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Ad-Hoc Query on 2022.30 The documents verifying that a person in management function or a specialist has the professional qualification(s) required to perform the tasks at the host entity as per an intra-corporate transfer

Requested by EMN NCP Hungary on 2 June 2022

Responses from Austria, Belgium, Bulgaria, Croatia, Czech Republic, Estonia, Finland, France, Germany, Greece, Ireland, Latvia, Lithuania, Luxembourg, Netherlands, Poland, Slovakia, Slovenia, Spain (19 in Total)

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1. BACKGROUND INFORMATION

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Following the transposition of Directive 2014/66/EU of the European Parliament and of the Council, Hungarian aliens policing sectoral legislation comprises the following on the qualification(s) of persons in management functions or specialists required to perform their tasks. A residence permit for the purpose of intra-corporate transfer shall be granted to a third-country national (hereinafter referred to as TCN), who has the professional qualification(s) and experience required at the host entity to which the TCN is to be transferred as a person in management function or as a specialist. Pursuant to the current applicable Hungarian legislation in place, in case of a person in management function or a specialist, among other documents, the following are to be enclosed to an application for a residence permit for the purpose of intra-corporate transfer:

- a document verifying having tertiary education or professional qualification(s); as well as
- a statement issued by the concerned Hungarian host entity that the person in management function or the specialist has the experience required for the intra-corporate transfer.

With regard to the above, the National Directorate-General for Aliens Policing of Hungary is seeking information from other MSs of the European Union about their practical experience.

We would like to ask the following questions:

1. In your MS, what (types of) document can (be used to) verify having professional qualification(s) from a TCN who is going to be transferred in a management position or as a specialist?
2. In your MS, what is the required level of qualification (secondary or tertiary education) for a TCN who are going to be transferred in a management position or as a specialist ?
3. Based on the practical experience of your MS, what (types of) document can (be used to) verify having the required qualification(s) and experience in case of a person in management function or a specialist who has the required professional experience but does not have tertiary education.


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We would very much appreciate your responses by **30 June 2022**.

2. RESPONSES

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		Wider Dissemination ²	
	EMN NCP Austria	Yes	<p>1. In addition to the general documents that need to be submitted for a residence permit, the required documents for a residence permit for the purpose of intra-corporate transfer are regulated in Art. 8 Regulation on the Implementation of the Settlement and Residence Act.</p> <p>More specifically, a TCN who is going to be transferred as a specialist has to verify their required professional qualification(s) and experience by means of evidence of a university degree, a university of applied sciences degree or other recognized professional training; as well as a certificate of service and a confirmation of employment (Art. 8 para 1 subpara d Regulation on the Implementation of the Settlement and Residence Act).</p> <p>A TCN who is going to be transferred in a management position has to verify their management function through the employment contract (Art. 8 para 1 subpara e Regulation on the Implementation of the Settlement and Residence Act).</p> <p>In case the profession is a regulated profession pursuant to the Austrian legislation, a TCN who is going to be transferred either as specialist or in a management position has to enclose a document verifying that the TCN is allowed to exercise the regulated profession in Austria (Art. 8 para 1 subpara f Regulation on the Implementation of the Settlement and Residence Act).</p>

¹ 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.

