

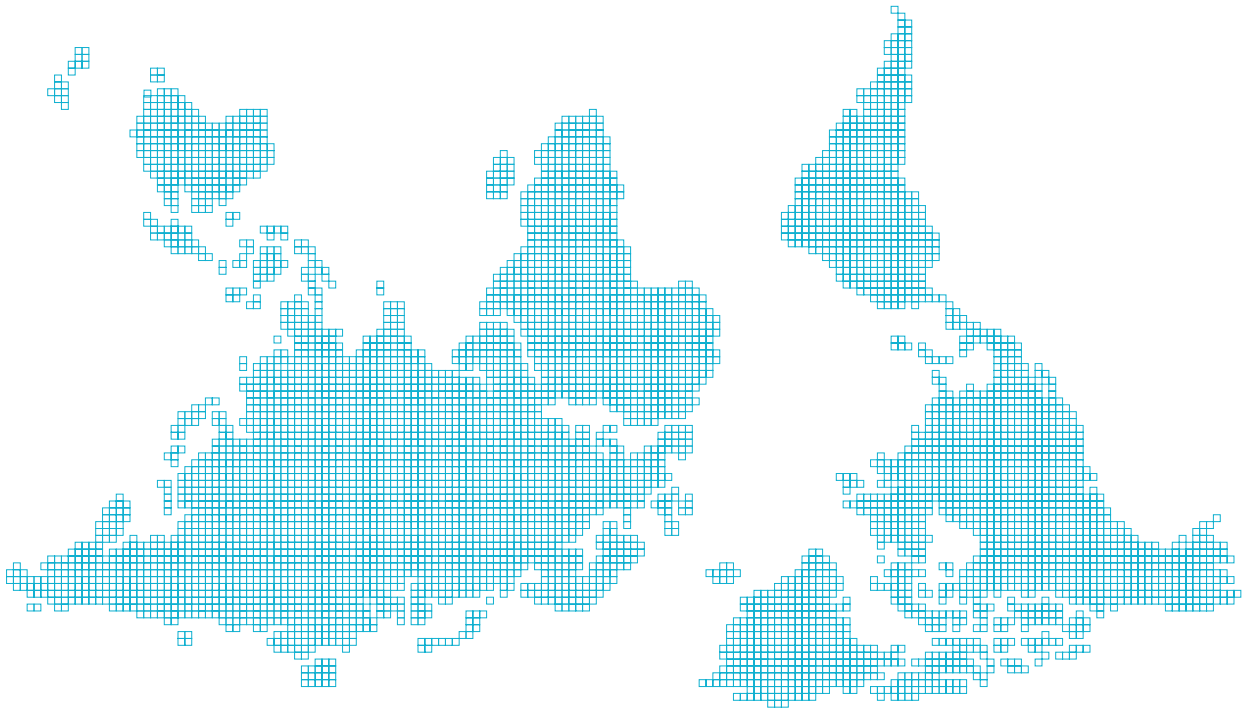
Global HR



PRACTITIONER HANDBOOK

VOLUME 2

Lisbeth Claus, Editor-in-Chief



RETHINKING THE WORLD

RETHINKING HR



International employment background checks

DUE DILIGENCE IN WORLDWIDE APPLICANT SCREENING

By Lester Rosen and Lisbeth Claus



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IN A NUTSHELL

What's the issue?

Globalization=increased geocentric and polycentric hiring.

Why is this important?

International employment background checks are key to avoiding negligent hiring in the global organization.

What's the global HR takeaway?

HR must play a dual role of planning and controlling their organization's due diligence with regard to background checks.

Remember this:

Due diligence in background screening and investigation does not end at the home country border as future hires have increasingly been born, lived, studied and worked abroad.

ABSTRACT

This global HR module reviews the challenges of conducting international employment background checks for employees who are born or have lived, worked and studied abroad, and the background screening of employees and partners in the multiple countries where the global organization operates.

LEARNING OBJECTIVES

Upon completion of this global HR module, you should be able to:

- Distinguish between employment screening and investigations
- Distinguish between domestic (home-based) and international background checks
- List the reasons for organizations to conduct international background checks
- Identify the challenges and barriers in conducting international background checks
- Review the strategic and tactical planning involved global background checks
- List practical tips to enhance the reliability of international background checks

Introduction

Employment background checks (including screening and investigation) of new hires and potential business partners have gone global as companies rely on a global workforce and increasingly seek to hire employees or partner with people who are foreign-born or have lived, worked and studied abroad. In addition to such geocentric staffing¹ (i.e., attracting and hiring the best talent from anywhere in the world), companies with operations in different countries are relying more and more on a polycentric staffing approach and hiring local workforces. If the practice of employment background checks is entrenched in their organization and they are headquartered in countries where background checks are common—such as the U.S., U.K., Canada and Australia—companies are likely to want to extend that hiring practice to all of their employees worldwide.² Although in some countries background checks may be considered culturally unacceptable³, international background screening is likely to become even more critical as a result of globalization and the increased importance of due diligence in hiring.

