and prior to any departure.

Any departure from Israel on the basis of the short-term single entry visa, will cancel the applicant's B-1 visa obtained at the consulate in India and will require reprocessing of the visa at the consulate in India.

B-1 Visa - Short Term Expedited Process (STEP)

This process is for work permit applications submitted for Indian nationals seeking to enter Israel for up to 90 days, to perform their duties such as technical work activities. Work permit applications submitted under STEP are not subject to the normal prevailing wage obligations and also enjoy expedited processing.

Both Indian and Israeli companies can sponsor a foreign national under the STEP process. To take advantage of STEP, the Indian national must possess unique knowledge and expertise that is relevant to the proposed activities.

Temporary Visas

Both B-1 work visa and B-2 business visas are classified as temporary visas. While B-1 work visa may be extended for a maximum of five years and three month, visitor visa can be prolonged in rare situation to six month.

Training Visas

There is no dedicated visa category for training assignments. The required visa will be examined in light of the unique characteristics of the proposed training:

- Should the Indian national arrive to Israel to provide training to others; a B-1 visa will be required.
- Should the Indian national arrive to Israel to be trained in passive class room training: B-2 Visitor visa may be in compliance. No pro-active assignments will be permitted (such as: hand on tools, active operation of machines, software installations etc.).
- Should the Indian national arrive to Israel to be trained in an active training (such as: hand on tools, active operation of machines, software installations etc.): a B-1 work visa may be required.

Intra Company Transfer Visas

There is no dedicated visa category for Intra Company Transfer. The B-1 visa (expert category) is suitable for newly recruited employees as well as for Intra Company Transfer.

Visa Waiver for Indians

Indian nationals are not included in the visitor visa waiver program of Israel. As a result, an Indian national must obtain a pre-entry visa prior to any proposed visit in Israel.

Permanent Visa or Naturalization

Permanent residency or naturalization if possible where:

The applicant is Jewish or decedent of Jewish

This right is laid by the Law of Return, which accords any Jew and eligible non-Jews (a child and a grandchild of a Jew, the spouse of a Jew, the spouse of a child of a Jew and the spouse of a grandchild of a Jew, the legal right to assisted immigration and settlement in Israel, as well as automatic Israeli citizenship or residency.

Step-by-step process: spouse of an Israeli national

This process is designed for foreign nationals (who are not otherwise eligible for citizenship under the Law of Return). Foreign nationals are granted permanent residence status Israeli citizenship, depending on whether the foreign national and the Israeli partner are married or living together unmarried.

This process is composed of a number of steps that are meant to test the sincerity of the relationship. It is mainly relevant to an Israeli citizen who married a foreign national in Israel or abroad, regardless of whether the Israeli citizen met the foreign national in Israel or abroad.

The MOI has set a number of preliminary conditions that must be met prior to beginning each stage of the process:

- The marriage or relationship between the couple was not done fictitiously in order for the non- Israeli partner to receive citizenship and establish a permanent residence in Israel.
- The couple must show sincerity, not hide pertinent facts, nor provide false and/or unsatisfactory details.
- The couple must prove that their shared lives are based in Israel.
- The MOI must be convinced that the foreign spouse presents no risk to public health, public security or national security.

EMPLOYMENT AND LABOUR LAWS

Under the new rules, companies and their officers are subject to a range of civil

and criminal penalties for violations of Labour Laws and Israeli Immigration Law. Companies found to have hired foreign nationals unlawfully will have their names published on the government's website and be subject to fines of at least NIS 25,000 (approximately \$6600) for every worker hired unlawfully. In addition, all foreign employees of companies found to be noncompliant will have their work permits and visas revoked and will be required to depart from the country.

The new rules impose a duty on corporate officers to take steps to prevent immigration violations. Where a company is found to have hired foreign workers unlawfully, corporate officers are presumed to have breached their duty and may be held individually liable and subject to civil and criminal penalties and fines, including imprisonment. Penalties are assessed based on the severity of the violations; factors include the length of the illegal employment, the company's track record on compliance and the unlawful workers employment conditions.