² 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 for the Compilation for Wider Dissemination 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>2. See response to Q1. In Austria, a TCN who is going to be transferred as a specialist is required to having either graduated from a university/university of applied science (tertiary education) or having other recognized professional training. Pursuant to the current Austrian legislation there is no required level of education for a TCN who is going to be transferred in a management position.</p> <p>3. In case a TCN who is going to be transferred as a specialist does not have tertiary education a proof of other recognized professional training is required.</p> <p>A TCN who is going to be transferred in a management function is not required to verify having tertiary education.</p>
	EMN NCP Belgium	Yes	<p>1. In addition to the general documents that need to be submitted for a residence permit, the required documents for a residence permit for the purpose of intra-corporate transferees in a management position or as a specialist are the following:</p> <ul style="list-style-type: none"> • A photocopy of the diploma of higher education of a postsecondary cycle of minimally three years of higher education from an institution of higher education recognised as such by the State who has granted the diploma. (if necessary, translated by a sworn translator). • A photocopy of the mission letter, signed by the employer, stating the duration of the transfer, the executed function and the applicable employment conditions and remuneration for the duration of the transfer (if necessary, translated by a sworn translator) <ul style="list-style-type: none"> ○ For management position: clarifying the 'management' aspects of the employment, thus directing the host entity or a department or subdivision thereof, supervising and controlling the work of other employees, authorization to recommend recruiting or dismissing employees or taking other action within the framework of personnel management ○ For specialists position: having the necessary specialized knowledge of primary importance for the host entity (thus having adequate professional experience) • Furthermore, specific salary requirements are in place differing between management position and specialist position (and any other ICT permit) as well as differing between the 3 Regions (Flemish Region, Walloon Region, Brussels Capital Region)



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			<p>2. The required level of qualification is tertiary education (minimally three years of higher education).</p> <p>3. This situation is not permitted in Belgium.</p>
	EMN NCP Bulgaria	Yes	<p>1. No. According to the Article 33o, para 6, point 10 “b” of the Law for Foreigners in the Republic of Bulgaria (LFRB) the documents legalized according to the Bulgarian legislation, certifying that the foreigner has the necessary professional experience and qualification – for the position of manager and specialist, have to be attached to the application.</p> <p>2. According to the national legislation, there is not such a required level of qualification provided for a TCN to be transferred in a management position or as a specialist.</p> <p>3. In principle according to the national legislation the proof of previous work experience and meeting the conditions set by the employer for recognition of previous work experience is done by presenting an employment contract and/or other documents (eg job descriptions), issued by previous employers.</p>
	EMN NCP Croatia	Yes	<p>1. Regarding the manager position, the Directive does not determine professional qualifications, but only states that it is about the leading position and business management. Competences are required for the position of the expert, but it is not determined which level of education is needed for the position (for the intern/trainee it is stated that „university degree“ is needed).</p> <p>For the expert, it is written to take into account the specific knowledge that is proved by the professional qualifications (high level of qualification) and formal education is taken into account (the level is not specified) in combination with professional experience – a person can attach his formal education documentation and the formal written confirmation of the company that the expert has the necessary qualifications and experience to work in the Republic of Croatia.</p> <p>The Ordinance on residence of third country nationals in the Republic of Croatia (Official Gazette; No 20/22) states: The request shall be accompanied by the documentation prescribed in Article 8, paragraph 1, items 1 to 5 of this Ordinance (general documentation for residence) and:</p> <ul style="list-style-type: none"> – proof that they are related companies (excerpt from the court register or other proof that the entity established in the Republic of Croatia and the company established in a third country belong to the same company or group of companies)



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			<ul style="list-style-type: none"> - an employment contract with a company established in a third country - transfer certificate - confirmation from the company that the manager or expert has the necessary qualifications and experience to work in the Republic of Croatia - a diploma of a higher education institution for a trainee, which will be accepted regardless of the date of issue. <p>2. As it is not prescribed by the Directive, neither the Aliens Act nor the Ordinance prescribes the level of formal education.</p> <p>3. A person can attach his formal education documentation (if in possession of such documentation) and the formal written confirmation of the company that the expert has the necessary qualifications and experience to work in the Republic of Croatia. The Directive does not prescribe the condition of education for managers, so neither the Aliens Act nor the Ordinance requires the same.</p>
	EMN NCP Czech Republic	Yes	<p>1. Qualification/education level are not prerequisite for issuing a permanent residence permit in this case. Therefore, Czech Republic does not require any specific documents from such TCNs. When in doubt whether an individual truly is a manager/specialist, they will be invited for an interview/additional questioning.</p> <p>2. N/A</p> <p>3. N/A</p>
	EMN NCP Estonia	Yes	<p>1. Documents which may prove transferred qualification are not specified and a TCN may prove qualification or previous work experience in any kind of documents. The requirement is, that a person must have relevant qualification or work experience to fulfil the position. Mainly it is the employer's or host entity's responsibility to hire an employee, who suits best in their positions.</p> <p>2. Qualification or education level is not specified, except of the regulated professions.</p> <p>3. Different kind of proof has been presented, e.g. confirmation letters from previous employers, extract from the</p>