Employment background checks generally consist of either screening or an investigation. *Employment screening* involves the verification of information supplied by an applicant who has given express written consent to the screening. This is typically done based on existing records (educational transcripts, driving records, criminal records, credit reports, social media and databases) and phone or email follow-up interviews. Usually, the employer has already obtained the necessary information (such as names, addresses, and phone numbers of previous employers, schools, etc.) from the applicant and the screening involves both the verification of information supplied by the candidate as well as a review of public records (such as criminal records) or private records (such as a credit reports) based upon the supplied information. Screening basically involves looking at sources of information to locate potential red flags. An *employment investigation* is more thorough (and more expensive) and typically involves, in addition to the screening elements, in-person interviews by a trained investigator. In a more globalized world, background checks are also differentiated by the geography of where the screening or investigation is conducted. Employment background checks can be either domestic (home-based) or international (conducted partially or totally outside of the home-based environment). *Domestic* employment background checks are essentially done in the home country and involve screening (or investigating) a candidate in the localized domestic environment—i.e., both the home-country of the employer and the information on the candidate are local (whatever the home country of the employer). For example, an Australian firm screens an applicant who was born, lived, studied and worked only in Australia. The background check is usually done by the local HR department in-house or outsourced/

co-sourced to a national background check firm. *International* employment background checks include screening and investigation activities beyond the domestic base. They include non-home based (i.e., foreign) information and locations. The screening and/or investigation require information gathering and activities outside of the domestic environment of the employer and the background screener. A typical example of an international background check involves an employer screening or investigating a foreign applicant or a local applicant who may have been born abroad or spent time abroad attending school and/or working. For example, a U.K. firm screens an applicant who was either born, lived, studied or worked outside of the U.K. When an employer utilizes a firm to conduct an international background check, it does not necessarily involve an agent on the ground in the countries where the information is obtained. In an international investigation, on the other hand, there is usually a trained person on the ground obtaining the local records and conducting the investigation through in-person interviews. The term *global* employment background check⁴ has been used to refer to the screening processes set up by a global employer who conducts background checks wherever the company operates around the world. A firm headquartered in the U.S., for example, conducts employment screening for its local hires in the various countries in which it operates. In this case, the background check activities can be conducted by a locally based firm utilizing resources in the headquarter country, by a local screening firm with expertise in that particular country, and eventually—if the employer is sufficiently embedded in the foreign domestic environment, by its own local HR team. Globalization has led to a growing need for organizations to conduct international screening on increasing numbers of applicants that have spent time abroad. The legal due diligence of employers in checking the background of applicants does not stop at the border, but includes foreign-born applicants and all countries where an applicant has lived, worked and studied. The due diligence obligation and the risk to the employer for failing to perform foreign criminal checks or verify international credentials exposes them to potential negligent hiring claims. Past estimates (2006) show that about 20% of a U.S. company's background checks are done overseas, and that number is anticipated to continue growing.⁵

The purpose of this global HR module is to provide an informative introduction to the challenges, risks and pitfalls that employers encounter when conducting international employment background checks. Since global HR practitioners are usually in charge of conducting such screenings, the focus of this global HR module is on practical solutions and leading practices that they may use to help them with international background checks. In this module we use the term “international” to refer to both non-home based types of employment background checks (i.e., international and global).

Challenges in international background screening

When conducting international screenings of potential applicants, global HR encounters many risks and challenges that complicate the process and require more time and resources than for domestic background checks (see figure 1).

Figure 1: Organizational challenges in global employment background screening

- 1 Legal context of multiple countries
- 2 Complexity of conducting global background checks
- 3 Credibility of sources
- 4 Fake credentials
- 5 Imperfect due diligence
- 6 Desire to standardize global background checks

1 Legal context of multiple countries

In the international arena, there are all kinds of laws that affect background checks such as data protection laws, privacy laws, human rights laws and labor laws.⁶ Each country is unique with differences in court and legal systems. Countries create their own laws, practices and procedures regarding background screening, ways to legally obtain the information, and what information may be used in hiring decisions. In addition, privacy regulations govern access and usage of the applicant's information. In the U.S., the Fair Credit Reporting Act (FCRA) is the predominant law governing background checks. As is the case with other global HR practices, the diverse legal context complicates the desire of organizations to use a similar (i.e., global) standard in background screenings while complying with country laws and adhering with local practices. The specific local laws, screening guidelines, cultural practices, and protocols must be understood before a background check is done in a particular country.⁷

2 Complexity of conducting global background checks

International background checks are more complicated than engaging in local applicant screening. Many of the domestic challenges are magnified when the screening is done internationally and new barriers emerge (see figure 2). As a result, international background checks generally require much greater savvy, more resources and a longer timeline.

