Baker McKenzie.

2024

The Global Employer: Focus on Global Immigration & Mobility

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Editor's Note

On behalf of Baker McKenzie's Global Immigration and Mobility practice group, I am thrilled to share with you the newest edition of The Global Employer: Focus on Global Immigration and Mobility. This handbook is a product of the efforts of numerous lawyers throughout Baker McKenzie.

With more than 150 immigration professionals in over 40 countries, Baker McKenzie's Global Immigration and Mobility practice group is uniquely positioned to provide a full suite of legal services to clients. This handbook, which provides an overview of the business and legal considerations associated with global mobility assignments and employment of foreign nationals, is one of the many valuable resources made available to multinational companies that move employees around the world. The product of nearly 75 years of experience, the information found on the following pages is tailored to the feedback we have received from our clients who move employees and employ foreign nationals globally.

We are thankful for this input and invite you to let us know what we can do to make this tool more useful to you and your colleagues.

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Global Immigration and Mobility Services

Our global client care model includes timely alerts on major changes in global mobility, immigration law and practice; a quarterly newsletter outlining global developments; and regular seminars and workshops on a broad range of issues:

- **Workplace compliance**, including counseling, trainings, audits and litigation defense related to worksite enforcement and related employer initiatives
- **Advocacy** on legislative reforms and regulatory changes, and agency practices around the world
- **Design and implementation** of programs to sponsor foreign nationals for temporary and permanent work and residence authorization, accept immigrant investors, and schools and training programs to accept foreign students
- **Coordination** among members of our global team to obtain visas, residence and work permits from consular offices or to execute transfers to the countries where you do business
- **Transfers of staff** to existing and new multinational operations, including employees with specialist and technical skills, executives and managers, and new employees hired from overseas
- **Large-scale transfers**, including managing the immigration consequences of reorganizations, mergers, acquisitions, reductions in force, redundancies and related restructuring
- **Transfer-related immigration matters**, including permanent residence, citizenship and relocation of spouses and other dependents
- **Case management**, including maintaining employee records for visa renewals, providing status reports, and planning and coordinating global immigration requirements
- **Employment, employee benefits and tax advice** in relation to transferring staff, including structuring and auditing the employment relationship to ensure compliance with legal and tax obligations and to avoid obligations to prevent unauthorized employment
- **Ancillary transfer issues**, working with a range of professionals in relation to shipping personal belongings and customs and excise duties
- **Establishment of new business operations abroad**, including transferring senior personnel to establish operations, and related corporate and securities and taxation advice

Further information

- Baker McKenzie's Global Immigration & Mobility Practice: Learn more about our market-leading Immigration and Mobility Practice and review the latest resources for global mobility professionals to mobilize talent.
- The Global Employer: Global Immigration and Mobility Quarterly Update is a quarterly publication focused on the latest legal updates affecting global employee mobility.
- The Accidental Expat: The Mobile Modern Workforce offers best practices for managing frequent cross-border travelers in your international organization.
- The Global Employer: Focus on Global Immigration & Mobility provides employment-based immigration requirements for 27 countries.

- The Global Employer: Focus on US Immigration & Mobility is a desk-side guide on employer obligations related to moving foreign nationals under US immigration and employment law.
- Global Mobility Video Series offers easy-to-digest videos discussing key issues relevant to managing a global workforce.
- Your Roadmap to a Flexible Future provides practical legal guidance for driving a hybrid remote workforce.

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Section 1
Introduction

Introduction

The global movement of employees is essential to multinational organizations doing business in or looking to expand operations to different countries. Getting the right people to the right places at the right time with proper support in a lawful manner is critical to the success of global businesses. HR professionals and corporate counsel are confronted with a maze of legal issues that must be considered before moving employees across borders.

When can they go? How long can they stay? What can they do while there? How can they be paid? What happens to their employment benefits during the trip? Who will be the employer while abroad? Which country's laws will apply? What are the tax consequences for the employer and the employee? What are the employer's responsibilities for accompanying family members?

These issues confront employers dealing with both short-term business travelers, as well as employees on long-term assignments. This is a global mobility handbook to help guide you through the process.

About The Global Employer: Focus on Global Immigration and Mobility

The next section of this handbook identifies the key global immigration and mobility issues to consider, regardless of the destination countries involved. These are immigration, employment, compensation and employee benefits; income taxes and social insurance; and global equity compensation. The final section is organized by jurisdiction. For each jurisdiction, this handbook provides an executive summary, identifies key government agencies and explains current trends before going into detail on visas appropriate for short-term business travel, training and employment assignments. Other comments of interest to global HR and legal teams are also provided.

Global labor, employment and employee benefits — how we can help

There is often a gap between business necessity and practical reality when it comes to moving executives and other personnel to new countries. Employers must anticipate and deal effectively with a host of interconnected legal issues and individual concerns.

Baker McKenzie offers comprehensive legal advice related to global immigration — delivered locally around the world. We help employers plan and implement global transfers and provide on-site legal support to companies and employees in most major business communities around the globe.

Our network of global immigration, employment, international executive mobility, global equity services and other lawyers in a variety of additional disciplines (e.g., tax and corporate) can assist you both pre- and post-transfer to ensure the following:

- Employment structures and contracts are properly documented and enforceable.
- Employee benefits meet both the employee's and the employer's needs and comply with all relevant legal requirements.
- Tax planning is sound and defensible.

Baker McKenzie has the unique ability to develop and implement comprehensive global immigration strategies and solutions to address the many needs of moving your employees globally.

Our knowledgeable professionals are qualified and experienced in the countries where you do business.

Section 2
Major Issues

Immigration

Immigration laws vary from country to country. Although the specific names for visas and the associated requirements differ, there are common patterns and trends — especially for countries balancing the interest of engaging in global commerce against protecting local labor markets and national security.

This chapter identifies the common patterns and trends. More specific country-by-country information can be found in the Jurisdictional Chapters section.

Current trends

It invariably takes longer than expected to secure all the authorizations required before an employee can travel to another jurisdiction to work.

The best-laid plans often go awry. Sometimes short-term business travel is the only way to meet an immediate need. However, the visas that are quickly available for such trips are generally not intended for productive work or long-term assignments.

In the interest of national security, and with concerns of protecting local workers, many countries are more actively enforcing prohibitions against unlawful employment. Penalties against employers are as common as penalties against foreign national employees. These penalties are increasingly including criminal punishments, rather than just civil punishments. Employers should obey both the spirit and letter of the law in this area, as failure to do so may damage an employer's reputation with government agencies, impact the employer's future visa requests and potentially result in reputational damage.

With these points in mind, the employer should plan ahead and not rely on what may have seemed like quick solutions in the past. The use of tourist visas for business travel is not a solution. Problems only increase when family members accompany the employee on a holiday visa and then attempt to enroll children in local schools, or obtain a local driver's license. Shipping household possessions and pets is also ill-advised at this stage. Many countries will ultimately require the foreign national to depart and apply for the proper visa at a consular post outside the country — often in the country where the foreign national last resided or their country of nationality.

Business travel

Visitor visas

Multinational corporations routinely send employees to visit colleagues and customers in different countries. How easily this can be accomplished often depends as much on the passport carried by the employee as the country being visited. The length of the trip and the scope of activities undertaken can be key, with visa solutions for short trips under 90 days generally more readily available.

Travel for tourism and travel for short-term business visits are often authorized by the same visa. Although, it is generally only true when the scope of the intended business activity does not rise to the level of productive employment in the country being visited.

Sourcing compensation locally during the visit is routinely prohibited, but the focus usually extends beyond the duration of the trip or the source of wages. Visiting clients, attending meetings and negotiating contracts are commonly permitted. Providing training and handling installation or post-sales service are commonly prohibited without special permission.

Visa waiver

Many countries have provisions that waive the normal visa requirement for tourists and short-term business visitors. These visa waiver benefits tend to be reciprocal and are limited to citizens of specific countries (i.e., those that extend similar benefits to local citizens). Additional requirements (e.g., departure tickets) are sometimes imposed. Furthermore, the countries that enjoy visa waiver privileges frequently change, making it important to check for updated information with a country's consular post before making travel arrangements.

Training

Employers with experienced staff in one country invariably want to bring newer staff from abroad for training. This is especially true when the R&D work happens in one country, the manufacturing is undertaken in another, post-sales installation and support are handled by regional centers, and the ultimate users are spread around the world.

Many countries offer specific visas designed for training assignments (e.g., Brazil and Japan). Some of these authorize on-the-job training that involves productive work. Others are limited to classroom-type and observation training and limit or prohibit productive work. Visas designed for employment assignments can often be used in training situations, if on-the-job training involving productive work is desired and not otherwise permitted by a pure training visa.

Employment assignments

Visas for employment assignments are invariably authorized. However, the specific requirements vary widely.

Work permits

Most countries are keen to protect their local labor market. A recurring solution is to impose some kind of labor market check or test as a prerequisite to issuing a visa for an employment assignment (e.g., Malaysia). These are often handled by a ministry of labor or equivalent government labor agency that is distinct from the foreign affairs governmental agency that issues visas at consular posts. In many countries, the labor agency's authority is framed in the context of a work permit.

A work permit, or equivalent document, is generally required for employment assignments. However, it is also common for countries to have visas that are exempted from the work permit requirement (e.g., Belgium).

Who is exempted depends on the country. For example, countries may exempt employees that are transferred within multinational companies, business investors and high-level/key employees.

Education, especially higher-level education in sought-after fields, can often be used to qualify for employment assignments. Academic transcripts showing completed studies are frequently required, and letters verifying employment experience can be similarly useful.

Residence permits

Concern over national security is becoming increasingly common. Background clearance checks and the collection of biometric data for identification purposes is common today. A number of countries have already addressed this concern by instituting a reporting and registration requirement. This reporting requirement can be satisfied in the form of a residence permit, usually handled by a ministry of justice, ministry of interior or an equivalent agency. In other cases, or in combination with the requirement above, employees must report to local police authorities upon arrival into the country (e.g., France and Italy). These requirements are equally as important to maintain the status to lawfully live and work abroad as obtaining the proper visa.

Citizenship-based visa options

Treaties and bilateral agreements often give special privileges to citizens from specific countries (e.g., benefits for EU and European Economic Area (EEA) citizens within the EU/EEA region and benefits for citizens of Canada, Mexico and the US under the North American Free Trade Agreement). Be careful not to overlook these sometimes-hidden gems when considering alternative visa strategies.

Other concerns

An increasing number of countries are requiring medical or physical examinations, aimed at limiting the spread of contagious diseases (e.g., Saudi Arabia, China and Russia).

Most countries offer derivative visa benefits to accompanying family members. However, what constitutes a family member varies across jurisdictions. Family members often include spouses and unmarried, minor children. An increasing, but still small, number of countries offer derivative benefits to different-sex life partners, while other countries also extend these benefits to same-sex partners (e.g., Canada and the Netherlands). Some countries consider family members to include more distant relatives (e.g., parents in Colombia) and older offspring, generally if these relatives are dependents of the principal visa applicant's household.

Generally, documents submitted in support of the immigration process need to be translated into the local language. Many countries require that public documents (e.g., articles of incorporation, company registration, birth certificate and marriage certificate) be authenticated by attaching an internationally recognized form of authentication or "apostille" (e.g., Spain).

Further information

See the Jurisdictional Chapters section of this publication for more specific information regarding specific countries' visa requirements. Please contact your Baker McKenzie attorney for specific guidance on current legal requirements and how they apply to your company's needs.

Employment

Integral to mobility planning is identifying and establishing the appropriate employment structure for an employee being sent to work in another jurisdiction. For planning purposes, it is important to keep in mind the laws of the jurisdictions involved, the business goals related to the foreign assignment and the individual's situation. The legal risks and opportunities in structuring these relationships differ significantly around the world, and the complexity is further compounded by the intersection with other areas of law, including tax, corporate and immigration. All of these issues must be considered holistically along with the company's business model and objectives.

Employment structures for international transfers

The primary question to ask is, who will be the employer? That is, who will have the right to direct and control the employee's activities while working abroad? In general, multinational companies typically use one of the following employment structures to answer this question:

- Secondment: The employee remains employed by the home country employer and is loaned or seconded to work for an entity in the host country.
- Secondment "plus": This is a hybrid structure combining "secondment" and "dual employment" in which the secondment structure has been chosen and the employee remains employed by the home country employer, but the host country also requires direct employment by a local entity for immigration, tax or employment purposes.
- Transfer of employment: The employee is terminated by the home country employer and is rehired by a new employer in the host country.
- Global employment company: The employee is terminated by the home country employer and transferred to the employment of a global employment company (GEC). In turn, the GEC seconds the employee to work for an entity in a host country.
- Dual employment: The employee simultaneously maintains more than one active employment relationship during the course of the assignment (the employee works for two or more employers).

In addition to these five main structures, multinational companies sometimes use alternative structures. For example, in several European jurisdictions, it is possible to use a "dormant contract" approach whereby the employee's existing employment relationship is suspended for the duration of the foreign assignment, the employee is formally transferred to and becomes an employee of another company for the duration of the assignment, and then the employee's dormant contract is "revived" upon termination of the assignment and the employee's return to the original employer. In some jurisdictions, which impose restrictions on the use of fixed-term employment arrangements, this approach creates a risk of an indefinite-term employment relationship with the new employing company, even though the employment is structured as a fixed-term arrangement for the assignment period. Other possible structures include commuters, extended business travelers, putting the employee on a "leave of absence" for the duration of the assignment or terminating the employee and then rehiring them as an independent contractor.

Further information

Baker McKenzie's Global Employment and Compensation Practice works in coordination with the Global Immigration and Mobility Practice to help structure employment relationships for global mobility assignments that factor in the employment laws of multiple jurisdictions. They also assist multinational companies in developing corporate policies and practices for global mobility assignments, and guide employers on current trends and best practice solutions. They play a key role in pre- and post-acquisition integration on mergers, acquisitions and reorganizations, as well as redundancies and reductions in force.

For more information about engaging workers on the ground, ask about Baker McKenzie's Going Global Field Guide or speak to your local Baker McKenzie attorney.

Compensation and Employee Benefits

A major concern for both expatriates and their employers is what compensation and employee benefits will be provided to the expatriate while they are on assignment. While many multinational companies have compensation packages and employee benefit plans that are designed specifically to cover the expatriate population, this is not the case for all companies. Some companies attempt to keep the expatriates on the same benefit plans and insurance policies as their other, stay-at-home employees. In other cases, the employer has to customize compensation and employee benefits for one or several expatriates to fit their particular situation. In short, there is no universal practice among multinational companies.

The factors that will influence the amount, type and design of the expatriate's compensation and employee benefits package include the following:

- The employment structure
- The jurisdictions involved
- The length of the expatriate's assignment
- The types of employee benefit plans currently provided by the employer
- Whether benefits coverage can be easily extended to the expatriate under the terms of the employee benefit plan; whether the expatriate will return home or go out on new assignments

Compensation and payroll

The two primary elements of an expatriate's compensation package are base salary and bonus opportunity. Understandably, there is no single approach or best practice for every case. Each expatriate situation is different, and how much the employer is willing to pay the expatriate in terms of base salary and bonus opportunity will depend largely on the employer's compensation policy, the value of the expatriate to the business, the expatriate's seniority and experience in the field, and other similar factors. Notwithstanding, in most cases, the expatriate's base salary on assignment will be no higher than their current base salary. Even if the assignment is deemed to involve more responsibility, employers are reluctant to increase base salary "just because" of the assignment and instead reflect any additional compensation in the form of bonus or expatriate allowances.

Handling base salary in this manner avoids the problem that may occur when an employer temporarily increases base salary during the assignment, and then wants to reduce the level of base salary at the end of the assignment to the former level. Often, such "up and down" movement is not successful, as the expatriate wants to keep the base salary increase upon their return to the home country and make it permanent.

Once the employer has determined how much base salary and bonus to pay the employee, the next question will be where and how the employee will be paid.

In the case of a secondment, for example, it is common for the employer to provide that the expatriate will remain on their home country employer's payroll, but may also be placed nominally on the host country employer's payroll (a so-called "shadow payroll" or "phantom payroll") so that local income taxes or social taxes can be remitted on behalf of the expatriate to the local tax authority. It is also common to split the pay of the expatriate on secondment, so that a portion of the compensation is paid locally to cover local taxes and expenses, while the bulk of the compensation is paid to the expatriate via direct deposit into their bank account in the home country.

With a few exceptions, there is no legal requirement regarding where the expatriate must be paid (that is, what payroll must cover the expatriate). More often than not, an expatriate can receive

compensation in the host country, in the home country (e.g., direct deposit into a home country bank account that can be accessed in the host country) or a combination of the two. In some situations, however, local immigration or employment laws require that an expatriate working in the host country be paid from the local payroll, i.e., they must be paid in the currency of the host country by the host country employer. In other situations, it may be difficult for the expatriate to access any funds paid to them outside of the host country due to currency exchange controls, which makes a local payroll the only practical option.

Payroll by itself typically does not determine the employer-employee relationship. That is, a company does not become the expatriate's "employer" merely because the expatriate is on its payroll. Often, an expatriate sent to a jurisdiction will be put on the local company payroll as an accommodation (for example, to facilitate the payment of local income tax and social insurance taxes). Alternatively, companies are sometimes designated to serve as payroll agents for other companies merely because they have an existing payroll function and personnel who are familiar with the local payroll requirements. For example, the host company might pay compensation to the expatriate as a "payroll agent" on behalf of the expatriate's real employer in the home jurisdiction. Moreover, the home country employer might continue to cover the expatriate in the home country benefit plans, and might even continue to contribute to home country benefit plans on behalf of the expatriate, even though the expatriate is now employed by another company. Thus, the payroll location will not, by itself, determine who the expatriate's employer is.

Having said that, payroll is an important issue in connection with an expatriate assignment, since moving the expatriate to a new payroll must be handled successfully to maintain compliance with applicable reporting and withholding requirements.

Where compensation is delivered to the expatriate in the host jurisdiction, it will be subject to any applicable income tax and social tax withholdings, unless an exemption applies. Understanding local law is therefore critical to ensuring that the expatriate's payroll is structured correctly and is compliant.

Further information

For more information about structuring your expatriate workers' compensation and benefits, speak to your local Baker McKenzie attorney.

Income Tax and Social Insurance

An employee who works abroad is always concerned about the possibility of increased income taxation and social taxation resulting from a foreign assignment. For example, will the employee be taxable in both the home country and the host country, resulting in double taxation of the employee's compensation? Whether this increased taxation is likely, and whether it can be avoided, depends on a number of factors, such as the length of time the employee will be working in the foreign jurisdiction, the type of work the employee will do while working abroad, the employee's citizenship, nationality or residency, and other similar factors. This determination will also need to take the following into account:

- The income tax, social insurance and other relevant laws of the home and host jurisdictions
- Special rules, if any, governing the cross-border transfer of employees in the home and host jurisdictions
- The provisions of an income tax treaty, social security totalization agreement or other international agreement between the home and host jurisdictions

The employer will be equally concerned with the issue of increased taxation, since many expatriates are covered by a tax reimbursement policy whereby the employer will be responsible for paying the employee's taxes that are greater than the employee's "home country" tax liability. The employer will also be concerned with avoiding a permanent establishment risk resulting from the activities of the employee working abroad — as the employer would otherwise become taxable in the host jurisdiction for the activities of the employee working there. In addition, the employer will be interested in the availability of a corporate income tax deduction for the employee's compensation and assignment-related costs or cross-charging these costs within the group. Finally, to the extent the employee is taxable in the host jurisdiction, the employer will want to confirm that the applicable withholding and reporting rules are followed, both in the home and host jurisdictions.