Employment Requirements

Israeli Labour Legal Code contains extensive protective legislation, providing minimal rights for every worker in Israel, local or foreign.

As stated in the Foreign Workers Law, the protective legislation in Israel applies equally to migrant and local workers. This includes the collective agreements and extension mandates. It is forbidden by law for an employer to discriminate against a migrant worker and deny him these rights.

The conditions that regulate employment relations are expressed in statute, case law, industry sector agreements, collective settlements, laws, extension orders and written or oral contracts of employment.

Equality of Opportunities and Sexual Harassment

The discrimination of employees in the process of recruitment, during employment and upon termination is prohibited whether motivated by sex, religion or age. For example, equal opportunity requires that in placing an advertisement for potential candidates, an employer must include both sexes.

Furthermore, sexual harassment of an employee is a criminal offence and is subject to severe punishment with the possibility of imprisonment.

In general, a contract of employment between an employee and his employer can be either in writing or oral. However, there are two exceptions to this rule, relating to employees employed by manpower contractors and foreign employees. Case law dictates that the conditions of employment in manpower companies have to be in written form or subject to a collective agreement

defining conditions of employment according to the new law of regularization. Foreign employees must have a written contract (in the language of the employee), which should include, among other details, salary details, working hours and social rights.

Employees employed by manpower contractors are considered equal to other regular employees in the same place of work. If a manpower employee is employed by the same employer for a period of more than nine months, the employee will be considered as employed by the employer. In such instances, the seniority of this employee will be counted from the moment they commence work for the plant or company, even though the employee was a manpower contractor's employee at that time.

Termination of Employment

Employment conditions that are subject to a collective agreement will be terminated by means of the annulment or expiration of the collective agreement. A collective settlement is terminated with the consent of the parties unless the settlement in question is unilateral and subject to change. A contract of employment comes to an end either due to the completion of a specified period or due to notice given by a party to the contract. The Prior Notice of Termination of Work Law states the obligation to give a letter of termination and notice in writing.

Prevention of Dismissal

Employer-employee relations are considered as a contract for personal services and therefore will not be enforced unless the dismissal in question is illegal. Dismissals may be deemed illegal if the dismissal:

- Is the dismissal of a pregnant employee;
- Occurs in the public sector where the employee's right to a hearing has not been granted and laws of natural justice have not been maintained;
- Is contrary to the dismissal conditions defined in a collective agreement;
- Is for political or politically related reasons such as a union membership and activity;
- Is of an employee who reveals corruption;
- Is based on sexual or age discrimination;

In these and any other cases in which the relevant court decides that the employer did not fulfill his obligations, the employer may be forced to make a severance payment to the employee, and in some cases (especially in the public sector) to continue to employ the individual.

Notice Period

Employment that is subject to the terms of a collective agreement may be terminated in the event of a serious disciplinary violation or a breach of confidence by the employee or in any other legally justified circumstance.

The statutory notice period is legally defined depending on the length of employment. A contract of employment may provide for payment in lieu of notice. The employee must also give the required notice to the employer.

Severance Payments

An employee who is employed under an indefinite contract and whose employment is terminated without a *bona fide* cause is entitled to a severance payment of one month salary for each year of employment to be awarded by the relevant court.

An employee who is employed under a fixed-term contract is entitled to severance payments on condition that the agreement has lasted no less than 12 months.

An employee who voluntarily resigns will not be entitled to severance payments unless:

- The resignation was caused by a worsening economic situation such that it was impossible to continue work;
- The resignation was on account of the ill-health of the employee or a dependent family member;
- The resignation was due to change of employers at the workplace;
- The resignation was due to moving to an agricultural settlement or developing town, enrolment in the army or the police corps and moving away 40 kilometers due to marriage;
- The resignation by a male or female employee in order to take care of a newly born child provided the resignation is submitted within nine months of the birth;
- The contract of employment defines liability to pay severance in any case of dismissal or resignation;
- If it is common practice at the employee's place of work for employees to receive severance payments;
- If severance pay is not paid on time i.e. no later than 15 days after the termination of the employer-employee relationship, the employee is entitled to compensation for the delay;
- For up to 15 days delay: the severance pay will bear interest (indexation);

- In certain cases, the rate of the benefits will exceed 20% of the delayed severance pay, for every delayed monthly payment, if the delay is unjustified.