Figure 2: International background screening barriers

- Legal differences
- Privacy and data protection considerations
- Regulatory differences
- Cultural differences
- Political uncertainty and poor infrastructure
- Records
- Criminal records
- Forms and documentation
- Databases
- Language barriers
- Translation of official documents
- Name variations
- Means and cost of communication
- Different foreign identifiers
- Locating contact numbers and addresses
- Calendar differences
- Days of the workweek
- Holidays
- Time zone differences
- Fraud awareness
- Applicant provided documents
- Employment verification
- Educational credentials verification
- Turnaround time
- Cost and payments

Source: Information compiled from Rosen⁸ (2012), supplemented with other sources including Bachler (1996),⁹ Babcock (2005),¹⁰ Canning (2006)¹¹ and Krell (2013).¹²

Legal differences—one of the greatest challenges for global organizations is to know and comply with the multiple legal and regulatory environments for conducting background screening in different countries. This affects the access to records and the use of these records as a screening element (e.g., criminal background of the applicant, credit checks, etc.). In the U.S., the legal implications of the Fair Credit Reporting Act (FCRA) and the Foreign Corrupt Practices Act (FCPA) must be considered as they apply specifically to international background checks. A U.S. firm must follow the FCRA rules in terms of disclosure, consent, permissible purposes and adverse action of background checks. But, if the screening is entirely non-US (i.e., the applicant is not considered for work in the U.S.), the FCRA does not apply. For example, if a U.S. firm opens a manufacturing plant in Korea there is no need for FCRA compliance. However, if a U.S. company with offices abroad does the screening and the staff member may at some time be working in the US, then adding FCRA forms may add some protection. The FCPA also comes into play for U.S. companies as it prohibits the bribery (with the exclusion of small grease payments for the facilitation of administrative processes) of foreign government officials. Background checks involve obtaining official records from public sources (courts, government offices, etc.) but educational institutions and employers may also be part of the public sector. For U.S. companies, paying money to a government official abroad to obtain criminal records in countries where that is illegal, can create issues under the U.S. FCPA.¹³

Privacy and data protection considerations—another major legal issue to contend with includes the stringent data protection in countries where data privacy laws have been enacted (e.g. European Union¹⁴ and Canada¹⁵). The various data protection principles in these privacy laws govern the manner in which information is obtained, utilized and transmitted across borders and, in the case of the EU directive, may have been transposed in different ways among the European Union (EU) member states. Organizations (or outsourced screening firms) conducting background checks in EU countries need to have signed on with the Safe Harbor agreement.¹⁶ Safe harbor is a self-certifying procedure that designates that the organization provides “adequate” privacy protection, as defined by the EU Directive.¹⁷

Regulatory differences—each country is unique in terms of courts and legal systems, and the sources for criminal records vary widely from country to country (i.e., local police, national police, government agencies or courts). In some countries, public records are often times not available. There may also be restrictions on availability of criminal records or credit history for employment purposes—it may either be not allowed at all or restricted to very specific positions. An interesting question is whether an employer accessing records in a country that does not allow the use of criminal records for employment purposes in that country should use them for employment purposes in another country.

Cultural differences—in addition to the legal and regulatory environment, local culture is the main driver of global HR practices. Several elements in the international background check process are influenced by the culture of the applicant and the cultural practices of the countries in which the background check must be done. Of foremost importance is the acceptability of the practice of background checking in that country. The perceptions and suspicions it may engender will impact the validity and reliability of the information to be verified. In addition, the cultural effectiveness of interviewing¹⁸ and the cultural skills of the interviewer are important.

Political uncertainty and poor infrastructure—some parts of the world present unique difficulties due to war, political unrest, unreliable communications infrastructure, lack of standardized procedures, bureaucracy, corruption, ambivalence towards the West and suspicions about background checks in general. In war-torn countries records may have been destroyed or modified—either accidentally or on purpose. These countries are referred to as the “red zone”¹⁹ countries. In these countries, turnaround times will be unpredictable and many businesses or educational institutions may simply be closed or no longer exist. Conducting employment background checks

in these countries will augment the difficulties of dealing with the many preexisting barriers.

Records—the extent and availability of civil and criminal records differs from country to country. Each country has its laws, customs and procedures for making civil and criminal records available to third parties. In addition, in some countries one’s criminal records may not be considered a public record or there is often limited access to the person’s public record. This makes record checks very complex and uneven.

Criminal records—such records may be available from different sources such as local police, national police, government agencies or courts. Yet, there are difficulties with all these sources depending on the country under consideration:

- Police records are typically broader than other sources but not available in all countries for employment purposes;
- Court records can be difficult to search in some countries and are not necessarily complete;
- Not all police agencies or courts around the world are computerized.

In using criminal records for background checks, there are issues of scope, cost, turnaround time, level, audit trail, translation and meaning of crime:

Scope—some countries provided country wide records while others only supply local court or police records.

Costs—the average cost for an international criminal records search can easily exceed \$100 per search, so it is important to specify which and how many types of records to search.

Turnaround time—varies considerably from country to country and may take up to two months (e.g., Cayman Islands).

Level—criminal records searches in different countries will include a variety of levels of offenses. While a criminal record search will typically focus on major offenses it may (or may not) include minor misdemeanor offenses.

Audit trail—most courts around the world will not verify a negative (no hit) or provide a “no record” found certification.

Translation—if there is a “hit,” it will require professional translation.

Meaning of crime—research on the criminal code of the country is required to determine what a “hit” means.

There is currently no authoritative list of countries worldwide where criminal records are available and how or what is available to third

parties for criminal background checks. Efforts to build resources to streamline criminal records checks around the world are being undertaken by members of organizations such as the National Association of Professional Background Screeners (NAPBS),²⁰ who are working internationally for their client organizations.

Forms and documentation—many countries have special requirements in terms of the different forms, documentation, and consent requirements needed to obtain records from the police or the courts. These documents will usually need to be completed in the local language of the country.