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			employment registry, depending of the country and relevant case. Sometimes additional questions are asked from the employer to acquire some more information, e.g. why did they choose such a person, what was evaluated when selecting the person etc.
	EMN NCP Finland	Yes	<p>1. The applicants are asked to send a clarification of having professional qualification(s) for the specialist or management function. For instance the following are accepted as clarification/proof of professional qualification: CV, job certificates/letters of employment verification, school and/or degree certificates. They are also requested to attach either a work contract or an assignment letter from the employer indicating that the position is question is a specialist or a management position.</p> <p>2. There is no required level of educational qualification (secondary or tertiary education). Professional qualification(s) can also be demonstrated by having relevant work experience. Individual/ case-by-case evaluation is taken, and in some cases educational qualifications are not required. Most of the TCNs transferred to management or specialist positions have university degrees, but it is not a pre-requisite for granting the permit.</p> <p>3. In addition to degree certificates, the skills/competencies of specialists and managers can be demonstrated by professional experience, e.g. by adding job certificates and a CV to the application. Both specialists and persons working in management functions are also requested to attach either a work contract or an assignment letter from the employer indicating that the position is a specialist or a management position.</p>
	EMN NCP France	Yes	<p>1. Regarding intra-company transfer, the « <u>Talent Passport</u> » and « <u>ICT seconded employee</u> » residence permits facilitate the procedures around it.</p> <p>The Talent passport residence permit for “Employees on assignment” is available to foreign nationals hired under a French employment contract by the French company at which the assignment is to be carried out, belonging to the Group of the company that employed them abroad.</p> <p>Among the supporting documents required for the issuance of this permit, a letter detailing the duties performed and the purpose of the assignment has to be provided.</p> <p>The list of documents to be provided by the employer in support of the application for the Talent passport residence permit</p>



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			<p>for "Employees on assignment" "" filed by a foreign national includes:</p> <ul style="list-style-type: none"> • The CERFA form or the employer's certificate corresponding to the foreign national's situation, indicating in particular the duties performed in France; • At least three months' service in the group to which the employing companies belong. • Documents proving the employee's qualifications and experience for the position requested (copy of diplomas and titles obtained by the employee; curriculum vitae; work certificates proving professional experience); • Gross annual pay of at least 1.8 times the statutory national minimum wage (SMIC), i.e. €35,544.60 € as of May 1, 2022. <p>Third-country nationals applying for a multi-year residence permit marked "ICT seconded employee" or "Intra-Corporate Transfer" (Article L. 421-26 of the Code on Entry and Residence of Foreign nationals and Right of Asylum - CESEDA) must provide a form filled out by the representative of the company hosting the foreign national in France that specifies the expertise functions performed.</p> <p>2. The applicants for the permit must provide a CERFA form (see Q.1) filled in by the representative of the company hosting them in France. This form must specify the supervisory and/or expertise duties performed with the qualification provided for in the classification of the collective agreement or the collective agreement applicable in the host establishment in France. The applicants must provide any document proving their qualifications and experience to hold the position applied for (art. L. 421-26 of the CESEDA). <u>High school or university diplomas are not a mandatory part of the procedure</u>. It can be provided if it helps to prove the professional experience and specific competencies.</p> <p>3. Among the documents used to verify the required qualifications and experience, the third-country national may submit a curriculum vitae, work certificates proving professional experience, etc.</p>
	EMN NCP Germany	Yes	<p>1. Professional education and graduate degrees are proved by the correspondent certificates. The professional experience, which is also part of the professional qualification, is proved by certificates of further trainings or references from the former or the current employer. These documents have to demonstrate a connection to the aspired function during the transfer, which itself has to be documented by a job description or employment contract.</p> <p>2. Indication for the required level of qualification is offered by a graduate degree or a completed professional education. If</p>