It is recommended to consult with international tax counsel to understand the rules for any other jurisdictions. It is also recommended to work closely with tax counsel to understand the potential application of these or similar provisions to the facts of any particular assignment.

Further information

For help with understanding the tax rules that apply to your employee's assignment, speak to your local Baker McKenzie attorney.

Global Equity Compensation

Equity compensation awards held by employees present issues when those employees become globally mobile.

As multinational employers increasingly seek to motivate and retain qualified executives and employees by offering equity-based compensation and, at the same time, transfer these individuals across international borders on short- or long-term assignments or for business travel or training, it is important to identify and address the tax, social security and legal impact of these international transfers on equity compensation arrangements.

Historically, while employers and tax authorities have generally had arrangements in place to determine and assess the US and foreign taxes owed on salary paid to internationally mobile employees, the proper taxation of income from equity compensation awards has sometimes been overlooked. Consideration has not always been given to the fact that equity award income has usually been earned over a period of one or more years, during which the equity award holder may have been employed and resided in a number of different countries, each of which may assert taxable jurisdiction over the award.

However, at present, both US and foreign tax authorities are aware of the potential trailing tax liabilities relating to income from equity compensation arrangements, and are increasing their attention on this area. It is, therefore, important for multinational companies that have granted equity compensation awards to globally mobile employees to identify the tax and social security issues affecting the taxability of income from these awards and to develop strategies for dealing with these issues while tracking international tax liabilities up front.

In particular, employers need to collect information and develop systems that will enable them to track and calculate the amount of the equity award income subject to taxation and, potentially, to employer withholding and reporting obligations in each applicable jurisdiction. They will also need to determine the extent to which any income tax or social insurance exemptions from withholding may apply in different employment transfer scenarios prior to sending employees holding equity awards on employment assignments to or from the US.

An essential component of any compliance model is a reliable data collection system to gather and monitor key details that will be useful in determining the US and foreign tax and social security treatment of a given transferee. At a minimum, such details include the following:

- The individual's citizenship
- US or foreign permanent residency status
- US or foreign visa status
- Time spent in each country during the periods over which the individual's equity awards have vested
- Whether the individual's employment transfer is intended to be on a short- or long-term basis (including if it will be for more or less than five years)

Additionally, it is necessary to track whether the entity (or entities) employing the individual outside the US is a US or foreign corporation and, if it is a US corporation, the state of the entity's incorporation for US Federal Insurance Contributions tax and, in some cases, state social tax purposes for US outbound employees.

Where a tax equalization or tax protection policy exists and income from equity awards is covered under the policy (some policies only cover regular wages or other specified items of compensation), it is necessary to be able to separately track the amount of equity award income paid to tax-equalized/tax-protected employees and calculate and pay both the US and foreign taxes actually due based on the individual's residency or citizenship status and the amount of home country taxes that would have been payable had the individual not gone on assignment.

For companies with a large internationally mobile population, it is important to track patterns of international transfer, develop models that will generally apply to common intercompany transfers (e.g., US to UK or India to US), and create assumptions about employment assignments and categories of employees that will facilitate the development of a system that is both compliant and workable.

Compliance with income and social security tax requirements is the key concern when equity award-holder employees transfer to and from the US.

However, regulatory considerations should not be overlooked. To the extent that equity awards are offered to employees while on international assignment within or outside the US, issuers of these awards must ensure that they comply with any securities law prospectus, registration or exemption filings and any applicable foreign exchange control, labor law, data privacy or other filings that may be necessary to offer equity awards under the local law of the country in which the assigned employee is resident. Compliance with the requirements of local tax-qualified regimes may also be desirable.

Furthermore, where employees are transferred to a new country after an equity award grant date, particularly where this transfer is on a long-term basis, it may be necessary or desirable to modify the terms of this award to comply with local law or gain the benefit of a favorable local tax regime. It is important to structure equity award grants to allow for flexibility to address legal issues that may arise should an employee be relocated after the grant date, while bearing in mind accounting issues and plan limitations.

For companies making new grants of equity awards on a global basis, a useful best practice is to adopt a single global form of award agreement that includes a country-specific terms appendix and a relocation provision. Then, if an award-holder goes on an international assignment after the grant date, the agreement's relocation provision gives the issuer authority to apply the terms set forth in the appendix to the agreement for the country of transfer (to the extent necessary to comply with applicable laws or administer the grant).

Further information

The Global Equity Services Practice, supported by colleagues advising on the taxation of expatriate assignments, works in coordination with the Global Immigration and Mobility Practice on global mobility assignments. Global equity services practitioners provide streamlined advice on both the US and non-US tax, social security, and legal aspects of short- and long-term international employment transfers in the equity awards context. They also assist multinational companies in developing an approach to global equity compensation tax liabilities that combines the degree of legal protection and operating flexibility most appropriate to the relevant company's interests.

Section 3
Jurisdictional Chapters

Argentina

Introduction

Argentine migration regulations provide different alternatives to facilitate foreign nationals rendering services, either as employees of local Argentine entities or as employees of foreign companies transferred to Argentina. The regulations contemplate transitory, temporary and permanent residence permits. The foreign national's place of birth, nationality, purpose and duration of the visit, and current country of residence will determine what procedure must be followed (in certain cases, more than one solution could be worth considering). Requirements and processing times vary by visa and residency classification.

Key government agencies

The National Migration Bureau (Dirección Nacional de Migraciones (NMB)) is the governmental office in charge of issuing residence permits. It has offices all over the country, and its headquarters are located in Buenos Aires.

The National Single Register for Foreigners (Registro Nacional Único de Requirentes de Extranjeros (RENURE)) inside the NMB is in charge of the registry and calls entities to determine the validity of foreign nationals' different types of residencies related to each company that may act as a calling entity.

The Ministry of Foreign Relations (Ministerio de Relaciones Exteriores, Comercio Internacional y Culto) is responsible for issuing visas at the Argentine consular offices outside Argentina.

The National Registry of Individuals (Registro Nacional de las Personas) issues national identification cards (Documento Nacional de Identidad (DNI)).

The Federal Tax Authority (Administración Federal de Ingresos Públicos (AFIP)) is involved in the process after the visa or residency is granted, to issue a workers' identification number (CUIL), which allows the foreign national to be legally employed by a local entity.

The National Social Security Administration (Administración Nacional de la Seguridad Social) grants a "provisory CUIL" for foreigners who have not obtained a national identity number — either because the work visa they applied for is for a short stay or because they have provisory residence certificates — until the proper and final residency is granted.

Inspections and admissions of foreign nationals are conducted by the NMB and the Federal Police at Argentine ports of entry. Investigations and enforcement actions involving employers, companies and foreign nationals are handled jointly by the NMB and the Ministry of Labor. These agencies are all part of the National Executive Branch.

Current trends

Work permits

A foreign national who intends to work in Argentina for less than 90 days may obtain a transitory work permit. The foreign national should enter the country as a tourist (in some cases, a tourist visa is needed) and apply for residency at the NMB. The authorized stay term expires on the same day that the period of time authorized at the time of their entry as a tourist ends and is extinguished when the foreign national leaves Argentina.

The transitory residency authorizing the foreign national to undertake remunerated tasks may not be extended or granted more than twice per year, beginning on the date on which it was originally requested.

Entry based on international agreements

MERCOSUR citizens

If a foreign individual is a national of the MERCOSUR or its associated countries and intends to work in Argentina for one or two years, they must obtain their residency directly at the NMB using the nationality benefit. RENURE registration is not required.

The formalities are conducted on a strictly individual basis, and all the applicants must appear personally before the NMB.

A provisional residence certificate (Precaria) will be delivered to the applicant, allowing them to obtain a CUIL and immediately start working. The Precaria also authorizes the applicant to leave and reenter the country.

The applicant will be granted temporary residency (for a term of two years) and the DNI about 90 days after that. After the expiration of the two-year term, the applicant may apply for permanent residency.

Business travel

With a business visa, the foreign national is authorized to conduct a limited number of commercial and professional activities in Argentina (e.g., business meetings, visits to the company or to clients for a short period of time (maximum of one week)). A business visa does not allow the foreign national to perform remunerated work.

Foreign nationals from countries that require a visa to enter the country should obtain a business visa at the Argentine Consulate before entering the country.

Employment assignments

Non-MERCOSUR citizens

Foreign nationals who are not citizens of the MERCOSUR or its associated countries can follow the same procedure as described above. In this case, the applicant will be granted temporary residency and a DNI for a term of one year, renewable upon expiration for one additional year. After the first renewal expires, it can be renewed for an additional year. After two renewals, the applicant may apply for permanent residency. A calling entity registered with the RENURE is required to call the foreign national.

Non-MERCOSUR citizens — entry permit and visa abroad

If a foreign national who is not a citizen of the MERCOSUR or its associated countries intends to work in Argentina, they can obtain temporary residency and a DNI upon arrival to Buenos Aires (the more

expedited procedure). They can also obtain an entry permit and a corresponding working visa, provided that they are hired or employed by an Argentine company or calling entity that has been registered as such with the RENURE (sometimes moving companies require that the working visa be stamped on the passport prior to releasing household goods).

Registration of the calling entity with the RENURE

Calling entities must register with the RENURE.

Registration with the RENURE is not required if the foreign national is a citizen of a MERCOSUR member country or an associated country.

The application must be made in writing and filed with the RENURE. The registration only needs to be made once and should be updated every year along with minutes evidencing the last appointment of corporate officers. Registering is free of charge. The calling entity will receive a registration number, and all future admission applications must be filed with that number.

The calling entity that requests registration in the RENURE must provide the following documentation: (i) registration with the Public Registry of Commerce; (ii) bylaws; (iii) minutes evidencing the last appointment of corporate officers; (iv) taxpayer's identification number (Clave Única de Identificación Tributaria (CUIT)); (v) income tax registration; (vi) VAT registration; (vii) gross receipt tax registration; and (viii) registration as an employer in the public social security system.

Noncompliance with the RENURE may trigger penalties, including cancellation of the calling entity.

Temporary residency and the DNI (Argentine mandatory identification card)

To obtain temporary residency for a period of one year, the applicant should file the following documentation with the Argentine immigration authorities:

- Employment pre-agreement signed by the employer and the migrating employee, specifying all personal data of the parties: tasks to be performed, working day, duration of the labor relationship, remuneration and the employer's CUIT (All signatures should be certified by a civil law notary/notary public.)
- Proof of the employer's registration with the AFIP and the RENURE
- Valid original passport along with a copy of the passport
- Original birth and marriage certificates (if applicable) legalized by the Argentine Consulate at the place of issuance or authenticated through an Apostille (based on the Hague Convention of 1961, which overrules the mandatory legalization of public instruments) (They should be translated into Spanish by an Argentine certified translator.)
- Federal criminal record certificate of foreign nationals who have reached the age of 16, issued by the countries where they resided for the last three years and from their birth country, legalized by the Argentine Consulate at the place of issuance or authenticated through an Apostille and translated into Spanish by an Argentine certified translator (If a country does not issue this certificate under its domestic laws, the applicant must attach consular proof of this fact.)
- American citizens should only file a police record issued by the Federal Bureau of Investigations, authenticated through an Apostille.

- Certificate of criminal records in Argentina issued by Dirección Nacional de Reincidencia, located at Tucumán 1353 (This certificate costs ARS 500 and is granted within 24 hours. An appointment should be booked online.)
- ARS 16,000 per applicant in cash for migration fees and ARS 300 per applicant in cash for the DNI
- Power of attorney granted to your attorney to assist with formalities at the NMB (This document shall be signed at the immigration office by the applicant.)
- Address certificate issued by the police office in Buenos Aires

These formalities must be completed personally by the applicant and all the members of their family, who must appear in person at the NMB. The process takes approximately three hours.

Once the requirements established above have been complied with, the foreign national shall be granted a Precaria.

Within 30 days after the foreign national is granted a Precaria, the foreign national must file proof that the employer requested an early registration code, issued by the AFIP, with the NMB.

Afterwards, the foreign national will be granted temporary residency for one year, and the authorized term shall be equivalent to the effective term of the agreement.

Entry permit

The calling entity must file a request with the NMB to grant the foreign individual an entry permit. This permit allows the foreign national to obtain a visa at either the consulate where they reside or the country of origin. The following documentation must be filed with the NMB with that application:

- The calling entity's taxpayer's identification number
- Receipts of payment of VAT, gross receipts tax and social security contributions
- Last income tax return
- Full copy of the foreign national's passport (including blank pages) and those of the members of their family that require an entry permit
- An original marriage certificate (if appropriate) per spouse
- A certified copy of the birth certificates of the foreign national's children who are also applying for the entry permit
- The foreign national's résumé in Spanish
- An employment contract, valid for at least one year, to be executed between the calling entity and the foreign national in accordance with Argentine labor laws (The employment contract must specify that the labor relationship is conditioned on the granting of the visa. The employment contract should only be signed by a representative of the calling entity (the foreign national should sign it after obtaining the visa) and must be certified by a notary public and legalized by the Notaries' Association.)
- A letter from the calling entity describing the activities and tasks to be performed by the foreign national in Argentina (The letter should be signed by the legal representative of the calling entity and certified by a notary public.)
- Power of attorney granted by the calling entity to obtain the entry permit from the NMB

- Specific personal data from the foreign national (This first stage finishes once the entry permit has been issued.)

The foreign national cannot be in Argentina while the NMB is processing the entry permit application.

Visa

This stage takes place at the Argentine Consulate with jurisdiction over the foreign national's place of residence or nationality.

The foreign national must file the entry permit application with the Argentine Consulate along with the following documents:

- Original passport, valid at least one year (and a complete copy of all pages), on behalf of the foreign national and each of their accompanying family members
- Two of the foreign national's original birth certificates and those of their family members requesting a visa
- An original marriage certificate per spouse
- The foreign national's academic certificate, diploma or degree
- A certificate of criminal record for individuals over 16 years old, issued by the countries where the foreign national has resided for the last five years prior to arriving in Argentina
- A personal 3/4 inch right-profile format photograph
- Consulate fee

The documents mentioned in 2, 3, 4, and 5 must be translated into Spanish and previously legalized by the Argentine Consulate with jurisdiction over the place of issuance or authenticated through an Apostille.

Once all the documentation has been approved, the consulate will grant the one-year visa, renewable upon expiration for an additional year. After the second year expires, the visa can be renewed again for an additional year. After two renewals, the foreign national may apply for permanent residency if they and their family would like to remain in Argentina.

Transfer visas (Visas de Traslado)

Multinational companies seeking to temporarily transfer foreign nationals to Argentina under an assignment or secondment agreement must file a request for a transfer visa (Visa de Traslado). This visa is initially valid for assignments of up to one year and can be renewed. Renewal requires the foreign national to register with the Federal Tax Authority.

The requirements for this transfer visa are basically the same as those set forth above for non-MERCOSUR citizens.

The calling entity should request the corresponding entry permit and visa from the NMB. In this case, instead of an employment contract, the calling entity must file a letter describing the activities and tasks to be performed by the foreign national in Argentina.

As an alternative to the entry permit, foreign nationals that do not need a visa to enter Argentina could enter as tourists and apply for a working visa directly at the NMB. The documents required are the same documents required during the entry permit process.

The DNI

Once temporary residency is obtained from the Argentine Consulate abroad, the applicant and their family should obtain the DNI from the National Registry of Individuals (Registro Nacional de las Personas) in Argentina.

The DNI is the local identification document, which is necessary to obtain a definitive registration with the Federal Tax Authority, open bank accounts, register with healthcare providers and obtain a local driver's license, among other things. The foreign national will be granted the DNI for the same term as the visa. The DNI will only be renewed once the temporary residency has been extended.

Training

Training/technician work/short-term assignments

A special transitory residence visa enables foreign employees to receive training or deliver limited technician work in Argentina for brief periods of time on a tourist visa.

This transitory residency is granted at the Argentine Consulate abroad for a term of 30 or 60 days depending on the type of visa and is renewable upon expiration. This applies to nationalities that require a visa to enter Argentina. For citizens of countries that do not require a visa to enter Argentina, they can obtain a 90-day transitory residency with the Argentine immigration authority upon arrival in Argentina. This kind of working permit may be obtained twice in each one-year period.

Australia

Key government agencies

The Department of Home Affairs is responsible for processing visa applications, waiving visa conditions and canceling and reinstating canceled visas.

While onshore applications are processed by the Department of Home Affairs, certain offshore applications are processed at the Australian embassies, high commissions or consulates, multilateral missions or representative offices in the countries where the visa applicants are present at the time of application for their visa processing.

The majority of Australian visa applications are lodged online via ImmiAccount, the Australian immigration department's web-based electronic lodgment system.

The visa type or stream may determine whether a visa applicant must be in or outside Australia at the time of lodgment or decision of their visa application.

The immigration department publishes indicative visa processing times each month on its website.

The Australian government's biometrics collection program requires that certain visa applicants provide their biometrics at an Australian Visa Application Centre or an Australian Biometrics Collection Centre if they are present in selected countries, irrespective of their nationality.

Australia does not offer visa-free entry or visa waiver to any country.

All non-Australian citizens and non-Australian permanent residents must obtain an appropriate visa to travel to Australia, except for New Zealand passport holders, who are automatically granted a Special Category visa (Subclass 444) on arrival in Australia, and the Asia-Pacific Economic Cooperation (APEC) Business Travel Card (ABTC) holders, who are traveling to Australia for short-term business activities approved by the Australian government.

It is important that non-Australian citizens and non-Australian permanent residents hold an appropriate visa for the intended purpose of their stay in Australia.

Employers must comply with Australian immigration and employment laws when they engage noncitizens and non-permanent residents for work, and work is defined as any activity that ordinarily attracts remuneration in Australia.

The Fair Work Commission and the Fair Work Ombudsman are the two independent government agencies that regulate and enforce the national workplace relations system.

The Fair Work Commission is Australia's workplace relations tribunal that exercises a range of functions and powers relating to workplace relations and acts as an independent moderator in resolving workplace related issues between employers and employees.

The Fair Work Ombudsman enforces compliance with Australia's workplace laws and seeks penalties for breaches of workplace laws.

The Australian Border Force is an independent agency that is an operational enforcement arm of the immigration department and is responsible for enforcing offshore and onshore border control, investigations and monitoring immigration compliance activities of business sponsors.

Current trends

As Australia's temporary work visa program is designed to fill skill shortages in Australia's labor market, it is demand driven. There are no quotas or caps on the temporary work visa program.

The Australian government's current immigration focus is to attract skilled migrants in regional and low-populated areas through the regional work visa program and to help businesses attract the best and brightest global talent from around the world for highly innovative and cutting-edge positions through the global talent visa program.

Business travel

Asia-Pacific Economic Cooperation (APEC) Business Travel Card (ABTC)

The ABTC is designed to facilitate easier travel for passport holders of the participating member countries in the APEC region when the purpose of their trip to Australia is undertaking short-stay business activities. The ABTC card is available to those who hold a passport of the APEC member countries listed below:

Australia	Brunei	Canada	Chile
China (Mainland)	Hong Kong SAR	Indonesia	Japan
Malaysia	Mexico	New Zealand	Papua New Guinea
Peru	Philippines	Russia	Singapore
South Korea	Taiwan	Thailand	US
Vietnam			

The ABTC is valid for five years and allows a holder to stay in Australia for three months.