Databases—many government and third-party organizations (private and public) have developed databases of names of people. These databases include criminal activity, and terrorist and sanction lists of suspicious individuals. Examples are the Interpol Wants and Warrants, the U.S. Treasury Department’s Foreign Assets Control (commonly referred to as OFAC) list of ‘Specially Designated Nationals and Blocked Persons’, sexual offender lists, Global Sanction List (GSL), Global Politically Exposed Persons list (PEP), Global Enforcement List (GEL), and Global Adverse Media List (GAL).

Language barriers—since past employment and education verifications are often done by verbal confirmation, language can become an issue in communicating with foreign schools and employers. Documents (e.g., birth certificates and court documents for criminal record searches) are likely produced in the primary official language(s) of the country. Not all countries produce official “international” documents in the world’s major languages (i.e., English, Spanish, Chinese, etc.). In addition, information requests likely require completion in the local language. For example, information requests in China can only be submitted in Chinese characters. One would need access to a Chinese keyboard and assistance from someone who understands the linguistics of the region in which the request is submitted.²¹

Translation of official documents—language barriers in understanding the data once received may also require interpretation (oral) and translation (written) services. Due to the variety of local languages, the use of a professional interpreter may be needed if the person conducting an interview is not fluent in the language. If no international documents are available, the original documents will require translation from professional translators who specialize in the translation of education, work and court documents. In some cases, certified documents (with an official apostil) may be required to verify authenticity.²²

Name variations—languages are based on different alphabets (such as the Roman, Cyrillic, Greek, Hebrew and Arabic) and logograms (e.g., Chinese hanzi, Japanese kanji characters, etc.). Therefore, original names are ‘transliterated’ or a ‘phonetic’ translation is used. These name variations create room for error and confusion. Examples include places such as ‘Bombay’ versus ‘Mumbai’, ‘Peking’ versus ‘Beijing’, ‘Bruges’ versus ‘Brugge’, and names such as ‘Usama’ versus ‘Osama’.

Means and cost of communication—acceptability, affordability, accessibility and reliability of different means of communication all play a role in international screening. Not all countries have reliable or efficient means of communication (phone, fax, e-mail, mail service). Culturally acceptable and customary means of communication also differ by country. The accepted way of getting information from people and prescribed norms regarding information gathering must be understood by the information gatherer. In some countries, the only reliable means may be to have a person show up face-to-face (or require a local person) to obtain the information. The cost of using various means of communication internationally can also be an issue. Overnight services can be expensive or international phone rates may apply unless a less expensive international rate has been secured.

Different foreign identifiers—different countries may use different means or proofs of identification for a person. In order to identify the person, the employer will need to supply the proper type of identification accepted by each country. Identifiers can include full name and date of birth, a national ID number or social security number, the mother’s maiden name, the name in the primary language (alphabet) of the country, cities or states where people lived, etc. Chinese workers have a government work number. To verify an individual’s employment history in China that number will need to be supplied.²³ In India, one will need the person’s seat number assigned to all students enrolled at Indian universities.²⁴

Locating contact numbers and addresses—it can be quite challenging to verify the existence and authenticity of past employers or educational institutions and locate or reach a person at a foreign location. It is critical to have the applicant provide as much information as possible about their past employers and schools. Addressing systems also differ around the world and may use an opposite convention from Western addresses (e.g., Japanese addressing system).

Calendar differences—cultures use different calendar cycles for dating an event (days, weeks, months). While most modern countries use the Gregorian calendar, Westerners must be aware that several other calendars

are still being used (whether in parallel with the Gregorian calendar or not). Calendar differences mainly influence holidays and days of the workweek. Caution must be exercised with differences in dating conventions (e.g. 1/12/83 versus 12/1/83). In Europe, 1/12/83 means the 1st of December, while in the U.S. it means the 12th of January; conversely, 12/1/83 means the 1st of December in the U.S. and the 12th of January in Europe. It is preferable to write out the name of the month when collecting data.

Days of the workweek—different countries have different legal workweeks (ranging from four, five to six-day workdays), working hour schedules and different days for the weekend break (e.g., Monday to Friday, Sunday to Thursday). These workweek differences will affect how employers and screeners can get in touch with people to verify background information and may cause delays in obtaining records.

Holidays—each country has its own civic and religious holidays.²⁵ This may delay communication as offices will be closed and people unreachable on those holidays.

Time zone differences—communicating with education institutions, employers and governments in different time zones is complicated and can be delayed. An HR person in Frankfurt, Germany attempting to verify information in Canberra, Australia may have to wake up in the very early morning hours (3:30 am) to accommodate the local Australian time zone (11:30 am) and will need to be aware that it is already the next day in that country.