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			<p>these indications do not exist, the level of qualification, however, may be proved by further criteria. The level of qualification must target special functions and jobs, which require company-specific knowledge. Professional experience and the level of qualification are not considered to be cumulative prerequisites in addition to the specialised knowledge, but they are considered in the assessment of specialised knowledge.</p> <p>3. See answer to Q1. The company-specific knowledge and skills are to be proved by certificates of further trainings and references from the former or the current employer.</p> <p>As every case holds its individual circumstances, the list of possible proofs as mentioned is a non-exhaustive enumeration, individual documents may be submitted. The assessment of being a specialist or a person in management function results from formal qualifications as well as professional experience.</p>
	EMN NCP Greece	Yes	<p>1. According to Greek national legislation, which transposed the relevant Directive 2014/66/EU, the third country national who submits an application for a residence permit for the purpose of intercorporate transfer as a manager or specialist must submit, among other documents, higher education certificates or documentation certifying that he/she has the professional qualifications and experience required by the host entity, where he or she is to be transferred in the position of manager or specialist, as well as evidence, where appropriate, that he or she fulfills the conditions required for European Union nationals to practice the regulated profession which the application relates to.</p> <p>2. Tertiary education.</p> <p>3. N/A</p>
	EMN NCP Ireland	Yes	<p>1. Ireland does not participate in the Intra-Corporate Transfers Directive 2014/66/EU. However Ireland offers an intra-company transfer employment permit in its range of employment permits. The Intra-Company Transfer Employment Permit is designed to facilitate the transfer of senior management, key personnel or trainees who are non-EEA nationals from an overseas branch of a multinational corporation (Foreign Employer) to its Irish branch (Connected Person). In terms of the criteria relating to the foreign national, Intra-Company Transfer Employment Permits are strictly limited to the following eligible positions:</p>



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			<ul style="list-style-type: none"> • Senior management earning a minimum annual remuneration of €40,000; • Key personnel earning a minimum annual remuneration of €40,000; or • Personnel undergoing a training programme earning a minimum annual remuneration of €30,000. <p>When processing an application for an Intra Company Transfer Employment Permit (ICTEP), evidence, information or documents such as:</p> <ol style="list-style-type: none"> 1. educational references or records, qualification certificates including secondary and tertiary where relevant and training accomplishments must be provided to verifying the TCN holds appropriate tertiary education, training or qualifications awarded as appropriate 2. work records such as salary records or contracts of employment are required to confirm the TCN has been in employment with the foreign employer for a minimum period and in the relevant managerial or specialist role before an ICTEP can be granted 3. employment records, employment contracts held, or employment references from previous employers are also required to establish the TCN has the required level of experience to work in the role 4. where the employment is in a professional occupation that requires registration or recognition with a regulatory body in the State, evidence of such recognition of qualifications or registration with that body is required 5. The ICTEP application should also be accompanied by documents such as a statement of earnings establishing the components and deductions as appropriate of the remuneration to be paid to the TCN to establish minimum remuneration levels as appropriate. <p>2. See at a) above.</p> <p>3. See at a), b) and c) above.</p>
	EMN NCP Latvia	Yes	<ol style="list-style-type: none"> 1. The employer provides the information confirming that the legal person inviting the TCN and the company employing the TCN belong to the same group of companies and a confirmation that the foreigner has been continuously employed by a company that employs a foreigner abroad or by a group of companies to which the company belongs for at least six months prior to the request. As a document proving professional qualification a diploma and/or confirmation by an employer on sufficient experience shall be submitted.