For individuals with a valid ABTC with "AUS" on it and individuals whose home economy has provided preclearance since obtaining an ABTC, there is no need for them to apply for a visa to travel to Australia for business purposes.

The short-stay business activities permitted for the ABTC holders are limited to the following:

- Taking part in trade and investment activities
- Investigating, negotiating, signing or reviewing a business contract
- Participating in a conference, trade fair or seminar

Business visitor visa stream

There are three different business visitor subclasses available under the business visitor program. Each visa subclass lists eligible passports:

- Subclass 601 Electronic Travel Authority (ETA)
- Subclass 651 eVisitor
- Subclass 600 Visitor

Business visitor visa holders are not permitted to undertake work while they hold a business visitor visa. Further, their activities in Australia must not impose any adverse consequences on the employment and training opportunities of Australian citizens and permanent residents.

The business visitor visa stream is intended for short-term business activities. Short-term business activities are defined as follows:

- Seeking a general business or employment enquiry
- Reviewing, signing and negotiating a business contract
- Exploring new business and employment opportunities
- Participating in a conference, seminar or trade show without receiving any remuneration

Any activities that do not fall within the above parameters are considered work. For example, providing and undertaking training in Australia may be considered work, and a training visa (subclass 407) or a short-stay specialist visa (subclass 400) visa may be more appropriate in such cases.

Subclass 601 ETA

Visa validity period and length of stay

The Business ETA is an electronic visa designed for passport holders of the following countries:

Andorra	Ireland	Singapore
Austria	Italy	South Korea
Brunei	Japan	Spain
Canada	Liechtenstein	Sweden
Denmark	Malaysia	Switzerland
Finland	Malta	Taiwan (excluding official or diplomatic passports)
France	Monaco	UK — British Citizen
Germany	The Netherlands	UK — British National (Overseas)
Greece	Norway	US
Hong Kong (SAR of China)	Portugal	Vatican City
Iceland	Republic of San Marino	

The Business ETA is valid for a period of 12 months and allows multiples entries. However, each entry permits only a stay period of three months.

Subclass 651 (eVisitor) visa

The eVisitor visa (Subclass 651) is also an electronic visa with the same effect and operation as the Business ETA.

There is no application fee for the Subclass 651 (eVisitor) visa.

The Subclass 651 (eVisitor) visa is granted for multiple entries and is valid for 12 months. A visa holder carrying a passport from one of the following countries can stay in Australia for up to three months upon each entry during the 12-month life of the visa:

Austria	Hungary	Poland
Belgium	Iceland	Portugal
Bulgaria	Ireland	Romania
Croatia	Italy	Republic of San Marino
Cyprus	Latvia	Slovak Republic
Czech Republic	Liechtenstein	Slovenia
Denmark	Lithuania	Spain
Estonia	Luxembourg	Sweden
Finland	Malta	Switzerland
France	Monaco	UK — British Citizen
Germany	The Netherlands	Vatican City
Greece	Norway	

Subclass 600 (Visitor) visa

All nationalities are eligible to apply for the Subclass 600 visa.

The validity period of the Subclass 600 visa is determined at the discretion of the immigration department.

The Subclass 600 (Visitor) visa is for business travel to Australia for certain applicants who are not eligible for a Business ETA or Subclass 651 (eVisitor) visa.

The visa validity period and the period of stay are determined at the discretion of the immigration department. Generally, multiple entries are permitted, although the stay period is dependent on individual circumstances.

Employment assignments

There are two types of work visas available for noncitizens and non-permanent residents of Australia to undertake temporary employment assignments: the Subclass 400 Temporary Work (Short Stay Activity) and the Subclass 482 (Temporary Skill Shortage).

For medium- to long-term skilled positions that cannot be filled locally due to a genuine skill shortage in the Australian labor market, the Subclass 482 visa is more appropriate.

Subclass 400 — Temporary Work (Short Stay Activity) — Highly Specialised Work stream

The Subclass 400 visa is a short-stay work visa that allows a visa holder to work in Australia for, and on behalf of, their home employer outside of Australia.

The Subclass 400 visa is appropriate for individuals with proprietary knowledge and experience in a specific field that cannot reasonably be found in Australia, and the proposed activity in Australia is highly specialized and non-ongoing in nature.

A Subclass 400 visa holder must remain employed by their home country employer while working in Australia.

The proposed work in Australia must not have adverse consequences on ongoing employment or training opportunities or conditions for Australian citizens and permanent residents. The Subclass 400 visa is limited to highly specialized knowledge, skills or experience that are extremely limited in Australia.

Non-ongoing means the proposed activity is likely to be completed within the specified short period of time. Under current immigration policy, the normal stay period of the Subclass 400 visa is up to three months. However, a stay period of six months may be granted where there is a strong business case.

Generally, there is no expectation for a visa holder to remain in Australia after the end of the stay period granted by the immigration department.

The Subclass 400 visa program prohibits rotating different individuals through the same or similar position to carry out the same nature of activity or work.

Highly specialized work means the visa applicant has specialized and niche technical skills, knowledge or industry experience that cannot easily be found in Australia. The visa applicant's position overseas must also be considered highly skilled and must correspond to one of the skilled occupation code classifications published by the immigration department.

Visa applicants may request a single entry or multiple entries with respect to their Subclass 400 visa, depending on their needs to depart and return to Australia during their visa term. However, where multiple entries are granted, each new entry does not trigger a new period of stay. Rather, the stay period on a Subclass 400 visa starts on the date they enter Australia for the first time after the grant of their Subclass 400 visa and ends on the last day of the specified period of the stay.

Individuals applying for a Subclass 400 visa must be outside of Australia when they lodge their Subclass 400 visa application and must remain outside of Australia for the grant of their Subclass 400 visa.

Subclass 482 Temporary Skilled Shortage visa

The Subclass 482 Temporary Skilled Shortage visa is designed to accommodate skilled labor shortages across the selected skilled occupations, which the immigration department reviews and updates on a regular basis in consultation with external stakeholders.

The Subclass 482 visa program is designed to allow eligible overseas and Australia-based businesses to bring in skilled foreign nationals on a short-term to medium-term basis, without impacting the employment conditions and opportunities of Australians, and for various purposes, including the establishment of business operations in Australia or the fulfillment of contractual obligations of Australian businesses.

The Subclass 482 visa allows primary visa holders to do the following:

- Work in their approved position for their sponsoring employer
- Bring their eligible dependent family to Australia
- Travel to and out of Australia multiple times throughout the validity period of their visa

Businesses seeking to employ skilled workers will need to become an approved business sponsor before sponsoring eligible individuals on a Subclass 482 visa.

Both start-up businesses and established businesses in Australia may apply to become a business sponsor.

Overseas businesses without an operating base or representation in Australia may also be eligible to apply to become a business sponsor.

A business sponsorship is approved for five years and allows the business sponsor (and its associated entity) to sponsor eligible skilled workers on a Subclass 482 visa.

Business sponsors are required to pay the applicable Skilling Australians Fund (SAF) levy, also known as the nomination training contribution charge, for each individual they are seeking to sponsor for each 12-month period. The SAF levy is tax-deductible.

Depending on the visa stream, the maximum visa validity period of the Subclass 482 visa is either two or four years. The visa term is determined by the number of years for which the business intends to nominate the position.

If an individual is relocating to Australia as an intra-corporate transferee from one of the countries to which Australia has commitments under the international free trade obligations, or their nominated position in Australia is considered an executive or senior manager, their Subclass 482 visa validity period may be granted for up to four years even if their positions are listed on the short-term visa stream.

The positions considered to be executive or senior manager are the following:

- Advertising manager
- Chief executive or managing director
- Chief information officer
- Corporate general manager
- Corporate services manager
- Finance manager
- Human resources manager
- Sales and marketing manager
- Supply and distribution manager

When nominating an individual on a Subclass 482 visa, business sponsors must demonstrate that they tested the Australian labor market to consider Australian citizens and permanent residents first before considering an individual for the nominated position. This requirement is known as labor market testing.

Business sponsors can demonstrate this requirement by providing evidence that the nominated position was advertised in Australia for at least four weeks in a manner prescribed by the immigration department.

Labor market testing is not required for intracompany transferees and certain individuals who are otherwise exempt under the policy.

Labor market testing is also not required where it is inconsistent with Australia's commitments under the international trade obligations, including the free trade agreements and the World Trade Organization (WTO) General Agreement on Trade in Services.

Under the international trade obligations, applications from the following individuals are exempt from labor market testing:

- A citizen of China, Japan or Thailand or citizen/national/permanent resident of Chile, New Zealand, Singapore or South Korea
- A foreign national currently employed by the business sponsor's associated entity located in Chile, China, Japan, New Zealand, South Korea or any ASEAN member country (Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, Philippines, Singapore, Thailand and Vietnam)
- A foreign national currently employed by the business sponsor's associated entity or an overseas business sponsor operating in a WTO member country whose role is considered to be an executive or senior manager under the occupation code and who will be in charge of the entire, or a substantial part of, the Australian operation
- A citizen of a WTO member country who is nominated by an employer for whom the nominee has worked in Australia for two years continuously on a full-time basis immediately before the application

Intracompany transferees may remain employed and paid by their home company while they are sponsored by their Australian host company, if the two entities are the associated entities within the meaning of Australian corporate law.

Business sponsors are required to ensure that the employment terms and conditions offered to individuals on a Subclass 482 visa are no less favorable than those they offer, or would offer, comparable Australian employees in Australia and are at least equal to the 10 minimum employment entitlements (National Employment Standards) set out under Australia's national workplace laws.

Employer-sponsored permanent residency

Eligible Australian businesses may sponsor eligible skilled foreign nationals for permanent residency under the applicable employer-sponsored permanent residency programs.

There are two common pathways for the employer-sponsored permanent residency program.

The first pathway is through the Subclass 482 visa sponsorship. The business sponsors may nominate employees who have been working in their nominated position on a Subclass 482 visa under the medium-term for at least three years.

The second pathway is through the direct nomination of eligible individuals by their eligible prospective or current Australian employer. To be eligible under this pathway, individuals must have their qualifications and work experience formally assessed by the skills assessing organizations appointed by the immigration department for their nominated occupations.

There is also a separate regional employer-sponsored permanent residency program for businesses as well as positions located in eligible regional, remote or low population growth areas classified by the immigration department.

Training

The training (Subclass 407) visa program is designed for non-Australian citizens or non-Australian permanent residents seeking to enhance their skills or education by undertaking structured workplace-based training activities including classroom-based professional development activities in Australia.

The Subclass 407 training visa may also be used by overseas students, who are required to complete workplace-based training to satisfy their course requirements.

For the training visa, individuals will need to be nominated by an Australian business or a government organization.

There are three different occupational training streams: registration, skills enhancement and capacity building overseas.

The training provided by an Australian organization must be a clearly structured workplace-based program and must clearly demonstrate how foreign nationals undergoing training would be benefited without adversely affecting the occupational training opportunities of Australian workers.

Other comments

Tougher sanctions and penalties are imposed on employers and individuals engaging non-Australian citizens and non-Australian permanent residents, who do not have appropriate work rights.

The onus is on employers to establish a statutory defense by proving they have taken reasonable steps at reasonable times to verify the work rights of their foreign national employees.

The immigration department operates a real-time and free-to-use visa verification tool called the Visa Entitlement Verification Online (VEVO) system.

The VEVO system allows businesses registered with the immigration department to verify the work rights and immigration status of foreign national employees. Employers are required to obtain written consent from individuals prior to conducting VEVO checks.

Employers should conduct VEVO checks for all of their foreign national employees at reasonable times throughout their employment, and keep copies of the VEVO checks on record.

Other visa programs, maintaining Australian citizenship

Student visa holders are permitted to work for up to 48 hours every two weeks while taking classes and work full-time during their break. However, certain student visa holders, who are completing either a master's in research or a doctoral degree may be employed full-time.

In addition to the employer-sponsored permanent residency visa program, there are independent permanent residency pathways for eligible foreign nationals.

The family visa program facilitates Australian temporary or permanent visas of the spouses, children and other eligible dependent family members of Australian citizens and permanent residents.

Australian permanent residents are eligible to apply for citizenship by conferral if they have been residing in Australia on valid visas for at least four years immediately before applying for Australian citizenship. The four-year period must include one year as a permanent resident and they must not

have been absent from Australia for more than one year in total during the four-year period and no more than 90 days in the year immediately before applying for Australian citizenship by conferral.

Australian permanent residents that do not wish to become Australian citizens must continue to satisfy specific residency requirements to maintain their permanent residency status. A prolonged period of absence from Australia often jeopardizes permanent residency status.

Australian permanent residency visas usually have the travel facility of five years from the date of visa grant and allow the visa holders to travel to and from Australia multiples times until the travel facility validity expires. Permanent residents are required to obtain a Resident Return visa to continue to travel to and from Australia past the last day of their travel facility.

Austria

Key government agencies

Regarding work and posting permits, the Central Coordination Office of the Federal Ministry of Finance (Zentrale Koordinationsstelle des Bundesministeriums für Finanzen für die Kontrolle illegaler Beschäftigung (ZKO)) and the Austrian Labor Market Service (Arbeitsmarktservice Österreich (AMS)) are the relevant authorities.

The embassies and consulates of the Austrian Foreign Ministry (Außenministerium) process applications for visas and temporary residence permits and have the ultimate responsibility for handling visa issues.

Temporary residence permits and settlement permits are handled by a number of governmental entities within Austria. Usually, the governor of each federal province (Landeshauptmann) is the relevant authority for all residence and settlement proceedings. However, the governors usually delegate their power to the local district administration authority (Bezirksverwaltungsbehörde — in Vienna, this is Magistratsabteilung 35), which then issues the decision on behalf of the governor. The relevant local district administration authority will be where the foreign national resides or is planning to stay. The relevant authority for complaints in this respect is the locally competent Administrative Court of the Federal State (Verwaltungsgericht des Landes).

The relevant authority for complaints about the Austrian Labor Market Service's decisions is the Federal Administrative Court (Bundesverwaltungsgericht).

Current trends

In general, all temporary residence permits share a number of common requirements (see "Temporary residence permits"): Applications must be submitted in person, applicants must provide a valid passport (which is valid for at least three months past the date of travel) and applicants must present proof of sufficient funds, adequate accommodations and health insurance.

The Austrian government has further simplified the access to the Red-White-Red Card (Rot-Weiß-Rot Karte, "**RWR Card**") and the requirements for obtaining the EU Blue Card to further enhance immigration of qualified workers. This primarily concerns procedures for faster processing of applications and the reduction of minimum salaries.

The Austrian government has opened the Austrian labor market for displaced persons from Ukraine who hold a displaced person's identity card.

The Austrian government has recently accelerated the approval process for the RWR Card for qualified nursing staff. Accordingly, it is possible to obtain the RWR Card before completing the nostrification process.

Regarding the posting of employees, the government has implemented changes regarding the applicability of Austrian employment law to posted employees. In the past, Austrian employment law's minimum standards (set forth by statutory laws and collective bargaining agreements) applied to posted employees from the outset of their employment in Austria. Now, Austrian employment law applies to posted employees in full after one year of the employee's actual posting, insofar as it is more favorable than the posting country's employment law. Subject to a written justification, the period may be extended to 18 months.

In the case of short-term postings of employees that do not last longer than 48 hours, the Austrian government has provided simplified regulations regarding the documents that must be kept available. During the short-term posting, only the employment contract or service note (Dienstzettel) and working time records must be kept available.

The Austrian government has also established exceptions for certain employees who are posted for training purposes.

Additionally, the monetary penalties for noncompliance were recently adjusted. The first change was that the penalties no longer depend on the number of employees. In the event of violating the notification obligations towards the ZKO, not keeping the necessary documents available, or not submitting them, the penalties are between EUR 0 and 20,000. In the event of not keeping and not submitting wage records, penalties between EUR 0 and 40,000 may arise. For underpayment of wages, a scaled penalty system was implemented with a maximum penalty of EUR 400,000.

Several provisions also apply to leasing employees.

Business travel

Non-European Economic Area

For non-European Economic Area (EEA) citizens, Austrian immigration law provides a set of legal entitlements to immigration. Such entitlements include visas, temporary residence permits (Aufenthaltsbewilligungen) and settlement permits (Niederlassungsbewilligungen). As a general rule, a separate work permit must be obtained if a foreign national intends to be employed in Austria.

Temporary visa-based immigration for tourists and business visitors

A non-EEA citizen must obtain a visa to reside in Austria for up to six months. If they would like to reside in Austria for more than six months, a specific temporary residence permit will have to be obtained (see "Temporary residence permits" for further detail).

As a general principle, all visas must be applied for at the relevant Austrian authority abroad. Generally, a visa does not permit employment in Austria, with the exception of temporary employment visas (where a separate work or posting permit is also obtained). Employers and employees alike can be issued severe penalties for working illegally.

Visa for temporary employment

Where temporary employment is required (i.e., up to six months within a maximum period of 12 months), the Austrian authority may issue either a Travel Visa C or a Visitor Visa D for temporary employment that can be executed either independently or dependently. For temporary independent work, the applicant must maintain a domicile in a third country, and this third country must remain at the center of their vital interests. For temporary dependent work, the applicant must dispose of their work permit according to the Austrian Act on the Employment of Foreign Nationals (for no longer than six months) or conduct certain types of work that are excluded from the Austrian Act on the Employment of Foreign Nationals.

Travel Visa C

The most common visa for tourists and business visitors is the Travel Visa C (Schengen Visa), which allows travel within the Schengen states and permits up to 90 days' residence within a period of 180 days in Austria.

Visitor Visa D

The Visitor Visa D is available for visitors coming to Austria for more than 90 days and up to 180 days as either a tourist or on business.

Visa waiver

Visitors from certain countries do not need an entry permit (visa) to stay in Austria as tourists or as business visitors for a period of up to 90 days within a period of 180 days (visa-free entry). However, these visitors may not be employed in Austria without a relevant work or posting permit (with the exception of business meetings).

Citizens of the following countries are currently entitled to visa-free entry to Austria:

Albania, Andorra, Antigua and Barbuda, Argentina, Australia, Barbados, Bahamas, Belgium, Bosnia and Herzegovina, Brazil, Brunei, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Dominica, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Grenada, Guatemala, Holy See, Honduras, Hong Kong SAR (only holders of a Hong Kong Special Administrative Region passport), Hungary, Iceland, Ireland, Israel, Italy, Japan (up to six months), Kiribati, Kosovo (as of 1 January 2024, only holders of biometric passports issued by Kosovo are visa-free), Latvia, Liechtenstein, Lithuania, Luxembourg, Macau SAR (only special passports from "Regiao Administrativa Especial de Macau"), North Macedonia, Malaysia, Malta, Marshall Islands, Mauritius, Mexico, Micronesia, Moldova, Monaco, Montenegro, the Netherlands, New Zealand, Nicaragua, Norway, Palau, Panama, Paraguay, Peru, Poland, Portugal, Romania, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Samoa, San Marino, Serbia (holders of Serbian passports issued by the Serbian Coordination Directorate ("Koordinaciona uprava") are not visa-free), Seychelles, Singapore, Slovakia, Slovenia, Solomon Islands, South Korea, Spain, Sweden, Switzerland, Taiwan (only holders of passports with an ID number), Timor-Leste, Tonga, Trinidad and Tobago, Tuvalu, Ukraine, United Kingdom, United States, United Arab Emirates, Uruguay, Vanuatu (exemption from the visa requirement is currently suspended until 3 August 2024) and Venezuela.