Fraud awareness—fraud is rampant as applicants frequently lie about their identity, background and credentials. In addition, the employers and educational institutions that they report may have been faked. In striving for due diligence, the employer must ensure that the applicant is who s/he claims, there was no manipulation of the date of birth or previous employers, and that the degrees and professional credentials are legitimate. This is, obviously, more difficult to verify around the world due to lack of local knowledge. In addition, there is a significant problem involving phony diploma mills and fake degrees everywhere. Criminal record searches can also be incorrect if the applicant does not reveal truthful past address information or manipulates their name or date of birth or other common identifiers. Applicant provided documents—the potential applicant is asked in the recruitment and selection process to provide information to the employer that is subject to verification. Employers must be cognizant of which type of information they can legally request and use. If the screening will need to be conducted abroad, depending on the country, additional information and documentation may be needed. For example, in India, you will

need the student's seat number for educational verification; in China, the worker's government number for employment verification; in Iran, the schools require a photocopy of the candidate's passport in order to match the passport signature with the one on the grade release form; in most Latin American countries, one must provide the three or four names of the applicant (including the mother's maiden name).

Employment verification—applicants are usually required to provide their employment history to support their candidacy. Verifying past employers is complicated—both domestically and internationally—because of the reluctance of employers to provide information to outsiders (beyond confirmation of employment and dates) and the lack of third party databases. The challenge is to get the past employer to provide both “qualitative” and “quantitative” information such as dates of employment and job title. In a U.S. poll on background checking, 98% of the respondents said that their organization would verify dates of employment for current or former employees. Yet, 68% said they wouldn't discuss work performance, 82% wouldn't discuss character or personality and 87% wouldn't disclose a disciplinary action.²⁶ The employer verification process has a number of guidelines the employer must be aware of: (1) Obtain as much information as possible about the applicant—without violating privacy laws for over collection; (2); conduct the verification in the primary language of the country if needed, and (3) maintain a keen awareness for the potential of fraud. In some countries, an employer may not accept a verbal confirmation and will seek to have employment verified by a letter using the letterhead of the past employer, which can also delay the process.

Educational credentials verification—the world is not only flooded with fake degrees, but there are wide differences in the equivalency of the credentials and applicants are not necessarily truthful about their qualifications. The educational verification process has three parts: (1) determine if the applicant in fact attended the school claimed and received a degree; (2) determine if the school is authentic and accredited; and (3) determine the equivalency of the foreign degree. There are sources of delay in educational verification as schools may have recesses and holidays, often require prepayment of fees, faxing releases and special release forms from the applicant.

Turnaround time—it has been estimated that a background check that would typically take two days domestically takes two weeks when international screening is involved.²⁷

Cost and payments—due to many of the reasons cited above, international/global background screening is likely to be more expensive than domestic background checks. Direct costs include the hiring of a local screening professional, the use of translators and interpreters, the costs of communication, the required fees for obtaining records or verification and the international monetary transfer fees. Indirect costs relate mainly to identifying and vetting a vendor, the agency cost of coordinating the results internally and the delay in hiring an applicant caused by conducting the international background check.

3 Fake credentials

One of the major reasons a background check is conducted is to verify whether the applicant has been truthful in the information that they have provided to the organization. Resume fraud or lying about one's personal credentials by providing fictitious, exaggerated, or misleading information is widespread across the world. Statistics from various studies on the frequency of resume fraud conducted mainly in the U.S. indicate that as low as 11% to as high as 67% of the resumes contained inaccurate information.²⁸ Such fraud severely damages the integrity and quality of the candidate.

4 Credibility of sources

Lack of data integrity—accurate, complete and timely information—and the level of credibility of various sources (such as government visa screening, police certificates, data bases, social media and other internet sources) make the reliability of background checks questionable in terms of the way they are (or must be) legally obtained and how they can be used. In addition, the lack of information or a no “hit” does not necessarily mean that the applicant is clean.

5 Imperfect due diligence

Because there are so many barriers (and time and money involved) to conducting a global background check, employers may be tempted to forego the screening or make a hiring decision based on partial information. If an employer does not check the background of an applicant (or makes a credible effort to do so working with available tools and resources including the applicant) and that person harms the organization, co-workers or customers, the organization could face a negligent hiring claim. To exercise due diligence in hiring, employers must match their international screens to the same standards as their domestic background checks. This should at a minimum include credential verification (i.e., educational and professional credentials employment history and work experience), criminal records, publicly available lists and databases, and other methods available (e.g., driver's licenses, motor vehicle records, media searches, terrorist and sexual

offenders lists, and in some countries, for some jobs may include credit reports and financial records).²⁹

6 **Desire to standardize global background checks**

Many global employers—especially if they are headquartered in employment countries where background checks are routine—follow the practice of screening all applicants regardless of the country in which they are hired and work. Companies that require such global background checks are compelled to develop standardized processes for the sake of uniformity and economies of scale and scope. Yet, their desire for standardizations is limited by their need to comply with local legal requirements and respect local customary practices. In global background checks, the trend is to attempt to standardize the basic screening package as much as possible by taking country differences into account and without violating local laws. The right balance between a standardized and localized approach is not just a question of proportions (80/20 or 75/25 in favor of standardization) but also of which elements of the screening process require localization as a result of the particular country's regulations and practices. When an employer has a policy to require conducting global background checks for all its employees worldwide, it involves a certain amount of strategic planning to execute such background checks globally.

The pitfalls of international background checks

The mere fact that information on an international applicant may be more difficult to obtain does not relieve an employer from their due diligence obligation associated with hiring. If the check lacks due diligence (i.e., an employer hires a worker without verifying the international background of the person) and the screening would have uncovered important facts about the applicant, then employer may be sued for negligent hiring.