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			<p>2. According to the current applicable Latvian legislation, it is required to documentary prove the acquired qualification of TCN but there is no requirement on the level of qualification (secondary or tertiary education).</p> <p>3. Latvia does not require particular education level, so usually the sufficient experience is proved by an information given by employer in the invitation letter.</p>
	EMN NCP Lithuania	Yes	<p>1. The required documents are not clearly specified. In general, those who are going to be transferred as specialists or managers have to include a higher education diploma and their CVs. However, in principle, other documents could also be used to show specialized knowledge of an area of work, methods, or management. If the transferee is going to work in a regulated profession (e.g. a doctor, architect etc.), a document must be submitted proving that the person meets the established requirements for performing the regulated professional activities. It should be noted that these documents are not required from those TNCs who enjoy a visa free regime or those who are being transferred within a company that is listed on the List of Approved Companies.</p> <p>2. Typically, tertiary education – a higher education diploma is required.</p> <p>3. No specific (types of) documents have been detailed in laws or bylaws. In practice, when completing the application for a temporary residence permit on these grounds, foreigners include their education credentials and their CV that shows what jobs the foreigner had held and what functions he or she had performed. The transfer letter must also indicate the foreigner's employment period and the position in the transferring company.</p>
	EMN NCP Luxembourg	Yes	<p>1. In Luxembourg the hosting company must present an application to the minister in charge of immigration (Directorate of Immigration). The application must include the following documentation concerning the transferred worker:</p> <p>1) evidence of employment within the same undertaking or group of undertakings, for at least three uninterrupted months immediately preceding the date of the intra-corporate transfer;</p> <p>2) an assignment letter from the employer containing the following:</p>


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			<p>o details of the duration of the transfer</p> <p>o the location of the host entity or entities established in Luxembourg;</p> <p>o evidence that the third-country national is taking a position as a manager, specialist in the host entity or entities in the Member State concerned;</p> <p>o the remuneration as well as other terms and conditions of employment granted during the intra-corporate transfer;</p> <p>o evidence that the third-country national will be able to transfer back to an entity belonging to that undertaking or group of undertakings and established in a third country at the end of the intra-corporate transfer</p> <p>3) evidence that the third-country national has the professional qualifications and experience needed in the host entity to which he or she is to be transferred as manager or specialist.</p> <p>4) where applicable, present documentation certifying that the third-country national fulfils the conditions laid down under the national law of the Member State concerned for Union citizens to exercise the regulated profession to which the application relates.</p> <p>The documents that the host entity can request are university degrees, certificate of experience, affidavits that the employee has the professional qualification and experience needed to be transferred as manager or specialist.</p> <p>2. Normally it will depend on the individual and the evidence provided by the host company. In principle, for the position of management position or specialist a tertiary education will be required, In the absence of a higher education degree, the person must have sufficient professional qualifications and experience to take up the position.</p> <p>3. See answer to Q.1. As it was mentioned it is the host firm that has to provide the evidence and the Directorate of Immigration will consider if it is sufficient.</p>
	EMN NCP Netherlands	Yes	<p>1. The document used to verify if the transferred TCN is qualified for the management position is a valid work contract with the company outside the EU or an assignment letter from the employer. The work contract or the assignment letter contains the following information:</p> <p>The duration of the transfer and the location of the establishment in the Netherlands.</p> <p>Evidence that the employee will be working as a manager, specialist or trainee.</p> <p>The salary and terms and conditions of employment during the transfer.</p> <p>Evidence that the employee will be able to work in an establishment outside the EU at the end of the transfer.</p>