However, citizens from Albania, Bosnia and Herzegovina, Georgia, North Macedonia, Moldova, Montenegro, Serbia and Ukraine must hold a biometric passport for visa requirements to be waived.

Please note that the above list is subject to change. An updated list may be found on the homepage of the Austrian Ministry of the Interior here. (Note: access to this link may be restricted depending on your location – please contact us for any questions.)

Settlement permits (Niederlassungsbewilligungen)

Where the applicant intends to settle permanently in Austria, they may apply for a settlement permit. Settlement permits are usually only issued when the applicant is: (i) highly qualified (ii) a family member of a foreign national entitled to settlement or (iii) has been living lawfully in Austria (or the EU) for a specific period of time.

To ensure permanent social and cultural integration in Austria, applicants must usually prove basic German-language skills at A1 level of the Common European Framework of Reference for Languages for certain settlement permits (there is an exception for those who have obtained an RWR Card). The confirmation of language proficiency must not be older than one year at the time of submission.

To obtain the "Permanent Settlement EU" (Daueraufenthalt EU) permit, or Austrian citizenship, the applicant must possess German-language skills at B1 level.

Temporary residence permits (Aufenthaltsbewilligungen)

Foreign nationals that want to enter Austria for more than six months must apply for a temporary residence permit. Temporary residence permits are issued by the residence authorities in Austria. The applicant does not need to prove any German-language skills when applying for a temporary residence permit. However, German-language skills are required for certain settlement permits (refer to "Settlement permits" for further information).

All temporary residence permits share a number of common requirements: Applications must be submitted in person, applicants must provide a valid passport (which is valid for at least three months past the date of travel) and applicants must present proof of sufficient funds, adequate accommodation and health insurance. Depending on the residence permit applied for, additional documentation may be required.

The application may either be filed in person at the Austrian authority abroad or at the relevant immigration authority in Austria (if the applicant is entitled to visa-free entry to Austria). However, a residence permit for an intra-corporate transferee (ICT) may only be applied for abroad or by the Austrian entity with the relevant immigration authority in Austria. The relevant immigration authority is determined by the applicant's (temporary) place of residence. Filing several applications, or applications with differing purposes, for residence simultaneously is not allowed. Once the residence permit has been issued, it must be picked up in person at the issuing authority in Austria. If a visa is required to enter Austria, the issuing authority in Austria will instruct the Austrian representative authority abroad to issue a visa.

A temporary residence permit does not entitle the foreign national to take up employment in Austria — a separate work or posting permit must be obtained. Alternatively, the applicant may obtain an RWR Card (see the "Skilled workers" chapter below) if they meet the requirements. However, exceptions apply concerning ICTs who are eligible for a combined temporary residence and work permit.

The temporary residence permits most commonly used by multinational companies on global mobility assignments are as follows:

ICT (Unternehmensintern transferierte Arbeitnehmer)

This temporary combined residence and work permit is for foreign nationals who are employed by an international corporation in a specific position and are being sent to Austria within the company or within a group of companies. The following employees are eligible for the ICT permit:

- Executives who manage the Austrian entity or a (sub)department of the Austrian entity
- Employees who have essential, special knowledge relevant for the Austrian entity's areas of activity, procedures or administration; high qualifications, including specific technical knowledge; and adequate professional experience
- Trainees with a university degree that will be supported in their professional development or that pursue industry-specific, technical or methodological training

Before the transfer, executives and specialists must have been employed for at least nine months (trainees for at least six months) with the same company or group to obtain this permit. This permit only allows the ICT to perform their specific job as executive, specialist or trainee within the Austrian entity. The ICT permit may be extended to up to three years for executives and specialists and to up to one year for trainees. After the maximum permissible total duration of the stay, a departure to a third country is required.

Mobile ICT (Drittstaatsangehörige mit einem Aufenthaltstitel "ICT" eines anderen Mitgliedstaates)

An ICT with an ICT permit from another member state is referred to as a "mobile ICT."

This temporary combined residence and work permit is for foreign nationals employed as executives, specialists or trainees that already possess an ICT permit from another EU member state and are sent to Austria within a group. This permit allows the ICT to work as an executive, specialist or trainee within Austria (i.e., there is no obligation to obtain an additional work permit). The mobile ICT permit may only be issued if the total duration of the foreign national's stay within the EU does not exceed three years if the employee is an executive or a specialist, and one year if the employee is a trainee.

Employee sent on temporary duty (Betriebsentsandter)

This temporary residence permit is for foreign nationals who are employed by a foreign employer without a seat in Austria and are sent to Austria by their employer to perform necessary services to fulfill an assignment (see also the "Posting of employees to Austria" chapter). In these instances, the foreign national must be issued a work permit, posting permit or a guarantee certificate (Sicherungsbescheinigung) according to the Austrian Act on the Employment of Foreign Nationals.

Self-employment (Selbständiger)

This temporary residence permit is for foreign nationals coming to Austria to perform services as self-employed persons. The duration of the assignment must exceed six months.

Mobile researcher (Forscher-Mobilität)

The temporary residence permit for mobile researchers is for scientific employees who have already obtained a residence permit for researchers in another EU member state and only work at certified research institutes. Other researchers may obtain a temporary residence permit, known as the "Special Cases of Dependent Employment" residence permit. Specific requirements regarding the employment contract and the research facility have to be met. Additionally, there are visa benefits for family members.

Researchers are generally exempt from the Austrian Act on the Employment of Foreign Nationals and therefore do not require a separate work permit.

Special cases of dependent employment (Sonderfälle unselbständiger Erwerbstätigkeit)

If no other temporary residence permit applies to the case at hand, the authorities may issue a "Special Cases of Dependent Employment" residence permit. This residence permit is used for employees who are exempt from the Austrian Act on the Employment of Foreign Nationals.

Employment assignments

Neither a visa nor temporary residence permit allows the foreign national to work in Austria. Any non-EEA citizen generally has to obtain a work permit (however, please refer to the exceptions in "Exemptions from the Austrian Act on the Employment of Foreign Nationals") and a residence permit. If the employee matches the relevant criteria, they should obtain an RWR Card (see further below), as this option includes a settlement permit and a work permit. No further requirements (apart from relevant qualifications) must be met.

Skilled workers

The RWR Card

The criteria-based immigration model called the RWR Card offers highly qualified employees an easier way to work and live in Austria. The RWR Card combines the legal privileges of a residence permit with a work permit (i.e., no separate work permit has to be obtained).

To determine whether a person is qualified, a specific credit system has been established that measures qualification based on objective criteria (e.g., prior education, professional qualifications and experience, language skills or age). Since 2019, it has been possible to reduce the number of points required for certain highly qualified persons that have a university degree, as determined by the Austrian Ministry for Employment, Social Affairs and Consumer Protection. Therefore, a person who wants to work in Austria can relatively easily determine whether they qualify by checking off the criteria. In 2020, the points required for certain highly qualified persons were again reduced to facilitate the admission of persons in professions that are in particularly high demand and to strengthen Austria as a business location. Since April 2023, additional language skills (French, Spanish, Bosnian, Croatian and Serbian) in addition to German and English have been taken into account in the credit system of the RWR Card.

Seven kinds of foreign nationals may obtain an RWR Card:

- Very highly qualified workers: A very highly qualified individual is allowed to enter Austria with a so-called Job Seeker Visa for a period of six months to search for employment that matches their credentials. If the individual succeeds in finding adequate employment or has already found employment, they may obtain an RWR Card. In practice, however, this option is also used if a foreign company sets up an Austrian branch office and transfers its respectively qualified employees to that branch office.
- Skilled workers in shortage occupations: These foreign nationals may obtain an RWR Card if they are specifically educated in a shortage occupation (Mangelberuf), as determined by the Austrian Ministry for Employment, Social Affairs and Consumer Protection, and have an adequate and binding employment offer. Since 2019, the federal states (Bundesländer) can also determine local shortage occupations within their territory. An RWR Card issued due to such a shortage occupation generally only entitles the foreign national to work in the employer's operation within the respective federal state.
- Graduates of Austrian universities and colleges of higher education: A foreign university graduate may extend their stay for 12 months after finishing their studies in Austria to find employment that matches their qualifications or starting a business. There is no credit system for graduates, but the payment of a minimum monthly gross salary that is customary in the area must be guaranteed.
- Self-employed key workers: A foreign national can apply for an RWR Card if the self-employed occupation creates an overall benefit for the economy (i.e., if they transfer capital of at least EUR 100,000, new technologies or knowhow to Austria; if they create new jobs or secure existing jobs for the Austrian labor market; or if their business is of major significance for a whole region).
- Start-up founders: Foreign nationals may obtain an RWR Card for start-up founders if they fulfill certain criteria (qualifications, professional experience, language skills, age, additional capital or support/subsidies of a start-up organization) and if they (i) establish a company to develop innovative products, services, procedures or technologies or introduce these on the market, (ii) provide a sound business plan for funding and operating the start-up business, (iii)

have significant influence on the start-up and (iv) show evidence of a start-up capital of at least EUR 30,000 with an equity ratio of at least 50%.

- Regular workers in tourism, agriculture and forestry: Workers in the field of tourism, agriculture and forestry may obtain an RWR Card if they (i) have been employed for at least seven months in the last two years as a registered regular seasonal worker in the same industry, (ii) can prove that they have a certain level of German-language skills, (iii) have a binding employment offer for permanent employment and (iv) fulfill the general requirements for receiving a residence permit.
- Other key workers: Other key workers may obtain an RWR Card if they fulfill certain criteria: qualifications, adequate professional experience, language skills, age and have an adequate employment offer with a defined minimum salary. In 2024, the annual minimum salary is EUR 42,420 gross. Additionally, there must be no equally qualified Austrian employee available in the job market.

Individuals that already possess an RWR Card can also obtain the RWR Card Plus ("**RWR Card Plus**") if they fulfilled the admission requirements (as described above) during 21 out of the last 24 months prior to applying. However, individuals holding an RWR Card for start-up founders must fulfill additional criteria before being issued an RWR Card Plus (e.g., the start-up must employ at least two full-time employees). After the RWR Card Plus has been issued, a foreign national will have unrestricted access to the Austrian labor market and will be entitled to work in Austria.

Family members of highly qualified employees may also obtain an RWR Card Plus. Generally, they must prove that they have basic German-language skills before coming to Austria (exceptions exist for family members of very highly qualified employees). If they want to extend their RWR Cards Plus, all the family members must prove that they have advanced basic German-language knowledge within two years of immigrating to Austria.

The EU Blue Card

The EU Blue Card offers highly qualified employees the opportunity to obtain a combined residence and work permit.

An individual qualifies for an EU Blue Card if they (i) have completed university education with a minimum study duration of three years, (ii) will be employed in a position adequate for this education and (iii) will receive a minimum annual salary of EUR 47,855 gross (2024). Additionally, the Austrian authorities will only issue an EU Blue Card if there is no equally qualified and currently unemployed Austrian citizen registered with the AMS when the application for the EU Blue Card is completed. As an alternative to (i), IT specialists with at least three years of professional experience corresponding to the level of a university graduate and acquired within the last seven years prior to the application may also receive an EU Blue Card. A university degree is not required in this case.

Individuals that already possess an EU Blue Card may also obtain an RWR Card Plus if they fulfilled the admission requirements (as described above) during 21 out of the last 24 months before the application. After the RWR Card Plus has been issued, a foreign national will have unrestricted access to the Austrian labor market and will be entitled to take up employment within Austria.

Family members of EU Blue Card holders may also obtain an RWR Card Plus. Generally, they must prove that they have basic German-language skills within two years of immigrating to Austria if they want to extend their RWR Cards Plus.

Work permits

If an employee does not meet the criteria for an RWR Card or an EU Blue Card, they may only work in Austria if their employer has either obtained a work permit (Beschäftigungsbewilligung) or if the employee is a Turkish citizen and has been granted a certificate of dispensation (Befreiungsschein).

If there are no other important public or economic reasons to preclude a foreign national's employment, a work permit can be issued. One public reason is that the position in question could be filled by an Austrian employee. Therefore, no equally qualified and currently unemployed Austrian citizen may be registered with the AMS when applying for a work permit. Special work permits are available to seasonal workers and university students.

The competent authorities will not issue a work permit if these requirements are not met. However, a work permit is required to legally employ a non-EEA worker (for the exceptions, please see below), and the work permit must be obtained before the employee starts working. Severe fines and the rejection of future work permit applications can result if employers employ someone without a valid work permit. Further, severe penalties can apply.

Exemptions from the Austrian Act on the Employment of Foreign Nationals

Generally, where a foreign national intends to take up employment in Austria, they must obtain an RWR Card, a work permit or a posting permit. However, certain groups are legally excluded from this obligation. The most important exceptions are as follows:

Citizens from the EEA and Switzerland

Citizens from the EEA and Switzerland do not have to obtain a work permit before taking up employment in Austria.

Scientists (Wissenschaftler)

Special rules apply for the employment of foreign scientists. Scientists are persons in public and private institutions and companies who carry out scientific activities in research and teaching, in the development of the arts and in the teaching of art. Austrian law does not require any private or public scientific researcher to obtain a work permit because highly qualified scientists are in great demand. Further, it is easier for foreign researchers to obtain a temporary residence permit.

In most cases, scientific researchers will also qualify for an RWR Card. It is usually recommended that foreign researchers apply for an RWR Card because they can also use the RWR Card for a long-term stay in Austria.

Senior managers (Besondere Führungskräfte)

Senior managers, in the sense of this statutory exception, are individuals that hold executive positions at board or management level at internationally active corporations and groups of companies or who are internationally recognized researchers. Their duties must comprise (a) building or maintaining sustainable business relationships or (b) creating or securing qualified workplaces in Austria. They must receive a minimum salary (at least EUR 7,272 gross monthly salary plus special payments as of 2024).

Senior managers and their spouses, children, support staff and household staff (i.e., secretaries, assistants if they have been employed by the senior manager/internationally recognized researcher for at least one year) are also exempt. There are no quota limits in force for senior managers. However, in most cases, senior managers also qualify for the RWR Card.

Displaced persons (Vertriebene)

Displaced persons from Ukraine who have a temporary right of residence under the Displaced Persons Regulation and hold a displaced person's identity card (Vertriebenenausweis) are also exempted from the scope of the Austrian Act on the Employment of Foreign Nationals. They can therefore take up any employment without a permit. This is primarily intended to further accelerate the labor market integration of displaced persons who want to remain in the Austrian labor market permanently.

Intracompany transfer

Posting of employees to Austria

Whereas opportunities to work in Austria as an employee are limited, providing services in general is not. However, restrictions may apply due to trade law.

Generally, companies may perform projects in Austria. When employees are sent to Austria to perform services within projects, a posting permit (Entsendebewilligung) must be obtained from the local AMS office. In this case, two conditions must be met: The project cannot exceed six months, and the employee must not work in Austria for more than four months during the entirety of the project's duration. If these periods are to be exceeded, a work permit or RWR Card must be obtained. In addition, the work must not be in the construction or ancillary industries.

The work permit requirement cannot be avoided by claiming a chain of four-month projects to attempt continuous use of the posting permit. The Austrian authorities consider this an inadmissible circumvention of mandatory provisions.

Alternatively, a foreign national who is employed as an (i) executive, (ii) specialist or (iii) trainee and sent to Austria within a group to work in a relevant position may be eligible for both a temporary residence and work permit for ICTs (ICT permit).

Different application procedures and permits depending on (i) whether the employees are directly deployed from an EU or non-EU member state and (ii) the duration of the assignment to Austria apply.

If non-EEA employees working for a company situated within the EEA are sent to Austria to perform services, they are only required to register beforehand with the ZKO. If the posting is lawful, an EU-posting certification (EU-Entsendebestätigung) will be issued. A visa may also be required to enter Austria.

Employers who post employees to Austria have several duties (e.g., providing certain documents like employment contracts, pay slips and time records and registering employees with the ZKO). The duties differ slightly depending on whether the employer is located within or outside the EEA.

It is not considered posting an employee and, therefore, the rules do not apply and a registration with the ZKO is not necessary if employees are sent to Austria to perform minor short-term jobs in connection with the following:

- Business meetings or seminars (without any further performance of services)
- Fairs and similar events (participation only; preparatory and final works are excluded)
- Attendance and participation at congresses and certain cultural events
- Specified international sports events

Additionally, the rules do not apply to (i) intragroup assignments of special-skilled employees for specific purposes (e.g., R&D, project planning, controlling) for up to two months within a calendar

year, (ii) certain activities in connection with the delivery of goods and, (iii) under certain conditions, training measures. Further, the rules do not apply to employees with a minimum monthly gross salary of at least EUR 7,272 (2024). The minimum salary must have been earned in the last two pay periods prior to the assignment and during the assignment.

Noncompliance may lead to severe monetary penalties. Repeat offenders may be prohibited from performing services in Austria for up to five years.

The authorities may also instruct the service recipient to stop payments to the service provider, but only in cases where the prosecution is complicated.

Several provisions also apply to personnel leasing from abroad.

Alternatively, non-EEA employees that are transferred within a group and already have an ICT permit from another EU member state may be eligible for a mobile ICT permit in Austria if their stay exceeds 90 days.

Austrian law stipulates that, if an applicable collective bargaining agreement (CBA) for the sending company's business exists in Austria, the employer must pay at least the minimum salary stipulated by the CBA. If no applicable CBA exists, the employer must pay the average salary of a comparable peer group of Austrian employees.

Lease of employees

Employers situated in a non-EEA country may lease their employees to Austria to work under an Austrian company's direction, but only if the employee disposes of a work permit according to the Austrian Act on the Employment of Foreign Nationals and according to the Austrian Act on the Lease of Employees. A permit under the Austrian Act on the Lease of Employees is only issued if the competent trade authority approves the lease of employees and confirms the following:

- The employees are significantly well-qualified for the proposed tasks (i.e., the employee has already held a specific position for a long period of time and therefore is "significantly well-qualified"), and the assignment of these employees is required due to labor market and economic reasons.
- Employment is only possible by leasing employees from foreign countries (e.g., no equally qualified Austrian employees would be available on the Austrian labor market).
- Employment of those employees does not jeopardize the payment and working conditions of comparable Austrian employees.

Austrian law stipulates that the employees are entitled to adequate payment and working conditions. Likewise, the assigned employees are entitled to the same minimum wage as comparable Austrian workers, as specified by the respective CBA.

Applications for the assignment of employees are strictly scrutinized by the Austrian authorities, and permits are seldom issued.

However, leasing non-EEA employees from employers situated in the EEA does not require prior permission from the Austrian authorities. Only a notification of the posting to the ZKO is required. If the posting is lawful, an EU-leasing certification (EU-Überlassungsbestätigung) will be issued.

Any lease of employees requires the advanced consent of the employee being sent to another company or the corporation member, even if the employment is only for a short-term period.