Failing to conduct checks abroad

The mere fact that information on an international applicant may be more difficult to obtain does not relieve an employer from their due diligence obligation associated with hiring. If the check lacks due diligence (i.e., an employer hires a worker without verifying the international background of the person) and the screening would have uncovered important facts about the applicant, then employer may be sued for negligent hiring.

Using police clearance and certificate of good conduct

The use of police certificates for employment purposes in lieu of a criminal history search is also problematic. Criminal checks are done in different ways in different countries. The time period for issuing police certificates may allow a person with a criminal record to evade detection. Police certificates differ all over the world in terms of reliability, timeliness and completeness. Some jurisdictions have strict limitations on the purposes for which a police certificate is issued. Typically each country has a website about their clearances.³⁰

Relying on visa clearance investigations

Many employers depend on a person getting a background check by virtue of obtaining a visa for entering the country. In granting a visa, a criminal background check is typically done by means of a 'Police Certificate or Certificates of Good Conduct' obtained from a police or governmental agency. Employers may depend upon a visa or ask the applicant directly to supply a police certificate. The extent that a visa is based upon a police certificate carries all of the issues discussed above. Employers cannot assume that governments thoroughly screen workers from abroad. While it may be tempting to rely on the screening for visa application by the government rather than conducting one's own background screening, it is not sufficient. Employers cannot assume that any government has performed a background check that relieves them of their due diligence obligation to conduct their own screening. The types of searches conducted by governments may not be equal to the requirements set forth for background checks required under the employment legislation of a country and/or accessing information for one purpose and using it for another may not be allowed under privacy laws of some countries (i.e., the EU, Canada). Information obtained for visa purposes may not be permitted for use in employment decisions.³¹

Relying on incomplete/inaccurate secondary databases

Databases should not be the sole guide as the presence of a name on a list does not mean that the person has a criminal background; likewise, the absence of a name doesn't necessarily mean that the person is "safe."³² Databases include and exclude information depending on the sources. For example, in Brazil, a police certificate covers federal records, except that only a small percent of federal records are found in the database used for such certificates.

Hiring unvetted and/or unreliable background screeners

Organizations must verify the legitimacy of the private background screening firms they use for international/global background checks.

In the case of global in-country background checks, organizations will either build their own competency on the ground or rely on local screening firms or the local network of international background screening firms. When it comes to international screening, they will often rely on the international capability of their local screening firm. Yet, not all firms have the capability of dealing with the international screening challenges discussed above (in terms of the legal, regulatory, cultural and language requirements). As a result, they may subcontract the international screening part in the 200 plus countries and political entities of the world to other firms. The vetting of these screening contractors and subcontractors is essential.

Leading practices in global background checks

The HR practitioner literature³³ on global background screening is replete with best practice recommendations for organizations that face the challenges of conducting checks around the world. Leading practices on global background checks are summarized in terms of avoiding negligent hiring, the applicant, the process, verification of information and the use of contract background screener resources (see figure 3)

Figure 3: Leading practices in global employment background checks

- 1 Protect the organization from negligent hiring
- 2 Maintain full transparency with the applicant
- 3 Develop a robust global background check process
- 4 Verify the integrity of the information
- 5 Use appropriate resources

1 Protect the organization from negligent hiring

Global organizations must make a number of decisions with regard to the international/global employment background screening in order to protect themselves from negligent hiring (see figure 4).

Figure 2: International background screening barriers

- Insist on safe hiring practices that include international background checks
- Question whether further vetting a candidate makes sense and will reap the maximum reward
- Weigh the risks of not screening a prospective candidate
- Consider time and costs in international screening

While making an employment hiring decision without an international background check puts the organization at a potential liability for negligent hiring, employment decisions should ultimately be based on informed and strategic choices. In making such choices, it should be clear that the decision-makers must weigh the risks of not screening a prospective candidate and whether further vetting a candidate makes sense and will reap the maximum rewards.³⁴

2 Maintain full transparency with the applicant

Global organizations must conduct employment background checks in full transparency vis-à-vis the applicant (see figure 5). Transparency not only involves getting a signed application form and written consent from the applicant (in addition to the resume) but also full disclosure of the nature and scope of the screening or investigation.

Figure 5: Leading practices for transparency in international background checks

- Have applicant complete and sign an application form
- Have applicant provide as much information as possible without violating local privacy laws
- Obtain applicant’s written consent
- Use neutral language in consent form and screening
- Provide full disclosure of the nature and scope of the screening/investigation to the applicant
- Have applicant sign any special forms needed in a particular country or provide any necessary additional information

3 Develop a robust global background check process

Global organizations must develop a process to consistently conduct background checks of their applicants (see figure 6). Planning and streamlining the process by which international and global background checks are conducted is where the organization can reap the greatest benefit in terms of cost, consistency and equity. This requires the development of a “glocal” process—global standardization with local adaptation—clear policies and procedures, compliance with legal and regulatory requirements for each country under consideration, and continuous improvement of the process based on audits and metrics.

