

New rules for employment of third-country nationals in the Slovak Republic

On 15 July 2024, an amendment to the Act No. 404/2011 Coll. on Residence of Foreigners and certain other acts regulating the topic of residence of foreigners in the Slovak Republic (hereinafter referred to as the "Amendment") entered into force.

The Amendment also introduces some important changes in the area of employment of third-country nationals, mainly in relation to employment of third-country nationals based on the temporary residence permit for employment purposes and the so-called blue card.

Key changes in employment based on temporary residence permit for employment purposes


The standard procedure for obtaining the temporary residence permit for employment purposes has so far been as follows:

- ▶ the employer initially reported the vacancy to be filled to the competent labour office;
- ▶ the third-country national then - after the expiry of the relevant period - submitted his/her application for the temporary residence permit to the competent embassy of the Slovak Republic abroad or directly to a police department in the Slovak Republic;
- ▶ within seven days from receiving the (complete) application for the temporary residence permit, the police department requested from the competent labour office a confirmation on the possibility of filling the reported vacancy;
- ▶ the police department decided on the granting of the temporary residence permit within a period of 90 days; the precondition for the granting of the temporary residence permit was the confirmation (consent) of the competent labour office on the possibility of filling the reported vacancy; whereby
- ▶ the third-country national was able to start working in the Slovak Republic only after he/she had been granted the temporary residence permit.

The Amendment changes this procedure as follows:

- ▶ **The confirmation on the possibility of filling the reported vacancy will no longer be requested from the competent labour office by the police department but directly by the employer** (usually after the expiry of the relevant period from the reporting of the vacancy to be filled);
- ▶ **the third-country national will apply for the temporary residence permit** (at the competent embassy of the Slovak Republic abroad or directly at the police department in the Slovak Republic) **only after the competent labour office issues a confirmation (consent) on the possibility of filling the reported vacancy**; however
- ▶ **the third-country national will be able to start working in the Slovak Republic as soon as his/her (complete) application for the temporary residence permit is submitted.**

The respective legislative change should thus **expedite the entry of third-country nationals to the labour market in the Slovak Republic** as they will no longer have to wait for the temporary residence permit to be granted, but **will be able to get employed immediately after submission of the (complete) application for the temporary residence permit** if the competent labour office previously approves the filling of the reported vacancy.



Regarding the application for the confirmation on the possibility of filling the reported vacancy, the employer will submit this application to the competent labour office electronically, with a copy of the employment contract or a written promise of the employer to employ the third-country national (with substantial elements of the employment contract) representing a mandatory annex thereto. Depending on the circumstances of the individual case, the employer may also be obliged to provide other annexes. The labour office will issue the confirmation on the possibility of filling the reported vacancy, which will include either consent or rejection, within 15 working days from the date of delivery of the employer's application. The labour office will grant the consent if the reported vacancy cannot be filled by a person from the local database of job seekers. The labour office will normally consider the current situation on the labour market and there will be no legal entitlement to receive a favourable decision. The confirmation (consent) on the possibility of filling the reported vacancy will normally be issued for a period of two years.

In the subsequent procedure concerning the temporary residence permit, the third-country national will no longer have to prove the purpose of his / her stay or financial autonomy. The basic period for deciding on the application for the temporary residence permit is reduced from 90 to 60 days. The third-country national will be entitled to reside in the Slovak Republic until the decision on his/her application is made and, as already mentioned, immediately after submission of the (complete) application, he/she will also be entitled to start working (provided that the competent labour office previously approves the reported vacancy).

Key changes in employment based on blue card

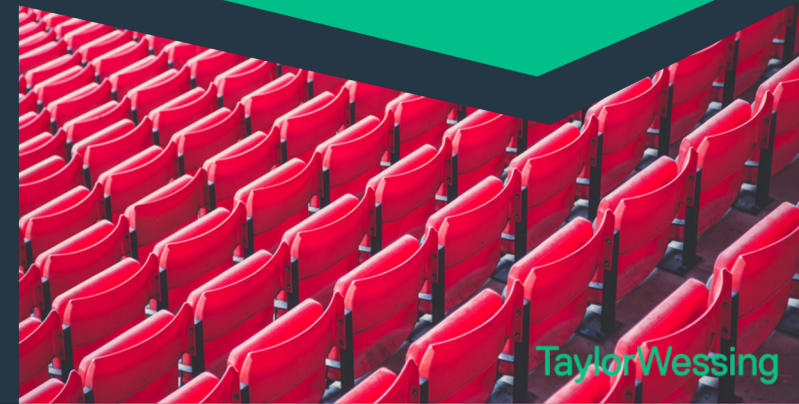
The legislative changes in this area result primarily from the transposition of Directive (EU) 2021/1883 of the European Parliament and of the Council on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment and repealing Council Directive 2009/50/EC.

Highly qualified employment will continue to be regarded as employment that requires (i) higher professional qualification; and (ii) wage payment at a minimum statutory level.

Regarding the requirement of higher professional qualification, an important change is that, in addition to the decision on the recognition of a foreign university diploma/degree, it will be possible to prove the fulfilment of this requirement also by proof of acquisition of advanced professional skills.

The employer will have to prove advanced professional skills by a declaration on verification of the third-country national's advanced professional skills (to be made using a template form created for this purpose and accompanied by the required annexes).

Advanced professional skills are defined as knowledge, skills and competence acquired through professional experience at a level comparable to university education, which will be necessary for the performance of highly qualified employment specified in the employment contract or in the employer's written promise and which have been acquired during a minimum of three years within a period of seven years prior to submission of the blue card application. **This option should facilitate and expedite the procedure for obtaining the blue card** (as it will not be necessary to provide a decision on the recognition of a foreign university diploma/degree), **but in accordance with the Amendment it will only apply to managers and specialists in the field of information and communication technologies, meaning that the scope of its application will be significantly limited.**



Regarding the minimum wage requirement, the Amendment lowers the relevant threshold in a way that the employer wishing to employ a third-country national based on the blue card will have to pay him/her:

- ▶ a monthly wage amounting to at least 1.2 x the average monthly wage in the economy of the Slovak Republic published by the Statistical Office of the Slovak Republic for the calendar year preceding the calendar year in which the blue card application is made; or
- ▶ a monthly wage amounting to at least the average monthly wage in the economy of the Slovak Republic published by the Statistical Office of the Slovak Republic for the calendar year preceding the calendar year in which the blue card application is made, in the case of a third-country national who has completed university education no more than three years before submission of the blue card application; this shall not apply to the renewal of the blue card after three years from university graduation or after 24 months from the granting of the first blue card.

While the blue card has so far been granted normally for a period of four years, the Amendment extends this period to five years. If the period of validity of the confirmation on the possibility of filling the reported vacancy corresponding to highly qualified employment will be shorter than five years (in the case of a fixed-term employment relationship), the police department will grant the blue card for the period of validity of this confirmation extended by 90 days.

Finally, the procedure for obtaining the blue card will be affected by a similar change as in the case of the temporary residence permit for employment purposes - a third-country national will be entitled to start working in the Slovak Republic immediately after his/her (complete) blue card application is submitted if the competent labour office previously approves the reported vacancy corresponding to highly qualified employment based on the employer's application.

Your key contacts



Taylor Wessing will be happy to advise you!



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