Post-entry procedures

Each person staying in Austria must register with the competent authority (usually, this is at the local municipality). However, if the person stays in a hotel, the obligation is fulfilled as soon as registration at the hotel is completed. Persons staying in private accommodations do not need to register as long as the stay lasts no longer than three days. As such, registration is usually an administrative formality.

Employers must retain certain documents (e.g., contract of employment, pay slip, work permit) at the place of employment when employing foreign workers and posting or leasing workers. The employer may face severe administrative penalties for noncompliance.

Entry based on international agreements — citizens from the EEA

For citizens of the EEA and Switzerland, gaining employment in Austria can be easily done. If they are employed or self-employed in Austria or earn a secure living and have sufficient health insurance coverage, they do not need special residence or work permits to reside and work in Austria.

However, EEA citizens must notify the Austrian registry authority within three days of their arrival into Austria. Additionally, EEA citizens and their family members must register their permanent residence with the local immigration authorities within four months if they intend to reside in Austria for more than three months. Generally these registration obligations are merely an administrative formality.

Additionally, the quota-free "Settlement Permit for Family Members" (Niederlassungsbewilligung Angehöriger) is also available to family members of EEA citizens under certain circumstances.

Training

Employees sent to Austria for training purposes must obtain either a visa for temporary employment or a temporary residence permit as a "special case."

According to the Austrian Act on the Employment of Foreign Nationals, further requirements must be met.

The following training programs do not require a work permit:

- Voluntary services (up to three months, extendable to a maximum of 12 months in certain cases)
- Professional traineeships
- Holiday traineeships
- Education programs
- Training programs within joint ventures (up to six months)
- Training programs within an international group of companies with the headquarters in Austria (up to 50 weeks)
- Training programs of an international company for executives (up to 24 months)

However, these training programs must be registered with the AMS, and in some cases the ZKO, at least three (in special cases, two) weeks prior to the commencement of training.

The Austrian Act on the Lease of Employees states that leasing employees is only permissible if a permit is obtained, but there are exemptions for certain trainees. For example, exceptions apply if the employees are leased to be trained in a public or publicly subsidized program.

Other comments

Austrian citizenship can either be acquired by birth or granted by the competent authorities.

Strict requirements must be fulfilled to be granted Austrian citizenship. For instance, some general requirements are that a foreign national must have: at least 10 years of legal and continuous residence in Austria, integrity, sufficient funds and appropriate German-language skills. Even if these general requirements are met, the competent authority still has discretion as to whether to grant a foreign national citizenship. However, the foreign national may have a legal right to Austrian citizenship after six years of legal and continuous residence in Austria if additional requirements are met. Austrian citizenship can also be granted when the applicant resides abroad in certain instances (e.g., certain relatives of Austrian citizens).

Belgium

Introduction

Foreign nationals from the European Economic Area (EEA) (i.e., EU member states, plus Iceland, Norway and Liechtenstein) and Switzerland do not need a work authorization/permit to be employed in Belgium. However, EEA and Swiss nationals must obtain a residence permit if their stay in Belgium exceeds three months.

Non-EEA nationals that come to Belgium to work (economic migration) must obtain an authorization to work and to reside in Belgium.

When the period of employment in Belgium exceeds 90 days, the employee must apply for a single permit by submitting a complete application file, including both the employment and the residence related application documents, to the employment authority of the competent region. The employment authority of the competent region will confirm whether the file is complete and, if so, declare the request admissible. If the file is not complete, the employee must provide the missing documents within 15 days or else the request is declared inadmissible. Once declared admissible, the employment authority of the competent region must forward the file to the federal Immigration Office within 15 days. The employment authority of the competent region and the Immigration Office will then be responsible for taking a decision respectively on the work authorization and the residence aspect. The authorities will keep each other and the applicant informed of their respective decisions. A final decision must be taken by the authorities within 120 days or four months after the application file has been declared admissible and complete. Failing such decision, the single permit will be deemed granted. If the employee resides abroad, a visa D must be applied for at the Belgian Embassy or Consulate in the employee's country of residence and the employee must in principle order and collect the single permit and register in the local municipality's immigration register within eight days upon arrival in Belgium. If the employee is already residing in Belgium, the eight-day delay starts from the moment they are notified of the positive decision.

Where the period of employment in Belgium does not exceed 90 days (and in other very specific circumstances), the residence and type B work permits are issued through distinct procedures resulting in two separate documents. In this case, once the employee receives a type B work permit, the employee may need to obtain a work visa (for a stay in Belgium for less than 90 days within any given period of 180 days, it depends on the individual's nationality whether a visa is required to enter Belgium: for example, citizens of the US, the UK, Australia, Canada, South Korea and Japan can enter Belgium based on their national passports, for other nationalities, such as Indian, Chinese and Turkish nationals, a type C Schengen visa is required) at the Belgian Consulate or Embassy abroad with jurisdiction over the latest place of legal residence (or at the external service provider with whom the Belgian Consulate or Embassy works). Within eight days of arriving in Belgium, the foreign national must register with the local commune that has jurisdiction over the intended place of residence to obtain a residence permit (unless an exemption is applicable, e.g., under certain

circumstances when the foreign national will be residing in a hotel). Residence permits are valid one month longer than work permits. Work permits are only valid when combined with residence permits.

Aside from economic migration, foreign nationals may also be granted automatic access to the labor market based on their specific residence situation, even if they did not come to Belgium for employment-related purposes. These specific residence situations are listed exhaustively in the Royal Decree of 2 September 2018 (e.g., students, refugees, family reunions).

The single permit, or the visa and the type B work permit, must be obtained prior to the start of employment. Working in Belgium without a valid single permit, work permit, residence permit or a valid exemption is considered a serious offense, subject to substantial criminal and administrative penalties.

The Belgian Act of 11 February 2013 introduced a complex mechanism of joint liability for principals and contractors for wage debts if the contractor/subcontractor employs illegal workers. Principals and contractors can be held liable for their subcontractors' unpaid wages (including taxes and social security contributions) to its illegal employees in Belgium. The latter does not apply if the principal/contractor has a written statement from the subcontractor confirming that it does not and will not employ any non-EEA nationals that are not legal residents of Belgium. However, joint liability immediately kicks in as soon as the principal/contractor becomes aware that its subcontractor is employing illegal employees.

Under the Belgian Act of 9 May 2018, employers have the following additional obligations when employing foreign employees (i.e., non-EEA nationals) in Belgium:

- To verify whether the foreign employee has a valid residence permit (or any other valid residence authorization) prior to engaging in any work
- To keep a copy of the residence permit/residence authorization available for the social inspection services during the employment period of such foreign employee
- To declare the start and end date of the employment via the Dimona or Limosa declaration (Employers who do not comply with these obligations can be sanctioned with a level 4 penalty, i.e., the highest criminal and administrative level of sanctions.)

Employers that engage employees without a valid work permit or residence permit and are illegally residing in Belgium are also jointly liable for the payment of repatriation costs, lump-sum housing costs and healthcare for both the foreign national and that of their family members.

Key government agencies

Consular posts abroad are part of the Federal Public Service (FPS) Foreign Affairs and are responsible for visa applications outside Belgium.

The FPS Foreign Affairs — Department of Federal Immigration is the competent authority that issues residence authorizations through single permit applications and Belgian residence permits through type B work permit applications.

The federal state of Belgium consists of three regions: the Brussels-Capital Region, the Flemish Region in the north and the Walloon Region in the south. Single permit and type B work permit applications must be submitted directly to the regional immigration ministries in all three regions. They are the relevant government offices that issue work authorizations through single permit applications as well as Belgian work permits. The competent region for single permit and type B work permit applications varies and can be, among others (depending on the circumstances): the region where the employee will (mainly) perform the work, the region where the employer has its registered seat or the region where the employee is officially domiciled.

Current trends

At the end of 2018, Belgium finally implemented the European Single Permit Directive of 2011 (Directive), stipulating that third-country nationals can apply for a work and residence permit in one application procedure.

The delay in implementing this directive stems from the complex division of competences within Belgium — the federal state is responsible for immigration while the three regions are responsible for the working aspects within their territory. A cooperation agreement between these different authorities was needed to properly implement the directive. A cooperation agreement concerning the single permit entered into force on 24 December 2018.

As a result, the Belgian immigration landscape has significantly changed and become considerably more complex because each region implemented new rules governing the working aspects of the procedure (previously the same legal framework was applicable in all three regions). Depending on the competent region (as determined by the aforementioned cascade mechanism provided in the cooperation agreement), different rules will apply.

As a result, various types of work permits that existed for students and refugees, among others, will disappear. In addition, a number of categories of previously exempted foreign employees now have to go through the combined application procedure (e.g., researchers).

In 2019, the implementation of this new legal framework revealed some practical issues. In particular, the significant processing time needed to obtain a single permit. In early 2020, a number of administrative measures were taken in response to these problems, among them the simplification of the administrative process: in the event of a positive decision, the Immigration Office only sends one document, namely the decision to issue the single permit (Annex 46 or 47). In the event of renewal of the single permit, the employee is able to obtain a temporary residence permit from the municipality based on a positive decision from the region with regard to the working aspect, thanks to which they are able to continue working while awaiting the final decision of the Immigration Office.

All single permit applications and renewal requests in Flanders, Brussels and Wallonia are currently digitalized. The digital platform is called "Working in Belgium". This further simplifies the procedure and the exchange of information between all stakeholders to be able to reduce the processing time for single permit applications and to allow companies to employ foreign employees more quickly in Belgium. Further, in the event of renewal, the worker may continue to work in Belgium based on a provisional residence document.

Business travel

Visa waiver

Citizens of EU/EEA countries and Switzerland do not need a visa when traveling to Belgium.

Unless exempt by treaty or other reciprocity agreement, non-EEA nationals are generally required to obtain a short-stay type C visa (Schengen visa) prior to entering Belgium for short business visits.

Citizens of certain specific countries (e.g., the US, the UK, Canada, Japan, Brazil and Mexico) do not need a visa when traveling to Belgium for short-term business purposes. They will be allowed to enter Belgium based on their nationality upon presenting their international passport. The permitted length of stay is up to 90 days in any 180-day period only. A calculator has been developed for the general public and authorities of each member state to apply the 90 days in a 180-day period rule.

Although no visa is required, the individual must prove the purpose of the trip and demonstrate sufficient means of subsistence if asked by border control (this is, of course, not applicable to EU

citizens). Upon entering Belgium, a foreign national may be asked for one or more of the following documents:

- Proof of hotel reservation
- Departure ticket
- Proof of adequate means of subsistence (e.g., cash or credit cards accepted in Belgium)
- Original copy of a pledge of financial support

A business traveler must in principle also report to the local commune of residence after arrival, unless an exemption is applicable (e.g., when the business traveler will be residing in a "lodging house" as referred to in the law (such as a hotel)).

Schengen visa

The short-stay visa (Schengen visa) is generally valid within the territory of all the Schengen member states (unless it concerns a Schengen visa with limited territorial validity) and permits short trips for up to 90 days in any 180-day period.

The European Visa Code enhances the harmonization of procedures for short-stay visas and transit visas within the Schengen area and facilitates the application procedure. Apart from a uniform application form, the Visa Code introduces a maximum deadline of 15 days (extendable to 30 days and a maximum of 60 days in exceptional circumstances) within which the consular posts must decide on the visa application.

Work permit exemption

Foreign nationals coming to Belgium on short-term business trips are exempt from obtaining a work permit, subject to certain conditions. No work permit is required if the foreign national's activities are restricted to attending "business meetings in a closed circle" or scientific seminars. The maximum length of stay under this work permit exemption for business purposes is 20 consecutive days per meeting, with a maximum of 60 days per calendar year. For attending scientific seminars, the work permit exemption is limited to the duration of the seminar.

The notion of a business trip or "meetings in a closed circle" is not defined under Belgian law. However, the concept of "meetings in a closed circle" is interpreted restrictively and refers to a range of meetings, including discussions on strategy, contract negotiations with a customer, evaluation interviews and board of directors' meetings. It is forbidden to perform any productive work activity in Belgium under this status. Once a foreign national requires a work authorization, they are no longer considered a business visitor from a Belgian immigration perspective, even if they consider the purpose of their trip to Belgium to be a business purpose.

Foreign national sales representatives that travel to Belgium to meet with customers on behalf of foreign companies that do not have a branch or legal entity in Belgium also do not require a work permit, if their stay in Belgium does not exceed three consecutive months (subject to certain conditions).

Self-employed foreign individuals coming to Belgium for business purposes (i.e., to visit professional partners, develop professional contacts, attend trade fairs, negotiate or conclude contracts or attend board of directors' meetings) do not require a professional card, if their stay does not exceed three months.

Employment assignments

As a rule, a foreign national must obtain a work and residence permit in order to work in Belgium. Additionally, the work permit must be obtained prior to the start of employment.

Work authorization/permit exemptions

Some employees are exempt from obtaining a work permit, either based on their residence situation (foreign nationals coming to Belgium for purposes other than employment who are given access to employment) or on specific exemptions legally provided within the framework of economic migration (foreign nationals coming to Belgium for employment purposes). Most of these exemptions are common to all three regions of Belgium but, as different sets of rules apply, some may only be relevant in a specific region or be subject to different requirements and conditions. The work permit exemptions only apply if the employee is legally staying in Belgium. The following are the most relevant categories:

Citizens from the EEA

EEA nationals coming to work in Belgium are exempt from obtaining a work permit. This also applies to their spouse and (grand)children under the age of 21 (even if they are not EEA nationals). These family members must obtain a family reunion visa in order to accompany or join the EEA national coming to work in Belgium.

The following 30 countries belong to the EEA: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Iceland, Norway and Liechtenstein.

Although Switzerland is not part of the EEA, Swiss nationals are also allowed to freely reside and work in Belgium without any prior formalities.

By virtue of the UK Withdrawal Agreement, the UK officially withdrew from the EU on 31 January 2020. A transition period was in effect until 31 December 2020. The withdrawal agreement aims to provide safeguards for the rights of UK citizens and their family members lawfully residing in the EU before the end of the transition period. All British citizens and their family members lawfully residing in Belgium at the end of the transition period are considered beneficiaries of the withdrawal agreement. They received a letter asking them to apply for their new residence card at the municipality where they reside. All beneficiaries of the withdrawal agreement should have received their new residence card by mid-2021 at the latest and keep their acquired rights of residence for life. The only difference with an EU citizen in this regard will be their residence card.

EEA nationals and their family members can be employed by a company or work in a self-employed capacity without a work authorization. However, if an EEA national plans to stay in Belgium for more than three months, they must apply for a residence permit for EEA nationals with the local municipality responsible for the place of residence. Afterward, the local municipality will issue them a residence permit that is valid for up to five years and can be renewed automatically.

Belgian "Van der Elst visa"

No work permit is required for individuals eligible for the "Van der Elst visa," which is a type of visa available to non-EEA employees employed by a company in a member state (i.e., an EEA member state), which allows them to work for that company in another member state without needing to obtain an additional work permit. To qualify, the employee must be working on a temporary project (i.e., on a contractual basis) and supplying services (through their employer that is established in a member state) to a company established in another member state.

Belgian law exempts these foreign nationals from obtaining a Belgian work permit, if they conform with the following:

- Are entitled to residence, or have a valid residence permit, for a period of more than three months in the member state of the EEA where they have established residence
- Are lawfully employed in the member state where they have established residence and hold a permit that is valid throughout the period that they will be rendering services in Belgium
- Possess a valid employment contract
- Possess a passport and a residence permit that is at valid throughout the period that they will be rendering services in Belgium to ensure their return to their home country or residence country

Students and interns

Students lawfully residing in Belgium for their studies are allowed to work without a single/work permit both during the school holidays (i.e., Easter holidays, summer holidays, Christmas holidays) and outside school holidays periods, if their employment does not exceed 20 hours per week and that the work performed is compatible with their studies for the latter case.

Students who are taking mandatory internships for their studies in Belgium, an EEA member state or the Swiss Confederation (contrary to the first exemption described above where the studies must be pursued in Belgium) may also work without a single/work permit under certain conditions, exclusively within the framework of the internship.

Non-EEA nationals

Except when qualifying for a specific exemption, non-EEA nationals require a work authorization/permit to work in Belgium. Work authorizations/permits are only issued to foreign nationals from countries linked to Belgium by international agreements, conventions on the employment of foreign nationals or when there are not enough workers available in the European labor market to perform services.

Work authorizations/permits can be issued without meeting the labor market criteria for certain categories of non-EEA nationals or activities (professions or trades where a shortage of labor has been recognized by the minister), considerably simplifying the process for obtaining a work permit.

Highly qualified employees or executives

Single permit

The labor market criterion is not taken into account if the foreign national is considered a highly qualified employee or an executive whose annual remuneration amounts to at least the below thresholds (which are indexed annually). Their residence authorization is valid for the duration of their work authorization.

For highly qualified employees:

- An employee is considered a highly qualified employee if they earn at least EUR 46,632 (Flemish Region) or EUR 50,310 (Brussels-Capital Region and Walloon Region) gross salary per year in 2024.
- In the Flemish Region, the yearly gross salary requirement is reduced to 80% of the above-mentioned amount (i.e., EUR 37,305.60 per year in 2024) for employees bound by an

employment contract to an employer established in Belgium, if they have not reached the age of 30 or are employed as nurses.

For executives:

- An individual is considered an executive if they earn at least EUR 74,611 (Flemish Region) or EUR 83,936 (Brussels-Capital Region and Walloon Region) gross salary per year in 2024 and hold an executive position within the company.
- In the Walloon Region, the yearly gross salary requirement mentioned above could be higher depending on the specific circumstances of the case, as it cannot be less favorable than that of comparable positions in accordance with the applicable laws, collective bargaining agreements or practices.

The application process to obtain a single permit takes about three to four months. However, an additional one-month period should be added to allow for the foreign national to gather all the necessary documents for both the work and residence aspects, as both must be submitted at the same time. The type B work permit application process takes about two to three months as from the day of filing.

A number of administrative measures have been taken to reduce the processing time. Additionally, the foreign national may continue to work on Belgian territory with a provisional residence document in the event of a renewal.

The documents required depend on the work authorization or permit applied for (highly qualified or executive) as well as on the competent region. The following documents are required (among others):

- Medical certificate
- Employment contract or assignment letter
- Copies of academic certificates
- Professional qualifications (for highly-qualified employees)
- Proof of payment of administrative fees for the application procedure

EU Blue Card

The EU has implemented an EU work permit (Blue Card) to attract foreign highly qualified nationals. The Blue Card allows non-Europeans to be employed in any country within the EU. The Blue Card scheme is inspired by the US "Green Card" program and aims to attract top talent to the EU in order to combat the aging population and declining birth rate. The framework European regulations are set forth in the EU Blue Card Directive. The Blue Card allows highly qualified non-EEA nationals to work and reside in the territory of the member state issuing the Blue Card.

Under Belgian law, the Blue Card can be delivered to highly qualified foreign nationals if they can demonstrate: (i) high-level professional qualifications (through a higher education diploma of a minimum of three years); (ii) an employment contract for an indefinite term or for a definite term of at least one year; and (iii) a gross annual remuneration of at least EUR 55,958 (Flemish Region) or EUR 65,053 (Brussels-Capital Region and Walloon Region) gross salary per year in 2024.