Figure 6: Leading practices in international background checks process

- Develop a “glocal” process for applicant screening
- Develop a screening process with clear policies and procedures
- Match the same screens for background checks across countries
- Relate background check to job and organizational requirements
- Make hiring decision contingent upon background check rather than making the screening part of the selection process
- Understand and comply with the legal and regulatory environment of the country regarding employment screening
- Comply with privacy laws, data security and the dissemination of background information across borders
- Follow the FCRA and FCPA laws when hiring someone within the U.S. or a U.S. firm hiring worldwide
- Audit your background screening process for continuous improvement

4 Verify the integrity of the information

Since important talent management decisions are based on the information gleaned from the background check, global organizations must ensure its validity and reliability (see figure 7). While information coming from other countries may be more or less reliable, the focus should be on verifying past employment and educational records as a preliminary screen because applicant lying and resume fraud are prevalent all over the world. Past criminal records are harder to obtain internationally, less reliable and complete, and their use more restrictive in employment decisions in some countries.

Figure 7: Leading practices in verification of international background checks

- Independently verify the existence and authenticity of past employers and educational institutions
- Conduct verifications in the primary language
- Identify the source and integrity of the data used
- Be aware of fraud

5 Use appropriate resources

Organizations will have to rely on specialized screening firms to assist them with international and global background checks (see figure 8).

Figure 8: Leading practices in the use of international background checks resources

- Use an agent or screening firm with the competencies and resources in a specific country or region
- Vet your international background screener

Vetting these vendors is also part of the due diligence process of organizations. They must ensure that the agent or screening firm has the knowledge, skills and abilities to conduct a screening or investigation in the specific country. Global organization must not only strengthen their vendor selection, but also manage the external vendors they use for global background checks.³⁵ The following tips for vetting international background screeners have been suggested:³⁶

- Seek an accredited background screening firm with global knowledge and experience
- Ensure that the company is financially stable
- Check the company’s references and talk to its clients
- Choose a company that vets its employees, vendors and subcontractors
- Make sure that the company has security standards for handling private information
- Determine whether the screener has the technology required to do the job

Global HR roles and competencies

Global HR plays a planning and control role in ensuring that the hiring of an applicant in their organization is contingent upon a background check being completed. Since in global organizations, talent is hired from around the world and international experience is highly valued (applicants who have lived, studied and worked abroad), background screening is likely to involve an international employment screening. Global HR must not only insist on background checks for applicants (i.e., control), they must also develop company standards and practices for international background screening (i.e., planning). Within the corporate HR function, a global organization must develop a dual expertise to plan, conduct and manage: (1) an international background check for applicants who have lived, studied and worked abroad; and (2) a global background screening for

applicants in the various countries in which it operates. The role of global HR with regard to international background checks is to establish clear policies and procedures,³⁷ set realistic goals for background screening,³⁸ set appropriate expectations among hiring managers,³⁹ engage key participants and involve colleagues,⁴⁰ internally check credentials based on areas of specialization being reviewed,⁴¹ compare information from background screens with company standards and conduct due diligence on background screening companies. Global HR must have the competencies to plan and manage that process inside and outside of the organization. To play that role effectively, global HR must have basic knowledge of the challenges of international screening, and have the management skills to work with the applicant and internal stakeholders and have the skills to vet and manage screening vendors.

Conclusions

International background screening is complicated, imperfect and requires time and resources but is well worth the effort to protect companies from negligent hiring. Due to the many countries that are potentially involved in international employment screening, this HR function is likely to be a hybrid of in-house competency complemented with reputable outsourced vendors. Global HR plays a valuable strategic and tactical role in global background checks by ensuring that future applicants and potential business partners are of the caliber they expect from their talent.