Working Time and Hours

The statutory maximum number of working hours is 45 hours a week. In places of work that are open five days a week, a work day normally consists of nine hours.\

Daily working hours may be extended to 10 hours per day; however, the weekly quota must not exceed 45 and in certain sectors, must not exceed an average of 45 weekly hours over a three- week period.

If an employer wishes to deviate from the legally allowed number of days, they can only do so under the terms of a collective agreement concluded with the *Histadrut* (Workers Union) or under a special permit from the Minister of Labour.

Flexible working hour systems are allowed, but they must be collectively bargained.

Overtime

An employee who works additional hours is entitled to payment of 125% for the first two additional hours for each working day and 150% for every following hour. If the employee is working a night shift (for at least two hours past 10 pm), the employee is entitled to payment similar to overtime rates after regular hours.

Night Work

Night shift according to the law is eight hours. The law forbids pregnant women and minors under 18 from working at night. The law does not require supplying meals or transport, but it is very common under collective agreements to provide these two benefits. The law also regulates how many hours or nights an employee is permitted to work on a night shift.

Rest Periods

The employee is entitled to a weekly rest periods of 36 hours irrespective of whether he or she works a five or six day week.

The employee who works through the weekly rest period is entitled to an additional payment of up to 150% as well as compensation leave.

Annual Vacation and Leave

There is a statutory provision which entitles an employee to paid annual vacation. The number of days generally increases with length of service.

In the first two years, an employee who works six days a week is entitled to 14 days leave and an employee who works five days a week are entitled to 12 days leave. Leave days can be accumulated and carried forward for a maximum of two years.

On termination of employment, payment in lieu of leave is allowed. Public holidays are not considered vacation days for the purposes of annual leave entitlement. The common practice is to pay in lieu for the excess over the two years' accumulation.

Vacation Allowance

- Every employee in Israel is entitled to “vacation allowance” after 12 months of employment with the same employer. Under law, although each employer can count this benefit from the day the employee has started work with him, the common practice in Israel says that the “next in line” employer will take into consideration the seniority of the employee and will pay him according to the total years of employment. Maximum number of days:
 - Private sector: 10 days, Public (Government)
 - 13 days and organizations owned by the Histadrut (Union) 15 days.
 - The number of days starts at five and increases every year by seniority until the maximum number is reached.

Payments: Private sector: ILS 307 per day, Public and Histadrut: ILS 347 per day (Update September 2010). There is no connection between payment and whether the employee actually goes on vacation. Companies usually pay this allowance during summer months (June-July-August in one to three payments) or spread over the year in 12 equal payments. Payments per day are up- dated every year. Claims can be backdated up to seven years.

Public Holidays

In addition to vacation leave, employees are entitled to a full day holiday. Public Holiday dates are determined under the Jewish calendar and can differ year to

year.

Maternity and Paternity Leave

Maternity leave is granted for three months (14 weeks), during which time the Social Security Institute pays the mother. The father is entitled to the leave if the mother returns to work earlier. The leave can be prolonged on an unpaid basis, depending on the length of service for the same employer. Mother and father cannot take maternity leave together. The women have to provide evidence that the husband takes the maternity leave from his work place and the vice versa.

Sick Leave

An employee may be absent due to sickness for a period that is equivalent to 1.5 days per month (full time employee) and not exceed a total of 90 accumulated days for any individual period of employment.

Measures of Occupational Health and Safety

Health and safety practice and procedures in the workplace are regulated.

Provisions include: the regulation of working conditions, safety limitations in the use of various materials, instructions on lighting and air-conditioning, instructions regarding the building in which the employee is working, and the particular conditions to be maintained for pregnant employees and employees who suffer from respiratory problems.

