



LABOUR MOBILITY SCHEME
FOR SLOVAKIA

PROPOSAL FOR LEGISLATIVE CHANGES



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What legislative changes are required for the implementation of the Labour Mobility Scheme for Slovakia?

The introduction of the proposed measures of the Labour Mobility Scheme for Slovakia, which creates the conditions for easier, more transparent and faster employment of foreign workers from the non-EU countries on the territory of the Slovak Republic, requires the adoption of legislative changes in several legislative documents.

Measures introducing new entry channels for foreign workers and related technical measures, require substantial legislative changes in the Act on Employment Services (Act No. 5/2004 Coll. as amended) and in the Act on residence of foreigners (Act No. 404/2011 Coll. as amended), as well as several minor modifications in the Labour Code (Act No. 311/2001 Coll. as amended) and in the Act on birth number (Act No. 301/1995 Coll. as amended). Furthermore, the adoption of the main legal measures will also require changes in other laws (e.g. The Administrative Fees Act, the Social Insurance Act, the Health Insurance Act). The adoption of specific labour mobility programmes for selected categories of employees in shortage occupations assumes the endorsement by the Government of the Slovak Republic.

Measures to attract foreign labour require minor changes in a wide range of acts and other generally binding legal regulations, such as the Act on Reporting of Residence of Slovak Citizens and the Register of Slovak Citizens, the Municipal Establishment Act, the Income Tax Act, the Government Regulations on the Distribution of Income Tax Revenues to territorial Self-government, in the Education Act, in the Act on Recognition of Documents on Education and Recognition of Professional Qualifications, in the Act on Health Care Providers.

In order to ensure that the Scheme delivers the required results and functionally responds to the needs of the labour market, it is necessary to modify the methodological guidelines of the state administration bodies concerned, to incorporate changes into the prescribed official forms and to cooperate more closely in the collection of data and data exchange between the responsible authorities. The establishment of digitisation processes will be necessary and will also require regular coordination of the authorities concerned in the preparatory phase of the implementation of the new electronic system.

Act of Employment Services

The employment of foreigners is regulated by the Act of Employment Services, which comprehensively covers

the powers of the institution and all tools of support in finding employment, filling vacancies and measures for the employment of disadvantaged jobseekers. The employment of foreigners is primarily devoted to the fifth part of this act. With increased demand from employers for the employment of foreigners, it would be appropriate to cover this area by a separate Act on Employment of Foreigners in the future. Meanwhile, the submitted draft legislative changes to the Labour Mobility Scheme for the Slovak Republic are aimed at replacing part five of the Act on Employment Services with a new text, so it clearly regulates the rights and obligations of employers and foreigners when entering and participating on the Slovak labour market and contains all new rules necessary for the implementation of legal measures of the Scheme.

Groups of foreigners who can be employed in the territory of the Slovak Republic are redefined in the Labour Mobility Scheme. The issuance of employment permits is laid aside and vice versa, groups of employees with the right to work on the basis of a national or Schengen visa are added. The provisions governing the entry into employment of a foreigner and the possibility to remain in employment during the administrative procedure for granting or renewing temporary residence shall be re-laid down.

A fundamental legislative change concerns the modification of the rules for granting consent to the filling of a vacancy as the basic basis for obtaining a residence permit in the territory of the Slovak Republic allowing a foreigner to take up employment. The new concept maximises the unification of legal deadlines and procedures for assessing, issuing and withdrawing consent, regardless of the type of residence for which the consent provides the basis.

The rules for changing employers for all groups of foreign workers are clearly regulated.

Highly qualified employees will continue to apply for a Blue Card (BC), but the conditions for this type of permit will be simplified compared to the current situation. For occupations with labour shortages, the salary threshold is lowered and the need to undergo a labour market test is eliminated. For non-shortage occupations, the salary threshold will depend on the average salary in the economy, as opposed to the current average salary in the sector.

The proposal also envisages the introduction of a salary threshold for the issuance of consents for the purpose of a single residence and employment permit (SP) and work visas, as a regulatory mechanism replacing the percentage cap on the employment of foreigners out of the total number of employees.

The rules for employing family members of foreign workers are simplified.

Act on Residence of Foreigners

The conditions for entry into the territory of the Slovak Republic and residence of foreigners in Slovakia are regulated by the Act on Residence of Foreigners. The Labour Mobility Scheme for the Slovak Republic foresees the existence of new entry channels for foreign workers, therefore the most important part of the legislative changes of this Act concerns the introduction of new reasons for issuing a national visa and the detailed regulation of the administrative procedures of the responsible authorities in its granting, extension and cancellation. The rights and obligations of the holder of such a visa are also re-defined. The proposal envisages three types of so-called work visas to respond flexibly to the current challenges of the labour market and to allow fast-track entry: highly qualified foreigners who want to seek employment in Slovakia; skilled foreign workers who are in acute shortages; and foreigners with little or no qualifications, engaged in shortage occupations, who will only come for short-term work.

In the area of residence, the Labour Mobility Scheme for the Slovak Republic is linked to the existing procedures for issuing SP and BC. The most important change is the change in the way of granting residence for seasonal workers, where the residence regime is replaced by a visa regime. At the same time, the maximum length of seasonal work is extended from 6 to 9 months.

The period for granting temporary residence for the purpose of employment is unified and reduced to 30 days, thus removing exceptions for specific groups of employees and employers.

In the area of administrative procedures for granting employment-related residences, the concept of applying for permission to fill a vacancy by the Employment Office or the Central Office of Labour, Social Affairs and Family is changed. The permission is presumed to exist at the time of the application for residence. The method of demonstrating the proof of integrity for the applicant for BC is simplified.

Following the changes in the Labour Code and the Act of Employment Services, the conditions that must be fulfilled so the foreigner is able to work during the process of deciding on the granting and renewal of temporary residence are clearly defined and the obligations of the foreigner when changing an employer are specified.

Labour Code

In connection with facilitating and accelerating the entry of foreign workers to the Slovak labour market (the so-called fast-track concept of employing foreigners without temporary residence, or before granting it and during the procedure for its renewal) it is necessary to make legislative amendments of foreigner's termination of employment.

Birth Number Act

The Scheme emphasizes the timely and unambiguous identification of foreign workers as a prerequisite for speeding up subsequent administrative processes. This requires minor legislative adjustments that will allow foreigners to get a birth number without a granted residence in the territory of the Slovak Republic.



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