

Workation as a benefit

Key insights from leading German companies allowing their employees to temporarily work from abroad

Exchange Round Report, October 2022

Employees increasingly request to temporarily work from abroad. Although employers generally would like to allow this, they struggle with defining a company policy that balances the employee's wish to work from abroad on the one hand, with employer's interests such as tax and legal compliance on the other hand.

WorkMotion brought together specialists from leading German companies to discuss their current experiences with temporary work from abroad. In order to allow other companies to benefit from the best practices shared in the exchange round, this report includes a summary of the key insights.

Sincere thanks to the exchange round participants:



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1. Workations have become a must-have employee benefit

Workations as a benefit are a hot topic in German media. Within one month's time Frankfurter Allgemeine Zeitung, Bild, Tagesschau and Focus reported on employers that allow their employees to temporarily work from abroad. The reason for this media coverage is the fact that a significant portion of DAX-listed companies - such as Bosch, Continental and Siemens, amongst others - have recently also started to allow their employees to temporarily work from abroad for private reasons.

That they do this despite the fact that workations come with various compliance risks and a significant administrative burden for the employer, is a sign. Tobias Nehls, Head of Global Mobility Management at Siemens: "In no time, this innovative benefit has developed into a matter of employer hygiene. Companies can and should design their policies in such a way that they are comfortable with them, but ignoring this topic is hardly possible. Workations have become a must-have employee benefit."

2. Employers are exploring this topic

At the same time, Siemens has decided to take things step by step. Instead of finalising a policy and going live with it on a global scale right away, it is currently piloting. For now, only a portion of the European workforce can apply for workations to some other European destinations. The benefit will be rolled out over a wider population over time, and in the mean-time the back-end processes will be designed and optimised.

Others are not that far yet: Volkswagen and Mercedes-Benz are currently still in the process of defining their policy for workations as a benefit. Same goes for Celonis. "We do not have an official policy yet on temporary remote work from abroad", says Kirsten Bildhauer, the VP People & Culture. "Until we do, we of course try to be as pragmatic towards employees that request a workation as part of an extended vacation or family visit."

3. Every company policy includes a duration limitation

Clearly, the future temporary work from abroad policies at Volkswagen, Mercedes-Benz and Celonis will all look differently. However, what they will likely have in common is a limitation of the duration. In other words: a company threshold, usually in the form of a maximum number of working days per tax year. After all, it seems that every policy at the moment does indeed include such a duration limitation.

“We have limited the destinations in our temporary work from abroad policy to EU countries only”, says Frank Hohns, Head of Global Mobility at PwC. “In general, but especially from a social security and labour law perspective, the regulations within the EU are relatively well aligned. For destination countries outside of the EU this alignment is at a lower level, thus increasing the chance of either a compliance risk or at least a compliance discussion arises.” Veronika Guenther, Head of HR International and Career Management at Deutsche Bahn, agrees: “For similar reasons, our standard policy allows employees to work from abroad for 30 days within the EU. Requests that exceed this duration or with a destination outside of the EU need to go through a separate process.”

5. Tax and legal compliance risks remain unclear

Following from the paragraphs above, the two key limitations of temporary work from abroad – destination and duration – are driven by employers being worried about potential compliance risks. The following five risks are generally considered most important:

- a. **Corporate income tax.** The workationer constitutes a so-called Permanent Establishment (PE) in the destination country.
- b. **Employment tax.** The workationer triggers the obligation for the employer to set-up a payroll in the destination country.
- c. **Social security.** The workationer falls under the destination country's social security scheme and local contributions (by the employer and/or employee) are due accordingly.
- d. **Labour law.** Local labour law becomes applicable on the employment of the workationer, additional to or instead of the labour law of the country of employment.
- e. **Work entitlement.** The workationers have no valid work entitlement in the destination country, as a result of which performing work activities could lead to illegal labour.

Especially the risks under a and e remain unclear. The rules around PE have always been ambiguous and very country- and situation-specific. The application of these rules to the new working reality, where the majority of work is being performed outside an office, is proving even more difficult. Małgorzata Miaśkiewicz, Global Mobility Manager at Delivery Hero. “The problem with PE-risk is that the chance of constituting one might be small, but the consequences of doing so are disproportionately high. As a result, we have an absolutely zero-tolerance policy when it comes to PE-risk.”

The complexity around work entitlement lies with the question how a workationer should be qualified for VISA purposes. There are generally three options for this. Option 1 is a qualification of a tourist, as the main purpose of the stay abroad is privately driven. Option 2 is qualifying workationers as business travellers. Clearly, this solution sounds more reasonable than Option 1. At the same time, "remote work" is generally not an activity that is explicitly included on the list of things that business traveller VISA-holders are allowed to perform. This would leave Option 3, which means qualifying workationers as local employees as if they become residents of the destination countries. Since this would immediately trigger an unwanted employer burden, in practice this alternative would radically reduce the possibilities to enjoy workations outside the EU for EU citizens, and in the EU for non EU-citizens. The members of the exchange round are divided in terms of which option is most likely to be correct, yet aligned in their ambition to jointly clarify this with the relevant institutions in top destination countries.