Minors

There is an arrangement for minors being employed legally for youth employment, regarding salary as well as the scope of work and also employment conditions.

Rules and Implementation

There are several inspectorates responsible for enforcing the various health and safety rules. These units are responsible for inspection, consultation and enforcement by means of onsite visits and the preparation of legal action against employers who violate their legal obligations.

Industrial Relations

The parties involved in employment relations include the *Histadrut*, the State (as employer in the public sector) and the employer's organizations (the chamber for coordination of economic organizations and the industrialists).

Collective Agreements

Decisions reached are expressed in collective agreements, signed by all parties to the negotiations. Collective agreements may be reached on such issues as the cost of living bonus rate, travel to work allowances or payment of expenses.

Collective agreements may also be reached on social conditions, such as pension rights, to be provided to employees.

Labour Courts: Special Protection for Foreign Employees

In addition to the general protective legislation, foreign employees are also entitled to receive: Written contract of employment in the foreign employee's native language, Adequate Housing and Health Insurance. Terms and conditions for these unique rights are listed in specific regulations.

Contract of Employment

The employment contract must include: salary details, working hours, vacation, sick leave rights, and a job description.

Types of Contracts

Part Timers:

These kinds of contracts are common within the public service and the government service where the employment is not standard. The contract is used for a defined purpose or assignment.

Duration of Contract:

The duration of a contract varies according to the conditions of employment, collective agreement, collective settlement and contracts of employment. Collective agreements may be limited in time or in perpetuity. Collective settlements are valid until a subsequent agreement or settlement is made.

Fixed Term Contracts:

A personal contract of employment may also be for an unlimited or specified period of time. A contract of limited duration should include a term specifying the period of the contract. A limited contract will be terminated at the end of the specified period, unless the parties consent to extend the contract at least 90 days

prior to the end of the contract. A limited time contract may be renewed for any period agreed to by the parties.

It is possible to employ someone for up to three years as temporary employee according to collective agreements.

Probation Period:

The probation period can last one month, six months or 12 months as determined by a collective agreement or individual contract of employment. During this period, the employee's aptitude for the job is assessed. A probation period may be extended in accordance with any extension conditions stated in the relevant collective agreement or individual contract of employment.

In the course of a probation period, the employment may be terminated by a period of notice as stated in the extension order regarding notice periods.

Invalid Contracts:

Contracts that have immoral terms, conflict with public order, or put conditions on labor laws that do not allow limiting conditions are deemed invalid.

Laws Relating to Employees

There are several general labour laws in Israel related to all types of employment in Israel and a few specific laws (listed below) applicable to foreign nationals:

Additional Laws Applicable To Foreign Nationals

- Foreign Workers (Prohibition of Unlawful Employment and Assurance of Fair Conditions);
- Law + Regulations;
- Entry into Israel Law + Regulations;
- Nationality Law + Regulation;
- Law of Return;

INCOME TAX AND SOCIAL SECURITY CONTRIBUTIONS

Income Tax

According to Israel's tax reform tax is levied on personal basis and therefore both Israelis and foreign nationals in certain cases pay tax on all sources of income in Israel and abroad.

Personal Income Tax (for both the employed and self-employed) is a progressive

tax starting at

10% and increasing to a maximum of 45%. Foreign nationals working in Israel under B-1 work visa for experts may enjoy reduced tax rates.

Social Security Payment

Employers who employ foreign residents in Israel must report on them to the National Insurance Institute (NII) and pay national insurance contributions for them. The NII coverage for foreign workers is correspondingly minimal and it is mandatory for employers to arrange adequate medical insurance for foreign employees. The National Insurance Law (Consolidated Version) 1995 provides that a foreign resident worker is, among others, someone with a B-1 work visa.

Other Statutory Deductions

The employer may deduct some of the expenses he made towards the foreign employee for housing and health insurance. Deductions are very minimal and are regulated by the Foreign Employee Law and its regulations. The maximum amounts to be deducted are varying on the geographic location of the provided housing and being updated on a yearly basis.