The Blue Card allows for increased intra-Europe mobility. After five years of residing within the EU (including two years in Belgium immediately preceding the application for long-term residence), the foreign national is eligible for long-term resident status in Belgium. Moreover, highly qualified foreign nationals that hold an EU Blue Card will not lose their status when leaving the country for 12 months. Once they have obtained long-term resident status, they may leave the EU territory, and Belgium, for

a maximum of two years and six years, respectively. The current work permit system for highly qualified individuals continues to coexist with the EU Blue Card system.

However, no Blue Card can be granted to seconded employees. Further, the salary threshold is considerably higher than the threshold under the current procedure for highly qualified employees (i.e., EUR 46,632 (Flemish Region) or EUR 50,310 (Brussels-Capital Region and Walloon Region) gross salary per year in 2024).

The practical relevance of the Blue Card is hence somewhat limited due to the narrow scope of application, the administrative burden during the first two years and the rather limited advantages.

EU Directive EC/810/2009 on the European Visa Code ("**Visa Code**"), constitutes a major step toward a common visa policy and reinforces cooperation within the Schengen Area. The Visa Code sets out harmonized procedures and conditions for issuing short-stay and airport transit visas. Legislation stemming from the issuance of visas for long stays (beyond 90 days) remains of national competence. However, pursuant to the Visa Code, foreign nationals that hold a long-stay (type D) visa can travel freely within the Schengen Area for up to 90 days during any 180-day period.

Specialized technician work permit

The specialized technician work permit is specifically aimed at specialized technicians or engineers coming to Belgium for a maximum period of six months to install, start up or repair an installation or software application developed or manufactured abroad. It should be noted that the study and analysis of the factual situation at the location of the Belgian customer, the requirement capturing stage, prior to the development of the installation or software application, is not covered in this permit. A foreign national coming to Belgium to perform such preparatory study and analysis services should obtain a normal work permit.

On the other hand, specialized technicians coming to Belgium to perform urgent repairs or maintenance work on machines delivered by their foreign employer to a Belgian-based company are exempt from obtaining a prior work permit, if their stay in Belgium does not exceed five days a month (it being noted that the conditions for this exemption differ slightly from one region to another).

Long-term EU residents

Non-EEA nationals that have obtained the status of long-term resident in another EU member state can access the Belgian labor market but are subject to certain conditions. The long-term residence status is a very specific status in accordance with EC Directive 2003/109/EC regarding long-term residents from non-EEA countries for which a specific residence permit is delivered (i.e., in Belgium, this takes the form of an electronic residence card type L (which used to be a residence card type D prior to 11 October 2021)).

Professional card

Non-EEA nationals require a professional card for any self-employed activity in Belgium, including corporate mandates held with a company established in Belgium, depending on the factual circumstances (possibly in addition to a single permit if the employee also works for the employer as a salaried employee). The foreign national can apply for the card at the Belgian consulate or embassy abroad with their visa application or in Belgium if they reside in Belgium.

Professional cards are much more discretionary than work permits. Demonstrating economic interests plays a major role in obtaining a professional card. The application process takes approximately six months on average.

Intra-corporate transferee

The Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the framework of an intra-corporate transfer ("**Intra-Corporate Transfers Directive**") specifies the entry and residence conditions of managers, experts or trainee employees from third countries that are subject to a temporary intragroup transfer. It also establishes a common set of rights for persons undergoing temporary intragroup transfer while working in the EU. Additionally, the directive specifies conditions that employees who are the subject of a temporary intragroup transfer may benefit from (short or long-term) such as geographical mobility between member states.

Managers, experts or trainee employees undergoing a temporary intragroup transfer of a maximum duration of 90 days over any period of 180 days (short-term mobility) and holding an intra-corporate transferee (ICT) permit issued by another member state valid for the duration of the transfer are exempted from obtaining a work permit. Specific salary requirements, as well as additional documentation requirements, apply depending both on the competent region and the transferee's position (executive, expert or trainee employee).

On the other hand, for long-term mobility during a temporary intragroup transfer, a work authorization must be applied for with the competent region, subject to the following conditions: (i) the transferee holds an ICT permit issued by another member state, valid for the entire duration of the application procedure, and (ii) the host entity and the company established in a third country belong to the same company or group of companies. Specific salary requirements and additional documentation requirements also apply, depending both on the competent region and on the transferee's position (executive, expert or trainee employee).

Besides the short- or long-term mobility rights provided under the Intra-Corporate Transfers Directive, a foreign national can be granted work authorizations while engaged in a temporary intragroup transfer of more than 90 days if the following conditions are met:

- The host entity and the company established in a third country belong to the same company or group of companies.
- The transferee is employed by the company or group of companies for at least three consecutive months immediately before the date of transfer as a manager, specialist or trainee employee.
- The transferee has higher professional qualifications linked to a higher education diploma for the ICT executive and the ICT expert or linked to a university diploma for the trainee-ICT employee.

Again, specific salary requirements and additional documentation requirements apply, depending on both the competent region and the transferee's position (executive, expert or trainee employee).

The work authorization is issued for the duration of the transfer with a maximum duration of: (i) three years for an ICT manager and ICT specialist; and (ii) one year for an ICT trainee employee.

An implementing cooperation agreement of 6 December 2018 specifies additional conditions.

Training

Employee training assignments not exceeding three months

Foreign national employees that come to Belgium to participate in training (not exceeding three subsequent calendar months) at the Belgian seat of the multinational group that their employer belongs to are exempt from the work permit requirement within the framework of a training agreement

between the respective companies of the multinational group. The authorized scope of training is restrictive and may not result in productive work.

In the Brussels-Capital Region, the company organizing the training must inform the local immigration authorities of the employee's stay in Belgium by the start of the training.

This specific work permit exemption is limited to the following three categories of employees:

- Employees who are employed with an associated company located within the EEA, irrespective of their citizenship
- Employees who are employed with an associated company located outside the EEA and who are citizens of an OECD member state
- Employees who are citizens of countries with which Belgium has entered into a bilateral employment agreement (e.g., Switzerland, Croatia, Bosnia and Herzegovina, Serbia and Montenegro, Macedonia, Morocco, Tunisia and Türkiye)

Other employee training assignments

Employees working for a foreign company belonging to an international group that has a seat in Belgium who cannot call upon the aforementioned work permit exemption are eligible to obtain a work permit (or a single permit), regardless of their regular place of employment abroad and nationality. Such training may not include any productive work or be an on-the-job type of training. The duration of such training is not limited.

Training

Within the framework of the Single Permit Directive, different authorities implemented Directive (EU) 2016/801 regarding the entry and residence of foreign nationals for the purpose of research, studies, training, voluntary service, pupil exchange schemes, educational projects and working as an au pair.

A trainee can be granted a work authorization in the following circumstances (if all other conditions are met):

- The trainee is bound to the employer by an internship contract of a maximum duration of six months.
- The trainee provides proof of higher professional qualifications through a higher education diploma obtained within the two years preceding the application or provide proof that they are undergoing training for the aforementioned diploma.
- The traineeship relates to the same level of qualification and covers the same field as the diploma or studies referred to in the previous condition.

The work authorization is valid for a maximum of six months but can be extended on a one-off basis in the Flemish Region and in the Brussels Capital Region.

The aforementioned provisions relate to any work authorization application for individuals undergoing a temporary intragroup transfer or long-term mobility. They are subject to specific conditions in an implementing cooperation agreement from 6 December 2018 and only enter into force when this implementing cooperation agreement entered into force.

In the meantime, the following prior provisions remain applicable:

- The trainee must be between 18 and 30 years old
- The trainee cannot work in Belgium during the training period

- The training must be full time
- The training may not exceed 12 months
- A training agreement must be signed and translated into the mother tongue of the employee-trainee (or a language the trainee understands) and must indicate the number of hours of training and salary (which cannot be lower than the legal minimum of the applicable business sector)
- A training program must be presented together with a legalized copy of the diploma or degree

Other comments

Prior Limosa declaration of employment

Attention must be paid to the Limosa registration obligation when employing a foreign national or developing self-employed activities in Belgium.

To simplify the administrative formalities related to the employment of foreign nationals, the Belgian government has adopted a number of measures jointly referred to as "Limosa" (Dutch abbreviation for cross-country information system).

In the long run, the Limosa project will lead to the creation of an electronic platform through which one can apply for various permits. For now, the Limosa project adds an additional administrative obligation for employers. The first step of the Limosa project places an obligation on employers that employ foreign nationals in Belgian territory and self-employed individuals that perform their activities on Belgian territory to communicate information regarding the professional activities to the Belgian government (i.e., through a mandatory prior electronic notification of employment/self-employed activities).

The mandatory Limosa notification applies to all employees and self-employed individuals who temporarily or partially work in Belgium and usually work in another country or are hired abroad. There are various exemptions from the mandatory notification including (subject to certain conditions) short-term business travel, scientific congresses, foreign government personnel and the assembly and installation of goods.

The Limosa declaration should be made online at www.limosa.be, prior to the start of employment in Belgium. A declaration certificate (Limosa-1) is immediately available and can be downloaded or printed.

A company with operations in Belgium that uses the services of the foreign nationals or self-employed individuals, directly or indirectly, must verify whether the Limosa obligation has been complied with prior to the start of the professional activities in Belgium by delivering the Limosa-1 declaration.

Noncompliance with the Limosa registration can result in substantial criminal sanctions and monetary penalties for both the foreign employer and the Belgian user of the services.

Identity card for foreign nationals

After legally residing in Belgium for an uninterrupted period of three to five consecutive years and subject to certain conditions, non-EEA nationals can obtain an "identity card for foreign nationals" or a residence permit for an indefinite term at their local commune of residence. Foreign nationals can work in Belgium with a residence permit for an indefinite term or with an identity card for foreign nationals without obtaining a work permit.

Type A work permit

Under the former regime, a foreign national who could demonstrate four years of relevant professional work experience was eligible for a type A work permit (which allowed the employee to benefit from indefinite employment with any Belgian employer). The four-year period was reduced to three years in some circumstances (e.g., under a type B work permit combined with a legal and uninterrupted residence in Belgium during the 10 years immediately preceding the application).

The unlimited work authorizations must now be applied for via the new single permit procedure. The previous applicable conditions and requirements remain more or less the same in each region. Foreign nationals that have obtained the status of long-term resident in another member state, are in possession of a legal residence permit in Belgium and can demonstrate 12 uninterrupted months of work are also eligible under certain conditions, which can vary from one region to another.

Planned legislative change

Major legislative changes are not expected in the future because the Belgian immigration legislative framework has already significantly changed as a result of the implementation of the Single Permit Directive.

Brazil

Introduction

Brazil covers almost 48% of South America and with a rapidly growing population, vibrant business environment and wealth of resources, the country is an attractive destination for multinational companies, foreign professionals and tourists alike.

To travel to Brazil for work, foreign nationals must obtain the proper authorization to enter and remain in the country. However, the procedure is less bureaucratic if a foreign national intends to come to Brazil for business or tourism because most nationalities are exempt from having visitor visa stamps in their passport. Numerous regulations govern immigration to Brazil, but visa categories and applications are straightforward.

Key government agencies

The National Immigration Council (Conselho Nacional de Imigração) is responsible for the orientation, coordination and surveillance of all immigration activities.

The General Coordination of Labor Immigration (Coordenação de Imigração Laboral) of the Secretariat of Labor is responsible for receiving, reviewing and approving work permit applications for foreign nationals intending to obtain temporary or permanent visas to work in Brazil.

The Consular Division of the Ministry of Foreign Affairs, represented by various Brazilian consulates abroad, is the authority that issues the visa stamps upon the approval of work permits by the Secretariat of Labor or the General Coordination of Labor Immigration and reviews the appropriate documents of those traveling to Brazil.

Current trends

As of 10 April 2024, citizens from the US, Australia and Canada will be required to have a visitor visa to enter Brazil.

The scenario for crew members of these countries is unclear, as authorities did not confirm if they need to carry the visa as of 10 April 2024. The initial requirement of having a visitor visa would be effective as of 10 July 2024, but migratory authorities have provided controversial information indicating that an April 10 term would be applicable.

Business travel

Visitor visa

A foreign national who intends to come into the country for tourism or business purposes is entitled to a visitor visa. With this type of visa, the foreign national cannot receive any payment from a Brazilian legal entity. Therefore, foreign nationals should remain exclusively on the payroll of the company abroad.

A visitor visa's term depends on the foreign national's nationality. Generally, it is valid for one year with a maximum length of stay of 90 days. Visitor visas can be renewed through the Federal Police Department.

Aside from tourism, a visitor visa allows the holder to engage in the following business activities: attendance at business meetings and corporate events, press coverage, market prospect, signing contracts and performing audits or consultancy work.

For foreign nationals from countries that have a reciprocity policy with Brazil, the appropriate visa will be granted upon arrival in Brazil. Travelers on business trips may be asked to show a return or onward ticket as well as proof of funds to support their stay in Brazil.

An updated list of countries that have reciprocity agreements with Brazil and a list of countries whose nationals need a visitor visa to enter Brazil is available here.

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The scenario for crew members of these countries is unclear, as authorities did not confirm if they need to carry the visa as of 10 April 2024. The initial requirement of having a visitor visa would be effective as of 10 July 2024, but migratory authorities have provided controversial information indicating that an April 10 term would be applicable.

Methods of application available for work permits

Law No. 13,445/2017 authorizes the foreign national to choose between prior or current residence when applying for a work permit.

Although the foreign national must still specify what activities they will engage in while in Brazil, the foreign national can apply for residence with the Secretariat of Labor if they are already in Brazil. If the foreign national is outside Brazil, they can follow the old rule by obtaining a visa from the corresponding consulate abroad when the Secretariat of Labor approves the prior residence.

The foreign national will have the same type of work permit regardless of whether they use their prior or current residence. Residence allows a foreign national in Brazil to complete the process without leaving the country to collect the visa stamp. This makes it possible to convert one visa into another if the foreign national is already living in Brazil, except when applying for technical visas, which can only be obtained by prior residence.

Prior and current residence are both governed by specific rules. It is necessary to state what activities the foreign national will be performing while in Brazil.

Employment assignments

Work visas

Foreign nationals entering Brazil to provide technical assistance or professional services pursuant to a cooperation agreement or work contract may qualify for temporary prior residence once the Secretariat of Labor approves their work permit.

Professionals under employment agreement

Most expatriations are intracompany transfers. It is common to pursue temporary visas through an employment agreement. The visa is valid for two years and can be extended.

For this work visa, the professional must be on the local payroll and entitled to the same benefits as a local employee. These can include: regular employment benefits, benefits provided by the collective bargaining agreement and labor rights (e.g., vacation, Christmas bonus, prior notice and severance payments).

The foreign national must fulfill specific educational requirements and professional experience, as illustrated below:

Educational background (diplomas/certificates)	**Professional experience** (experience letters issued by previous employers)
Master's degree; PhD	It is not necessary to present an experience letter in this case
Postgraduate degree (stating at least 360 hours)	Minimum of one year of experience
University degree	Minimum of two years of experience
Technical degree	Minimum of three years of experience
High school degree proving that the foreign national completed 12 years of school	Minimum of four years of experience

Officer visa

An officer visa is another option regularly chosen by companies for intracompany transfers. The migratory legislation dictates specific requirements to obtain an officer visa:

- It is necessary to present a corporate document appointing the foreign national to a management position duly registered with the Commercial Board. A new corporate document appointing the foreign national to the position must be completed by the time the foreign national completes all migratory procedures and receives their Foreigner Identity Number (RNM).
- The company must prove (through the exchange contract and central bank statements) that the investment from its foreign shareholder amounts to BRL 600,000 or BRL 150,000 and must create a business plan that will create 10 job positions within two years.

The visa can be valid from three to five years, depending on the company's corporate structure (limited or stock corporation).

There are two alternatives for hiring these professionals, as follows:

- With no local employment status: The foreign national will receive a pro labore, not a salary. The pro labore arrangement has no labor costs and severance fund deposits are optional. However, the company must pay the social security contribution levied on the amounts received by the individual as pro labore (at a 20% tax rate as opposed to up to 28.8% when hiring employees) and hold and collect the income tax and the social security contributions owed by the individual.
- With employment status: The foreign national must be included on the company's payroll and receive a portion of their salary in Brazil. The local relationship with the officer will be regulated by the Brazilian employment legislation. Further, the salary will be calculated by normal labor rights (e.g., 13th month, vacations). The officer may also be entitled to legal statutory severance upon termination.

Private investors

The migration legislation also provides guidelines for foreign nationals who intend to invest their own resources into already existing or newly established companies.

The main purpose is to provide evidence that the foreign national's private investment totals BRL 500,000 paid to the Brazilian company sponsoring the visa.

In addition to the investment, the foreign private investor must present a detailed business plan to be concluded within three years.

Real estate investment visa

This visa modality is based on the government policy of attracting investments that focused on the creation of jobs in Brazil.

To be entitled to such a visa, the foreign national must prove that they have privately invested in Brazilian real estate with the potential for job creation or income.

The granting of this work permit is subject to the acquisition of real estate, whether already built or under construction, amounting to BRL 1 million in urban areas and BRL 700,000 for real estate located in the northern and northeastern regions of Brazil.

Technical visas — technical assistance and transfer of technology

In addition to the work situations discussed previously, a foreign national entering Brazil to provide technical assistance or assist in the transfer of technology must remain on the foreign parent company's payroll.

In these instances, the residency is valid for up to one year. There must be a technical assistance agreement (a covenant or a cooperation agreement is also accepted) executed between the Brazilian company (which will receive the services) and the foreign company (which will provide the services and consequently send the foreign national to Brazil). Furthermore, the applicant must provide evidence of at least three years of relevant professional experience.

Technical visas — short-term technical assistance

If the foreign national providing the technical assistance does not need to stay in Brazil for a period exceeding 180 days, a short-term technical assistance temporary visa can be granted. This does not

entail all the requirements needed to obtain standard technical assistance temporary residency, but the foreign national must prove that they are fulfilling an urgent need (e.g., broken machinery that is impacting the company's production). The application process for this work permit is usually faster than the application process for other work permits. It must be analyzed by the Secretariat of Labor; however, its processing time should not exceed five business days.

This type of visa can only be obtained by prior residence — it cannot be converted inside Brazil. Therefore, it should be applied for at the Secretariat of Labor and duly collected from the Brazilian consulate once approved.

Post-entry procedures: registration at the Federal Police

Once the foreign national arrives in Brazil or receives the approval of authorization for residence, they must apply for an identity card or an RNM card. Applications must be submitted to the local federal police department in the area of residence. Registration must occur within 30 days of when the foreign national starts living in Brazil or within 90 days of arrival in the country in case of prior residence after the foreign national receives their visa from the consulate.

Post-entry procedures: individual taxpayer registry

This document is required for the Federal Revenue in Brazil and is mandatory for those pay taxes in Brazil.

Post-entry procedures: When does a foreign national become a tax resident?

Foreign nationals on visitor visas or technical visas become tax residents after spending 183 days in the country.

Foreign nationals hired through an employment agreement or officer visas become tax residents the moment they arrive in Brazil and get a visa stamp. The same rule applies to visitors pursuing the authorization for residence method.

Post-entry procedures: Labor Booklet

The Labor Booklet is mandatory for foreign nationals who will be hired locally (i.e., included in the company's payroll).

As of September 2019, the Labor Booklet is processed and issued electronically, and all work information is provided by the company through the e-Social system.