6. There are two use cases for temporary work from abroad

"Temporary work from abroad means that an employee temporarily works from a country outside the one where he/she resides and is employed", says Heiko Leitz, Head of HR Operations and C&B at DB Schenker. "The most obvious use case for this are workations, where employees combine or extend their vacation in Spain with working from there for some time."

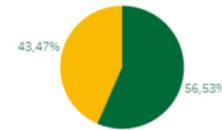
Data of more than 5.500 requests supports this statement, but it also shows something else. Please take a look at the picture below. The pie diagram on the left shows the countries where the employees requesting these 5.500 workations are employed. As the companies that are part of this dataset are primarily German, over 80% of the requests are made by individuals employed in Germany - this is the yellow part. The pie diagram on the right shows the nationalities of the employees who made these requests. The yellow part represents German nationals, the green part includes all other nationalities. Although 80% of the requests are initiated by people employed in Germany, only 45% of these requests are made by Germans. Accounting for more than 55% of the requests, there is a significant over-representation of non-German nationals - working in Germany - who want to temporarily work from abroad.

This is not all. The bar diagram underneath the pie diagrams shows the top 17 combinations of nationality and destination country. The undisputed number one combination here is

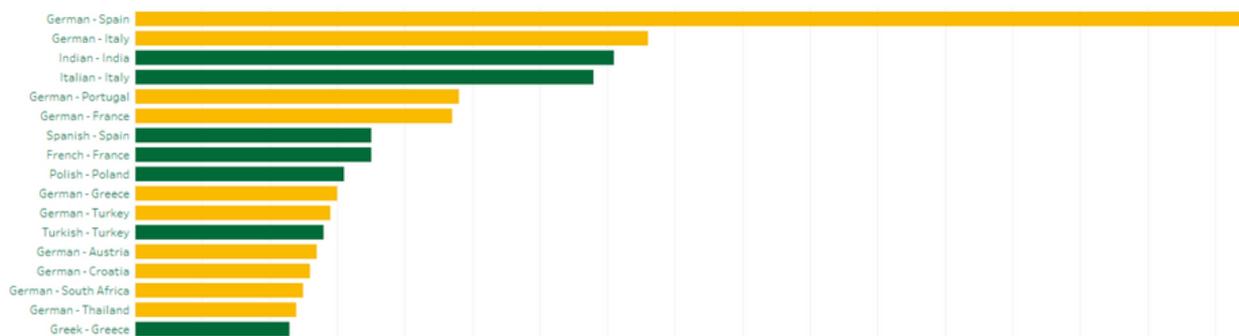
Over 80% of the requests are initiated from Germany as the country of employment ...



... Yet more than 50% of the requests is made by non-Germans nationals



There are two use cases for temporary work from abroad: workations and family visits



German nationals visiting Spain. Other top destinations for Germans are the other bars coloured yellow: Italy, Portugal, France, etc. The green bars are non-German nationals visiting their top destinations, which without any expectation is exactly the country where these individuals are nationals from. Indian nationals visit India, Italian nationals visit Italy, Spanish nationals visit Spain, etc. This use case makes for 7 out of the top 17 nationality-destination country combinations, which is not surprising given the aforementioned overrepresentation of international employees requesting temporary work from abroad. It does clearly show a second use case for temporary work from abroad: Germans go on workation, whereas international employees visit their family.

7. Technologies to automate processes and quick-filter requests

The majority of the exchange round participants have some kind of technology in use to manage the topic of temporary work from abroad. Reece Procter, People Operations Lead (Mobility) at Personio: "We are automating some of the time consuming parts of the processes, for instance by introducing an online form for the employees to initiate a request and a workflow that pushes these requests through various approvals."

Allianz has developed an in-house technology. "This technology automates the time-consuming processes", says Carmen Andronesei, Lead cross-border at Allianz.

“But it also checks if the plans of the employees fall within the company policy and pose a low compliance risk. For requests that do, we spend more or less no additional time checking. As a result, we can more easily dedicate our time to cases that require our attention.”

Through WorkFlex, WorkMotion provides a technology that each company can use to offer workations as a benefit to its employees. The software provides an end-to-end process, from employees’ requests and manager approval up to a comprehensive compliance assessment, covering the crucial different potential risks, to a final HR approval. For each approved request, an A1/CoC will be obtained (if possible) and uploaded to the platform, where the employee also finds a travel insurance certificate and instructions sheet. WorkFlex can be implemented at no cost within one day, and it can be customised based on the company’s policy.

Two years ago, none of the employers of the exchange round had a technology in place to manage workations. Of course not; workations didn’t really exist back then. The pace at which technologies around temporary work from abroad are being adopted, is another confirmation that workations as a benefit are here to stay.



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