Endnotes

- 1 Howard V. Perlmutter and David A. Heenan, "How Multinational Should Your Top Management Be?" *Harvard Business Review* 59 (1974): 121–132.
- 2 Daniel Thomas, "Wal-Mart Plans to Check Out Its Global Workforce," *Personnel Today* (August 24, 2004): 8.
- 3 "Global Recruiting: What Are Some Practical Steps I Can Take to Prepare Our Organization to Recruit Globally for U.S. Positions?" Society for Human Resource Management, accessed February 22, 2013, <http://www.shrm.org/template-tools/hrqa/pages/somepracticalstepsicantaketoprepareourorganizationtorecruitgloballyforuspositions.aspx>
- 4 Lester S. Rosen, "International Background Checks," Chapter 21 in *The Safe Hiring Manual: The Complete Guide to Employment Screening Background Checks for Employers, Recruiters and Job Seekers* (2nd ed.), (Tempe, AZ: BRB Publications, 2012).
- 5 Mark Larson, "U.S. Employers' International Expansion Raising Demand for Overseas Background Checks," *Workforce Management* 85, 11 (2006): 43–44.
- 6 Julie Britt, "International Background Checks Fraught with Complexity," Society for Human Resource Management (June 6, 2011), accessed July 15, 2013, <http://www.shrm.org/hrdisciplines/global/articles/pages/globalbackgroundchecks.aspx>
- 7 Robert Capwell, "Know Other Country's Requirements When Screening Internationals for U.S. Jobs," Society for Human Resource Management (December 18, 2008), accessed July 15, 2013, <http://www.shrm.org/hrdisciplines/staffingmanagement/articles/pages/screeninginternationalsforusjobs.aspx>
- 8 Lester S. Rosen, "International Background Checks," 462–64.
- 9 Christopher J. Bachler, "Global Inpats—Don't Let Them Surprise You," *Personnel Journal* 75, 54 (1996): 7.
- 10 Pamela Babcock, "Foreign Assignments," *HR Magazine* 50, 10 (2010):10.
- 11 Traci Canning, "Hiring Global?" *HR Professional* 2, 3 (2006): 34.
- 12 Eric Krell, "Forecast for Global Background Checks," *HR Magazine* 58, 4 (2013): 67–69.
- 13 U.S. Foreign Corrupt Practices Act, SCPA, 15 U.S.C. Section 78dd-1 et.seq, accessed July 15, 2013, <http://www.justice.gov/criminal/fraud/fcpa/>
- 14 Directive 95/46/EC of the European Parliament and of the Council of 24/10/1995 on the Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of Such Data (OJ L281, 23.11.1995): 31, accessed July 15, 2013, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:31995L0046:en:NOT>.
- 15 Personal Information Protection and Electronic Documents Act, S.C. 2000 c.5. , accessed July 15, 2013, <http://www.canlii.org/en/ca/laws/stat/sc-2000-c-5/latest/sc-2000-c-5.html>
- 16 Babcock, "Foreign Assignments," 10.
- 17 Directive 95/46/EC of the European Parliament and of the Council of 24/10/1995 on the Protection of Individuals with Regard to the Processing of Personal Data and on the Free Movement of Such Data (OJ L 281, 23.11.1995).
- 18 Bachler, "Global Inpats—Don't Let Them Surprise You," 7.
- 19 Rosen, "International Background Checks," 464.
- 20 See www.napbs.com
- 21 David Marino-Nachison, "Overseas Fact-Finding," *HR Magazine* 50, 10 (2005): 92.
- 22 *Ibid.*, 92.
- 23 *Ibid.*, 92.
- 24 *Ibid.*, 92.
- 25 See www.earthcalendar.net for a listing of holidays around the world.
- 26 "Background Checking: Conducting Criminal Background Checks SHMR Poll," Society for Human Resource Management (January 22, 2010), accessed August 24, 2013, <http://www.shrm.org/research/surveyfindings/Pages/default.aspx>
- 27 Krell, "Forecast for Global Background Checks," 67–69.
- 28 Mike Aamodt, "How Common is Resume Fraud?" Assessment Council News (February 2003):7, accessed July 20, 2013, <http://maamodt.asp.radford.edu/Research%20-%2010/2003-Feb-Resume%20fraud.pdf>
- 29 Rosen, "International Background Checks," 462.
- 30 *Ibid.*, 461–462.
- 31 *Ibid.*, 476.
- 32 Babcock, "Foreign Assignments," 10.
- 33 See, for example, Marco Piovesan, "Background Checking on a Global Basis," *Security Solutions for Enterprise Security Leaders* 44, 6 (2012): 52; Bachler, "Global Inpats—Don't Let Them Surprise You," 7; Rosen, "International Background Checks," 457–483; Krell, "Forecast for Global Background Check," 67–69; Capwell, "Know Other Country's Requirements When Screening Internationals for U.S. Jobs," <http://www.shrm.org/hrdisciplines/staffingmanagement/articles/pages/screeninginternationalsforusjobs.aspx>
- 34 Capwell, "Know Other Country's Requirements When Screening Internationals for U.S. Jobs," <http://www.shrm.org/hrdisciplines/staffingmanagement/articles/pages/screeninginternationalsforusjobs.aspx>
- 35 Krell, "Forecast for Global Background Checks," 67–69.
- 36 Britt, "International Background Checks Fraught with Complexity Cultural, geography, lack of technology can complicate the process.," <http://www.shrm.org/hrdisciplines/global/articles/pages/globalbackgroundchecks.aspx>
- 37 Piovesan, "Background Checking on a Global Basis," 52.
- 38 *Ibid.*, 52.
- 39 Krell, "Forecast for Global Background Checks," 67–69.
- 40 Piovesan, "Background Checking on a Global Basis," 52.
- 41 Bachler, "Global Inpats—Don't Let Them Surprise You," 7.

International employment background checks

By Lester Rosen and Lisbeth Claus

GUIDED READING QUESTIONS

1. What is the difference between employment screening and investigation?
2. What is the difference between domestic, international and global employment background screening?
3. What are the major challenges of international background screening?
4. What are the pitfalls of international background screening?
5. What is the role of HR in international background checks?
6. To what extent is the global background screening process in your organization standardized and/or localized? How can it be improved?

TERMINOLOGY

You should be familiar with the following key terms used in this global HR module:

- Background checks
- Due diligence
- Employment screening
- International employment screening
- Investigation
- Geocentric staffing
- Global employment screening
- Negligent hiring
- Polycentric staffing
- Safe Harbor agreement
- Screening

ACRONYMS

- EU: European Union
- FCRA: Fair Credit Reporting Act
- FCPA: Foreign Corrupt Practices Act
- GSL: Global Sanction List
- NAPBS: National Association of Professional Background Screeners
- GAL: Global Adverse Media List
- GEL: Global Enforcement List
- PEP: Global Politically Exposed Persons

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