Entry based on international agreements: citizens of Argentina, Paraguay, Uruguay, Chile, Bolivia, Peru and Colombia

Brazil has signed the Residence based on the Mercosur Agreement (Acordo de Residência Mercosur) with the Mercosur countries (Argentina, Paraguay and Uruguay) and Chile, Bolivia, Peru, Ecuador and Colombia (which were later included in the Residence based on the Mercosur Agreement for immigration purposes). Citizens from those countries do not require a work permit to live and work in Brazil.

Anyone who holds a passport from one of the aforementioned countries and chooses to move to (or, if applicable, remain in) Brazil — whether for the purpose of work — may apply for residency at either the federal police (if the individual is in Brazil) or the closest Brazilian consulate (if the individual decides to apply from their home country). One must submit proof of nationality and have a clean criminal record to obtain residency.

Canada

Introduction

Canada's immigration programs facilitate both the temporary and permanent movement of workers with a policy emphasis on transitioning temporary foreign workers to permanent resident status. A growing area of movement into Canada and a key focus of the federal government are the Temporary Foreign Worker Program (TFWP) and the International Mobility Program (IMP). The government has created numerous opportunities for these workers to remain permanently in Canada. In addition, over the last decade, the provincial and territorial governments have rapidly strengthened their own immigration selection programs, many of them focusing on highly skilled workers and international student recruitment. No relocation strategy is complete without a review of all federal, provincial and/or territorial programs.

Key government agencies

Immigration, Refugees and Citizenship Canada (IRCC) is the primary federal department in charge of overseeing Canada's immigration programs. It is made up of several offices within Canada and various overseas visa offices dispersed around the globe. Employment and Social Development Canada (ESDC) is the federal department responsible for Canada's social programs and the labor market. ESDC plays an important role in the enforcement of employer compliance regulations and the administration of the TFWP. The Canada Border Services Agency is the federal department responsible for border and immigration enforcement and customs services.

Canada's provinces and territories also have jurisdiction when it comes to developing and administering some of Canada's permanent residence streams. These are commonly referred to as provincial nominee programs (PNPs) and are designed to address each region's unique economic migration needs. PNPs typically provide pathways to Canadian permanent residency for economic immigrants, international students or foreign nationals with family already in Canada. Once a foreign national has been nominated by a province, they must still submit an application to the federal government to become a Canadian permanent resident. Some nominees may also be eligible to obtain a work permit to facilitate employment in Canada until the federal-stage application is approved.

Current trends

IRCC released details on the government of Canada's Immigration Levels Plan for 2024-2026. Canada aims to welcome 485,000 new permanent residents in 2024; 500,000 in 2025; and 500,000 in 2026. The impact of these targets is already reflected in IRCC's recent actions and initiatives, including the following:

- Significantly increasing how many applicants are being selected to apply for permanent residence under various categories, with a focus on applicants who are currently in Canada

- Creating new pathways for permanent residence to individuals who work in essential occupations and to recent graduates from Canadian post-secondary institutions who will begin working in essential occupations
- Transitioning application processes that were previously prepared and submitted by paper to new online systems, which will help facilitate the application process and speed up processing times

Business travel

Business travel to Canada has become increasingly difficult in recent years, with greater enforcement of work authorization by border officials and the introduction of new entry requirements for visa-exempt foreign nationals. Now more than ever, it is important for business travelers to plan in advance to make sure they are traveling to Canada with the appropriate visa authorizations and supporting documentation. If a business traveler arrives in Canada without the appropriate paperwork, the border official may deny entry and send the traveler back to the origin country, resulting in major headaches for both travelers and businesses, and potential restrictions on future travel. Further, with changes to the employer-sponsored work permit application process, it is no longer possible for a border official to process an employer-sponsored work permit at the border unless the employer has already submitted an online form and fee in support of the work permit application. As such, advanced planning and preparation are now critical components of business travel when a work permit is required to authorize activities in Canada.

Foreign nationals that enter Canada to engage in business activities may be eligible to enter as a business visitor, meaning that a work permit is not required to authorize business activities in Canada. However, entering as a business visitor has become significantly more difficult in recent years, and travelers are now subject to more scrutiny by Canadian border officials, regardless of the duration of their visit to Canada. The most important factor when determining whether an individual can enter as a business visitor is the activities that the individual will be performing while in Canada. In other words, an individual may require a work permit even if entering Canada for less than a day. If a business is sending one of its employees to Canada as a business visitor, it should ensure the traveler carries the appropriate documentation to demonstrate the nature of their activities in Canada. This may be in the form of an invitation letter from the Canadian business or an employer support letter from the foreign employer.

Generally, a business visitor's remuneration and principal place of employment, as well as the employer's principal place of business and accrual of profits, must remain outside Canada. There cannot be an intention to enter the Canadian labor market (i.e., no gainful employment in Canada), and the business visitor's activities must be international in scope. Most often, business visitor activities fall within the areas of research, design, growth, manufacturing, production, marketing, sales, distribution, and both general and after-sales services. Attending business or board meetings, conventions or conferences and negotiating contracts are common reasons for business entry. Border officials have enormous discretion when evaluating whether an individual qualifies for entry as a business visitor, so it is important for the traveler to carry supporting documentation to justify the purpose of their trip to Canada.

Once in Canada, business visitors may be able to submit an inland application to extend their stay in Canada as a business visitor, but cannot apply to change the conditions of their stay to foreign worker status. Generally, business visitors are permitted to enter Canada for up to six months at a time. However, the authorized length of stay may be more or less depending on the nature of the activities and the supporting documentation.

When the Global Skills Strategy (GSS) was introduced in the summer of 2017, another option for business travel became available in certain circumstances. Some individuals who are entering

Canada to perform highly skilled, hands-on work for a very short period of time may be eligible for one of the work permit exemption categories under the GSS. Qualifying individuals must be working in a highly skilled position, and they must be seeking to enter Canada to work for a maximum of either 15 consecutive days within a six-month period, or 30 consecutive days within a 12-month period. Some eligible researchers may also qualify for a work permit exemption that would enable them to enter Canada for a period of 120 consecutive days within a 12-month period, depending on where their research is performed.

An individual that applies to enter Canada under one of the above GSS short-term work permit exemptions must obtain a visitor record for the short period of time they are needed in Canada. These visitor records cannot be extended, so if the individual needs more time to complete their work in Canada, they either need to apply for a work permit or wait until the applicable six- or 12-month period has passed before they can reenter Canada under this work permit exemption category.

Visa-exempt nationals

In Canada, a visa is an entry document called a temporary resident visa (TRV), which facilitates a traveler's entry into Canada. This is different from a status document, like a work permit or study permit. Not all travelers require a TRV to travel to Canada; some are visa-exempt and are not required to apply for a TRV before traveling to Canada. Visa-exempt travelers, with the exception of American passport holders, are still required to apply for an electronic travel authorization (eTA) before traveling to Canada. An eTA can be applied for online and is usually processed within minutes, and it will be electronically linked to the traveler's passport. US Green Card holders are also considered to be visa-exempt, but unlike American passport holders, they must have an eTA to enter Canada.

Foreign nationals traveling with a passport from one of the countries below are visa-exempt:

Andorra	Australia	Austria	Bahamas	Barbados
Belgium	Brunei Darussalam	Bulgaria	Chile	Croatia
Cyprus	Czech Republic	Denmark	Estonia	Finland
France	Germany	Greece	Hong Kong SAR	Hungary
Iceland	Ireland	Israel	Italy	Japan
Korea	Latvia	Liechtenstein	Lithuania	Luxembourg
Malta	Mexico	Monaco	Netherlands	New Zealand
Norway	Papua New Guinea	Poland	Portugal	Romania
Samoa	San Marino	Singapore	Slovakia	Slovenia
Solomon Islands	Spain	Sweden	Switzerland	Taiwan
United Arab Emirates	United Kingdom (including citizens of British overseas territories)	United States (including US Green Card holders)	Vatican City State	Brazil*

Antigua and Barbuda*	Argentina*	Costa Rica*	Morocco*	Panama*
St. Kitts and Nevis*	St. Lucia*	St. Vincent and the Grenadines*	Seychelles*	Thailand*
Trinidad and Tobago*	Uruguay*			

*Citizens of these countries are eligible for an eTA if they've held a valid TRV within the past 10 months or if they currently hold a valid US nonimmigrant visa

All other foreign nationals must have a TRV inside their passport before they can travel to Canada as a temporary resident (including visitors, foreign workers and international students). Visa-requiring nationals must apply for a TRV through an overseas visa office before traveling to Canada. Upon approval, the visa office will insert the TRV into the traveler's passport.

Employment assignments

In most cases, employers should consider work permits for international assignments. The general rule is that any foreign national doing "work" must obtain a work permit, unless there is an available exemption (i.e., business visitors). There are two types of work permits applicable to international assignments: work permits based on a Labour Market Impact Assessment (LMIA) and LMIA-exempt work permits.

Work permits are divided into two programs: the TFWP and the IMP. The TFWP usually requires an employer to conduct extensive recruitment activities to try to identify a qualified, willing and able Canadian in the labor market for the position in Canada. If the employer is unable to identify a Canadian after the recruitment and screening activities, it can submit an application for an LMIA. Overall, the processing time for LMIAs and LMIA-based work permits is longer than the IMP process. As such, if a prospective candidate is eligible to apply for an LMIA-exempt work permit under the IMP, this is generally the route that Canadian employers would prefer for hiring foreign talent in Canada.

LMIA-based work permits

The LMIA-based work permits fall under the TFWP. The regular LMIA-based work permit process is unpredictable and costly, so it should be used as a last resort. The TFWP also includes an expedited LMIA program called the Global Talent Stream (GTS). GTS LMIA applications do not require the employer to advertise and conduct recruitment activities before applying for the LMIA. There are currently two GTS streams available (Category A and Category B). GTS LMIA applications are processed in approximately two weeks.

Category A is designed for high-growth companies that are looking to hire unique and specialized talent and that have been referred to the GTS program by a designated referral partner organization. Category B targets employers seeking to hire highly skilled foreign workers in specific occupations found on the global talent occupations list. The predetermined list reflects in-demand occupations and may be updated from time to time.

Employers applying for a GTS LMIA must develop a Labour Market Benefits Plan (LMBP) as part of the application process. This LMBP is a summary of activities that the employer has agreed to complete in exchange for, or as a result of, hiring foreign workers. Each year, the government will review the LMBP commitments to measure and track the employer's progress.

LMIA-exempt work permits

The IMP includes a variety of LMIA-exempt work permit categories, including many employer-sponsored work permit strategies. The most commonly used categories are outlined below.

Intracompany transfers

Multinational companies seeking to assign foreign nationals to Canadian positions often use one of the intracompany transfer work permit categories. Many of Canada's international agreements include intracompany transfer work permit provisions with slight variations with respect to eligibility requirements and work permit durations.

Generally, an initial work permit can be valid for up to three years and can be extended at least once.

Executive and managerial-level staff must supervise other managers or professional employees, although managing crucial company functions or processes may also qualify under some international agreements. Employment in a specialized knowledge capacity requires proof that the employee holds advanced knowledge of the organization's proprietary products, services, research, equipment and techniques. Some international agreements also require applicants with specialized knowledge to have advanced and unique industry-specific knowledge related to the position, at a level that is not ordinarily held by others within the industry. Under the General Agreement on Trade-in Services (GATS), a prevailing wage requirement for intracompany transferees in the specialized knowledge category is introduced. Under some other international agreements, such as the Canada-United States-Mexico Agreement (CUSMA) and the Canada-European Comprehensive Economic and Trade Agreement (CETA), intracompany transferees are not required to meet any wage requirement.

At the time of the work permit application, the employee must be employed with the foreign entity in a position similar to the proposed role in Canada, and must have at least one year of full-time, continuous work experience in the position within the three years preceding the date of the application. The foreign and Canadian entities must have a qualifying relationship, such as a parent-subsidiary, branch or affiliate relationship.

Reciprocal employment

This category can be used for international exchanges or assignments, both in public and private sector contexts. There must be a bilateral flow of talent between the foreign and Canadian entities that is related to the policy behind this category, which fosters complementary opportunities for international work experience and cultural interchange.

Businesses that use this exemption category should have a global mobility policy in place that creates equivalent opportunities for Canadians abroad. For companies to benefit from this work permit category, they should be able to produce evidence of reciprocity.

Employer portal

Employers using the IMP are required to submit an offer of employment form and pay an employer compliance fee (CAD 230 per position) via an online government portal. The employer must submit the form and payment and provide proof of the same to the employee prior to the submission of the work permit application.

Entry based on international agreements

Many international agreements other than CUSMA, CETA and GATS allow international assignees of certain nationalities to obtain work permits without an LMIA, as long as they have arranged employment opportunities in Canada and meet program-specific eligibility criteria. These agreements include the following:

- Canada-Chile Free Trade Agreement
- Canada-Peru Free Trade Agreement
- Canada-Colombia Free Trade Agreement
- Canada-Korea Free Trade Agreement
- Canada-Panama Free Trade Agreement
- Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)
- Agreement on Trade Continuity between Canada and the United Kingdom of Great Britain and Northern Ireland (CUKTCA)

Three of the more commonly used agreements for international employment transfers are CUSMA, CETA and GATS, which allow certain professionals and skilled workers to come to work in Canada for periods of up to three years (90 days in the case of GATS), subject to extensions. Where applicable, CETA is increasingly being used for transferring senior personnel, and specialist workers coming to work in Canada.

CUSMA

CUSMA provides expanded mobility and foreign workers rights for citizens of the US and Mexico. There are provisions under CUSMA for business visitor entry and work permit categories for intracompany transferees, investors and traders.

CUSMA Professional is another work permit category included in the international agreement, which contains a list of over 60 occupations that have been identified as occupations for which there is a labor market demand in Canada. Citizens of the US and Mexico who have the requisite licenses, education requirements and/or work experience to qualify for these occupations, and have prearranged employment with a Canadian employer, may apply for a work permit based on their proposed occupation in Canada.

CUSMA Professional work permits can be issued for up to three years at a time and are usually eligible for extensions.

CETA

CETA provides entry to Canada for citizens of an EU member state. Within CETA, the two most commonly used categories are intra-corporate transfers for senior personnel and specialists, which mirror CUSMA's intracompany transfer executive/senior managerial and specialized knowledge work permit categories, respectively.

Employees applying under either the senior personnel or specialists category must have one year of continuous work experience within the past three years, be currently employed by an enterprise of an EU member state and be temporarily transferred to a related enterprise (subsidiary, affiliate or branch) in Canada.

CETA also facilitates entry for business visitors and foreign workers under the independent professionals, investors and contractual service suppliers categories.

CPTPP

Since 30 December 2018, when the CPTPP was implemented, additional avenues for Canadian immigration were offered to individuals from 10 countries in the Asia Pacific region, including Australia, Brunei, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam. The

CPTPP facilitates temporary entry for business visitors, investors, intra-corporate transferees, professionals and technicians.

Certain countries have access to more application categories within the CPTPP than others. Australia and Mexico are the only countries that have access to all of the available categories at the time of this publication.

Biometrics

Biometrics are required for almost all non-Canadian citizens, including those applying for a visitor visa, work or study permit or permanent residency. Exceptions to this requirement include visa-exempt nationals visiting Canada for a short time, individuals under the age of 14 or over the age of 79 and US nationals applying for temporary residency in Canada. Biometrics can be provided as part of an application submitted at a visa office or upon arrival in Canada at a port of entry (for visa-exempt nationals). For those applying for an extension of their current temporary status or for permanent residency from within Canada, biometrics must also be obtained in Canada if IRCC sends a request letter for the same. Biometrics remain valid for 10 years, but may need to be completed again as part of a permanent residency application.

Training

Training as a business visitor vs. training requiring a work permit

There is a fine line between when a foreign national can simply enter as a business visitor and when a work permit is required. Employers must carefully consider the parameters of the training activities in Canada to determine if a work permit is required to authorize the activities in Canada. If an officer determines that a work permit is required for the training activities, this could delay business requirements and training plans.

Short-term trainees, particularly employees of a related corporation abroad, may be permitted to enter Canada as business visitors under the business provisions as long as the trainees continue to be paid abroad and provided their duties are strictly limited to training activities while in Canada.

Employees coming to Canada to provide training can enter as business visitors in certain circumstances (e.g., when training is contemplated in the after-sales service provisions of a contract or service agreement). For instance, a foreign national entering Canada to train Canadians on machinery or software does not trigger the requirement for a work permit as long as the original contract clearly sets out the training requirement. Employees should have a copy of the service agreement with them at the time of entry, as well as an invitation letter and other supporting documents.

Work permits must be obtained for commercial trainers or commercial speakers hired by Canadian companies to provide training services for their employees (unless the training falls under the after-sales service provisions of a contract). US and Mexican nationals may benefit from the CUSMA provisions, which facilitate the process for professionals who need to obtain work permits for prearranged training sessions for subject matters within the trainer's profession.

Other comments

GSS — two-week processing

Under the GSS, employers looking to hire highly skilled workers may quickly benefit from faster application processing times. Foreign nationals applying from outside Canada for a work permit to perform work in a TEER category 0 (management) or TEER category 1 (professional) occupation may be eligible for two-week priority processing after their complete application package has been

submitted and their biometrics are completed. The TEER categorization represents the skill level structure based on the degree of training, education, experience and responsibilities required for an occupation.

Employer compliance and enforcement

The federal government implemented a more stringent employer compliance regime, which directly affects employers sponsoring foreign workers under the TFWP and IMP. The immigration compliance and enforcement regulations now include routine immigration inspections and administrative monetary penalties for findings of noncompliance. Employers may be selected for inspection from the date when a work permit is issued to six years after that.

An employer is compliant if it can demonstrate that it adhered to the work permit conditions described in the work permit application or if it can justify any failure to do so under the enumerated grounds. An employer is noncompliant if it is unable to justify any violations of the work permit conditions.

The government is committed to inspecting one out of four employers each year. Inspections can be randomly initiated, triggered by a whistleblower or other sources, or based on a previous finding of noncompliance. Inspectors have wide investigatory powers, including on-site visits and interviews with foreign workers or other employees (with consent).

When noncompliance is found following an inspection, employers now face a range of consequences, depending on the frequency and severity of the violation. Penalties include the following:

- Warning letters
- Fines from CAD 500 to CAD 100,000 per violation (up to a maximum of CAD 1 million per year, per employer)
- Temporary or permanent bans from accessing immigration programs
- Revocation or suspension of work permits
- Online publication of the business' name, violation and penalty

Voluntary disclosures of noncompliance may serve to mitigate these consequences, but this strategy should be discussed with counsel prior to submission.

To avoid being found noncompliant, employers should designate an internal immigration compliance officer and conduct regular internal reviews of the foreign worker population. Employers should also implement a review process before any changes to the terms and conditions of a foreign worker's employment take effect to ensure that the change is consistent with the work authorization. Some changes may require a new work permit before they can take effect.

Status for accompanying family members

Spouses and accompanying dependent children are eligible for open work permits, and dependent children are eligible for visitor records or study permits for most international transfers. For spouses and children to qualify for dependent status, the transferee has to be entering Canada for a highly skilled occupation that falls under TEER category 0, 1, 2 or 3 of Canada's National Occupational Classification system, with a work permit valid for more than six months. The transferee also has to physically reside in Canada while working.

Open spousal work permits and open work permits for eligible dependent children are generally issued for the same duration as the foreign worker's work authorization and, in most cases, allow the spouse or child to work with any employer, in any occupation, anywhere in Canada.