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			<p>If the employer is not a recognized sponsor the curriculum vitae (CV) of the employee is used as an extra check of the professional qualification(s). The required conditions are regulated in Section 3.30d, sub 1, Aliens Decree (Vb) 2000.</p> <p>2. The provided curriculum vitae must show the completed education and work experience of the TCN. The Immigration and Naturalisation Service in the Netherlands does not require proof of a certain level of qualification and no diplomas or degrees are asked to be provided. In the case of a regulated profession, proof of recognition of professional qualifications is asked for.</p> <p>3. No extra documents are to be provided to proof the experience level of the TCN for the function of specialist or manager. Only if the employee is a trainee, a copy of the master's degree obtained, and the training agreement need to be provided.</p>
	EMN NCP Poland	Yes	<p>1. The condition for granting a temporary residence permit for the purpose of performing work under the intra-corporate transfer as an employee of the management staff or a specialist is the possession of professional qualifications adequate to the subject of activity of the host unit and the necessary experience in the unit to which he/she is to be transferred by the mother employer.</p> <p>The Act defines specialist as a foreigner working in the group of entities, possessing key and specific knowledge in the areas of activity of the host unit, its technics or its management, based on higher qualifications, including adequate professional experience.</p> <p>'Higher professional qualifications' are the qualifications obtained as a result of graduating from higher education or at least 5-years of professional experience on the level comparable with the level of qualification obtained as a result of graduating from higher education, necessary to perform work. 'Professional experience' is an experience obtained during employment, performing other paid work or running the business in given profession. Moreover, it needs to be underlined that according to the Act, qualifications obtained as a result of graduating from higher education mean successfully completing a higher education program, confirmed by a diploma, certificate or other document issued by the competent authority, i.e. a cycle of classes conducted by an educational institution recognized as a higher education institution by the</p>


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			<p>state in which it is located, provided that the duration of studies necessary to obtain them is at least 3 years.</p> <p>2. In relevant cases , ISCED 2011 level 6, 7, 8 / EQF level 6, 7, 8</p> <p>3. n/a</p>
	EMN NCP Slovakia	Yes	<p>1. In case of a third-country national who applies for a temporary residence for the purpose of intra-corporate transfer (ICT), he/she submits a confirmation from the employer that the third-country national is filling the position of manager, specialist or an employee - trainee in the host entity established in the territory of the Slovak Republic.</p> <p>2. See response to question 1.</p> <p>3. See response to question 1.</p>
	EMN NCP Slovenia	Yes	<p>1. As per Article 23 (4) (1) of the Employment, Self-employment and Work of Foreigners Act, verification of professional qualifications of a TCN to be transferred in a management position is not foreseen.</p> <p>As per Article 12 (7) of the Employment, Self-employment and Work of Foreigners Act, professional qualifications obtained abroad are verified by a photocopy of a certified document on the attained education and its translation into Slovene. The original certified document must be authenticated beforehand on the basis of either the Convention on Abolishing the Requirement of Legalisation for Foreign Public Documents with the Apostille stamp or on the basis of the Verification of Documents in International Transport Act, if the third country in question is not a signatory of the aforementioned Convention.</p> <p>2. As per Article 23 (4) (1) of the Employment, Self-employment and Work of Foreigners Act, a required level of qualification for TCNs to be transferred in a management position is not foreseen.</p> <p>As per Article 23 (4) (2) of the Employment, Self-employment and Work of Foreigners Act, a TCN to be transferred as a</p>

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			<p>specialist is required to have the qualification level of vocational education.</p> <p>3. N/A</p>
	EMN NCP Spain	Yes	<p>1. Experience letters from one or more companies can be used to verify having professional qualifications, as long as the experience is related to the post to which the employee will be transferred, and total accumulated experience accounts for a minimum of three (3) years.</p> <p>2. When the basis for the authorization is a higher education qualification, the required level of qualification is Level 2 of the Spanish Qualifications Framework for Higher Education, which is equivalent to Level 6 of the European Qualifications Framework.</p> <p>3. To verify the qualifications we require to hand in a copy of a university diploma related to the functions carried away for the post for which this person is transferred to Spain. In case this person has not a degree related to the functions of the post is been transferred, we ask for an experience letter from the Company transferring the worker, that certifies the post, the period and tasks this worker has performed in such post. In case the experience in the transferring company is less than three years the worker must provide similar experience letter/s of certificación from former companies where he/she has served previously in similar tasks carried away as the post he/she is been applying for transfer into Spain.</p>