Dependent children that are accompanying parents to Canada are eligible to attend primary and secondary school with either a study permit or a visitor record. To attend post-secondary school, dependent children must apply for a study permit after being accepted to a study program in Canada. The age of dependency includes children who are under 22 years old.

China

Introduction

Being the world's second-largest economy, Mainland China remains the No. 1 destination for multinational companies seeking investment opportunities in the Chinese market. Like many other countries in the world, its immigration policy strives to achieve the delicate balance of maintaining border sovereignty and an adequate employment rate for local residents, while also facilitating trade and commerce.

To encourage economic growth and firmly establish its role in the global economy, Mainland China has comprehensive laws and regulations governing foreign nationals coming to do business in the country and has been developing new laws and regulations for foreign nationals working in the country (see "Current trends" below). While the laws are generally national in scope, practices and procedures are often dictated by local government offices, giving rise to significant variation within the country.

The Special Administrative Regions (e.g., Hong Kong SAR and Macau SAR) have their own immigration systems. Hong Kong SAR and Taiwan are discussed in separate chapters.

Key government agencies

The Ministry of Foreign Affairs operates China diplomatic missions, consular posts and other agencies abroad, which are responsible for processing visa applications.

The Ministry of Human Resources and Social Security and the Ministry of Science and Technology (formally known as the State Administration of Foreign Expert Affairs) and their respective local counterparts are jointly responsible for the issuance of work permits and the overall administration of the employment of foreign nationals.

The Ministry of Culture and its local counterparts are responsible for certain approvals of foreign nationals who engage in commercial performances in China, while China National Offshore Oil Corporation is responsible for approving foreign nationals who engage in offshore petroleum operations in China.

The exit and entry administration divisions of the local public security bureaus (PSBs) — which are under the National Immigration Administration — are responsible for processing extension and change of visa applications and foreign nationals' residence permit applications domestically. The National Immigration Administration and local PSBs are also responsible for enforcing applicable laws and regulations and enforcing penalties for noncompliance.

Current trends

The implementation of a new work permit system has become stabilized over the years. The Chinese government continues to optimize the system to facilitate the work permit application process toward standardized processes and requirements on a national level to curb illegal employment while attracting highly skilled individuals to support the Chinese economy. Meanwhile, it still allows flexibility in the implementation at a local level, depending on the local economy and demand for different talent or technical personnel. Different local measures have been implemented to facilitate and simplify the work permit process for qualified foreign nationals and companies. Depending on the local practice (such as in Shanghai), the scope of high-technology talents or highly skilled personnel has been widened. More qualified foreign nationals can enjoy relaxed requirements on age, educational background, work experience and exemptions in providing certain documentation during the work permit process.

Local PSBs in some cities (such as Beijing and Shanghai) have also continued to adopt exit-entry-related policies that attract foreign talent to live and do business in China, reflecting the country's emphasis on innovation. For example, if a foreign national is certified by the relevant local authorities in charge of foreign talent to be a "foreign high-level talent," they can obtain a long-term residence permit and enjoy a fast-track route to applying for a China permanent residence permit.

While there have occasionally been more preferential measures implemented to facilitate the work permit and residence permit application for high-level talents and highly skilled personnel, post-application supervision has been strengthened to ensure an ordered and effective management mechanism for foreign nationals working in China. Immigration audits have been carried out more frequently to discover and penalize misconduct or dishonesty by the foreign national and the company during the immigration process.

Business travel

Visa waiver

In December 2023, China launched a unilateral visa-free policy for passport holders from France, Germany, Italy, the Netherlands, Spain and Malaysia for business, leisure and transit purposes on a trial basis, effective from 1 December 2023 to 30 November 2024. Ordinary passport holders from those six countries who travel to China for business or tourism purposes or to visit friends or relatives, or who pass through China in transit, during the trial period will be granted visa-free entry for up to 15 days.

Effective from 9 February 2024, nationals of Singapore may enter and stay in China for up to 30 days without applying for a visa for the purpose of tourism, business, or visiting relatives or friends. The same policy applies to nationals of Thailand effective from 1 March 2024.

Currently, nationals of Brunei may enter and stay in China for up to 15 days without applying for a visa for the purpose of tourism, business, visiting relatives or friends, or transit. China's policy of granting unilateral 15-day visa-free entry to nationals of Japan was suspended on 29 March 2020 as part of the country's COVID-19 restrictions and has not been resumed as of February 2024. Therefore, nationals of Japan will need to apply for a Chinese visa or, if they meet the particular conditions, carry out the visa-free transit procedures under the 72-hour/144-hour visa-free transit policy below.

72-hour/144-hour visa-free transit

As of November 2023, 23 cities and 31 international entry points into China (including Beijing, Chengdu, Chongqing, Guangzhou, Shanghai, Tianjin and Xiamen) have adopted a visa-free policy for passport holders of 54 countries to transit for up to 72 hours (three days) or 144 hours (six days).

144-hour visa-free transit

Beijing, Tianjin and Hebei areas: Eligible foreign nationals should arrive or depart through designated entry points in one of the following:

- Beijing (Beijing Capital International Airport, Beijing Daxing International Airport, Beijing West Railway Station)
- Tianjin (Tianjin Binhai International Airport), Tianjin (Tianjin International Cruise Home Port)
- Shijiazhuang (Shijiazhuang Zhengding International Airport)
- Qinhuangdao (Qinhuangdao Harbor)

Jiangsu, Zhejiang and Shanghai areas: Eligible foreign nationals should arrive or depart through international entry points to the following:

- Shanghai and air entry points to the following:
    - Nanjing
    - Hangzhou
    - Ningbo

Guangdong areas: Eligible foreign nationals should arrive or depart through the international airports in the following:

- Guangzhou
- Shenzhen
- Jieyang

Liaoning province area: Eligible foreign nationals should arrive or depart through the international airports in the following:

- Shenyang
- Dalian

Alternatively, foreigners eligible for the visa-free transit policy can travel within the above transit areas freely.

Eligible foreign nationals can also travel within the following cities based on the 144-hour visa-free transit policy:

- Chengdu
- Chongqing
- Kunming
- Qingdao
- Wuhan
- Xi'an
- Xiamen

The following cities provide a 72-hour visa-free transit policy to eligible foreign nationals:

- Changsha
- Guilin
- Harbin

Importantly, the transit requirement obliges the foreign national to depart China for a third country. They cannot depart from and return to the same country. Further, the foreign national cannot travel to another administrative area within China during the transit period.

Business visa

Foreign nationals who travel to China for commercial and trade activities should apply for an M business visa. Visa applications are submitted to China consular posts, many of which require an invitation letter issued by the relevant business partner or "inviting company" in China. The most common types of M visas are as follows:

Type (or number) of entry	Visa validity	Duration of stay per visit
Single	30 or 90 days	30, 60 or 90 days
Double	90 days	30 days
Multiple	180 or 365 days	30 days

Note: Currently, US and Canadian citizens may be granted multiple-entry M visas that are valid for 10 years based on the countries' reciprocal visa validity agreement with China. British citizens may be granted multiple-entry M visas that are valid for two years, five years and 10 years, respectively. Since 1 February 2018, former Chinese nationals may be granted multiple-entry M visas that are valid for five years.

Employment assignments

Post-entry procedures

A Z work visa is single-entry and allows a foreign national to enter China within 90 days after their visa is issued and stay for up to 30 days to complete the post-arrival applications. The accompanying dependents should enter China with an S1 visa, which is also single-entry.

Within 15 days of arrival on a Z visa, the foreign national holding a work permit notice or a Representative Certificate must apply for a work permit from the relevant local authorities.

Within 30 days of arrival on a Z visa and upon issuance of the work permit, the foreign national and accompanying family members must apply for residence permits with the PSB. Residence permits function as multiple-entry visas, replacing the single-entry Z/S1 visas.

Work permits and residence permits are employer- and location-specific. Typically, a foreign national can only work for the entity shown on their work permit and should reside where the permits were issued. If there are any changes in the registration items shown in the work permit or residence permit, amendments must be promptly filed with the relevant authorities. If a foreign national no longer works for the employer, the work permit must be de-registered with the relevant authority, while the residence permit should be canceled with the PSB within 10 days after the employment end date.

Short-term assignments (less than 90 days per calendar year)

If foreign nationals will be seconded by their overseas employer to work with its subsidiary in China for no more than 90 days per calendar year, and their employment and compensation is maintained by their overseas employer, the foreign nationals could be exempted from obtaining a work permit. Instead, foreign nationals can apply for an M business visa and enter China with the M visa to accomplish the short-term assignment.

Foreigner's work permit notice

Foreign nationals who would like to work in China must meet the following conditions:

- Be 18 years of age or older and in good health
- Have professional skills and job experience required for the intended employment
- Have no criminal record
- Have a clearly defined employer
- Have a valid passport or other international travel document in lieu of a passport

Pursuant to the current system, the authorities have introduced a comprehensive foreign talent assessment system that divides applicants into three categories based on academic background, professional qualifications and the nature of the assignment/employment in China. The assessment includes various lists of achievement criteria and a score-based system. Applicants may apply for work permit notices based on either the achievement criteria or the score-based system. In principle, a foreign national will be eligible to obtain work authorization in China if they meet the above conditions and have a bachelor's degree and two years of relevant postgraduate work experience.

The three categories include the following:

- Type A — Foreign High-Level Talent
- Type B — Foreign Professional Talent
- Type C — Foreign nationals who engage in temporary, seasonal, nontechnical or service-oriented work that also meet the needs of local labor markets

In general, Type A applicants are encouraged, Type B applicants are controlled and Type C applicants are limited. If an applicant is classified as Type A, they may skip the work permit notice application, enter China with a valid visa of any kind and then apply for a work permit directly. They will also be exempt from the age and work experience restrictions.

The applicant is also required to undergo a medical examination. If the examination is completed at an approved hospital overseas, the medical report can be forwarded to the relevant health center in China for verification. However, health centers in China will sometimes not verify overseas medical reports and will require the applicant to complete a new medical examination in China. Accompanying dependents of 18 years and over must also complete medical examinations.

A foreign enterprise's resident representative office does not need to apply for a work permit notice when appointing a foreign national as its chief representative or representative in China. The representative office must, however, seek authorization from the appropriate "approval authority" and register this approval, generally with the Local Administration for Market Regulation (previously known as Administration for Industry and Commerce). Upon registration, a Representative Certificate will be issued to the chief representative and each of the other representatives. Under the governing

regulations, representative offices may only register up to four representatives, effectively capping the number of foreign representatives.

If the foreign national is accompanied by family members (e.g., spouse, parents or children under 18), the family members should apply for an S1 visa to enter China. For an S1 visa application, kinship certificates legalized by the relevant China consular office must be provided.

Effective from 7 November 2023, China officially joined the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, commonly referred to as the "Convention." Consequently, the time-consuming consular legalization will no longer be required for foreign public documents of a contracting state of the Convention to be used in China, and vice versa. Rather, the foreign public documents (such as the foreign national's degree certificate or the family members' certificates, etc., that are required for the foreign national's and the family members' immigration) will only need to be apostilled by the authorities designated by the respective document's state of origin. This would significantly shorten the processing time for a foreign national's work permit notice application and the family members' visa process.

Z work visa

Upon receiving the work permit notice or Representative Certificate, the foreign national may apply for a Z work visa from the appropriate China consular post (usually in the foreign national's home country).

In certain cities, such as Beijing, Shanghai and Shenzhen, a simplified procedure has been introduced as part of a series of policies that encourage foreign talent to seek employment in China. If a foreign national is already in China on an M business visa when their work permit notice is approved, they may apply for a residence permit directly and then a work permit without the need to obtain a Z visa offshore. Whether a foreign national is eligible for the simplified procedure will also be at the local PSB's discretion.

Long-term assignments/local employment

In general, foreign nationals who would like to work in China either under a local employment contract or under an international assignment for more than 90 days must apply for a work permit and a work-type residence permit, regardless of whether they are intracompany transfers or skilled workers. For work permit applications, the local authorities have tightened local requirements on recognizing international assignments for work permit purposes. Some localities, such as Beijing and Shanghai, have implemented a new practice where an international assignment can only be recognized for work permit purposes if the overseas home company (actual employer) is a direct shareholder of the host company in China (local sponsor), which also holds at least a 50% share in the host company. International assignments between affiliated companies within the multinational company are no longer accepted. Employers are advised to seek guidance from local counsel for up-to-date advice based on individual circumstances before determining an international assignment structure.

Under the standard work permit process, foreign nationals need to enter China on a Z visa. To apply for a Z visa, a foreign national must obtain one of the below-listed documents (the application for these documents must be sponsored by China host entity (typically, the employer)):

- Foreigner's work permit notice
- Representative Certificate, confirming that the foreign national is a registered representative under the representative office of a foreign company
- Approval document for taking up commercial performance in China, issued by the local authority responsible for cultural affairs

- Letter of invitation to foreigners for offshore petroleum operations in China, issued by China National Offshore Oil Corporation

Training

There is no specific visa designed exclusively for training. Depending on the circumstances, another visa category may be appropriate. It is recommended to seek guidance based on individual circumstances.

Other comments

Temporary residence registration

Foreign nationals and Hong Kong SAR, Macau SAR and Taiwan (HMT) residents are required to complete temporary residence registration at the local police station in the district where they reside within 24 hours after they arrive in Mainland China. For most hotel residents, this registration process is carried out by the relevant hotel upon check-in. If they move to a new residence or obtain new visas during their stay in Mainland China, they are required to reregister with the local police station or reregister via an online platform (which is available in certain locations, e.g., Beijing, Shanghai, etc.). In some jurisdictions, the local police station may require the foreign nationals to complete the residence registration within 24 hours every time they return to Mainland China from any international trips.

HMT residents

HMT residents (i.e., HMT passport holders with relevant mainland travel permits) who would like to travel to Mainland China do not need to apply for a visa. Instead, they may use their mainland travel permit for Hong Kong SAR and Macau SAR residents or their mainland travel permit for Taiwan residents to enter Mainland China. Since August 2018, HMT residents have no longer needed to obtain employment permits to work in Mainland China. HMT residents who reside in Mainland China for more than six months may opt to apply for mainland residence permits, provided that they meet any of the following criteria:

- Have a stable job in Mainland China
- Hold a legitimate and stable residence in Mainland China
- Attend a school in Mainland China

Local police stations administer mainland residence permit applications, so documentation requirements may vary by location. With mainland residence permits, HMT residents can enjoy the same rights as Mainland Chinese residents in accessing 18 public services, including participating in local social insurance, accessing the housing provident fund and benefitting from other services according to the local law where they reside.

Colombia

Introduction

Colombian immigration legislation provides different solutions to help employers of foreign nationals and assist foreign nationals entering the country for work and business purposes.

Foreign nationals who enter the country for work or business purposes may not enter the country without the proper visa or legal permit that allows them to perform the activities for which they entered Colombia (e.g., as employees or legal representatives). Failure to comply will lead the immigration authorities to fine the company and the local sponsoring entity, and even deport the foreign national.

Colombian visas can be issued either abroad at a Colombian Consulate or with the Ministry of Foreign Affairs in Bogotá.

Key government agencies

The Ministry of Foreign Affairs in Bogotá and the Colombian consulates abroad are responsible for visa processing.

The Special Administrative Unit of Migration Colombia (Migración Colombia (UAEMC)) is in charge of issuing temporary permits, safe-conducts and foreign IDs; registering visas; and performing investigations and enforcement actions involving local employers, sponsoring entities and foreign nationals.

If the foreign national plans to engage in activities involving regulated professions (e.g., engineering, medicine, law) in Colombia, they should request a temporary license or validate their undergraduate degree. Whether a foreign national engages in activities that involve professional experience is subject to the determination of the professional councils.

Current trends

Colombian consulates and the Ministry of Foreign Affairs exercise a great deal of discretion and may ask for additional documentation or requirements when issuing visas.

As of 2024, there are three main types of visas in Colombia:

- Visitor visas (V visa), which are divided into 25 subcategories
- Complimentary visas (V visa), which are divided into six subcategories
- Migrant visas (M visa), which are divided into 14 subcategories
- Resident visas (R visa)

In October 2019, the UAEMC issued a new resolution replacing former entry and stay permit (PIP) classifications with the following:

- Tourism Permit (PT)
- Integration and Development Permit (PID)
- Permission to Carry out Other Activities (POA)

Business travel

V visa for business travel

As a general rule, foreign nationals who are not exempt from visa requirements for short visits and who visit the country on short-term visits without receiving any salary or compensation in Colombia may request a V visa for business travel. This category of visa applies to a foreign national who must carry out business negotiations, market studies, direct investment plans or procedures, incorporation of a commercial company, negotiation, execution of agreements, or commercial representation. This kind of visa is valid for a term of up to two years with multiple entries and authorizes a stay of up to 180 consecutive or nonconsecutive days in a 365-day term. As a general rule, a foreign national entering Colombia under a V visa cannot reside or receive a salary or compensation in Colombia and is not allowed to apply to be a beneficiary.

Foreign nationals that come to work on issues connected to any kind of free trade agreement involving Colombia may also enter by means of a V visa. Normal government fees are waived for nationals of South Korea, Japan, Spain, Ecuador and Peru.

V visa for temporary visits

The V visa may also be granted to foreign nationals who intend to enter Colombia to do the following:

- Perform activities as a journalist, reporter, cameraperson or photographer
- Perform commercial or business activities, such as meeting business contacts and attending business meetings or training
- Attend academic activities, such as seminars, conferences, presentations or any other unconventional studies
- Attend scientific, cultural or sports activities
- Participate in interviews within recruitment processes
- Work as digital nomad from Colombia

The V visa under this category may be granted for a term of up to two years with multiple entries. The term of stay in Colombia for a foreign national holding the V visa will depend on the activity to be performed in the country. The V visa can be requested in a personal capacity or with the support of an individual or legal entity domiciled in Colombia, depending on the type of subcategory requested. Foreign nationals interested in obtaining this type of visa may not live or establish their residences in Colombia. Depending on the activity to be performed in Colombia, foreign nationals holding this visa could eventually receive salaries or any kind of compensation for the activities performed in Colombia.

Visa waiver — PT

The V visa requirement may be waived for foreign citizens with nonrestricted nationalities. For these citizens of certain countries, the UAEMC can issue a PT, provided the foreign national has neither a

labor nor commercial relationship with the Colombian sponsor and will not receive any kind of remuneration in Colombia (compensation or salary). The PT allows foreign nationals with nonrestricted nationalities to enter Colombia and engage in one of the following activities, provided the foreign nationals do not have a labor relationship with any local entity: (i) rest activities (ii) medical treatment or (iii) participation in or attendance at cultural, scientific, sports, convention or business events. It will also be granted to foreign nationals who intend to enter the country by integrating tourist groups in maritime transit on cruise ships and arriving at seaports and who will reboard the same ship, whether they require a visa or not.

This permit can be valid for up to 90 calendar days within the same calendar year (i.e., between 1 January and 31 December). This permit can be extended before the initial 90 calendar days expire by requesting a PTP from the UAEMC, which grants up to 90 additional calendar days within the same calendar year.

The PT does not allow the foreign national to enter multiple times. As such, the foreign national must request a PT each time they enter the country by submitting the required documents to UAEMC officials at the airport.

Before conducting business-related activities, the PT must be sponsored by an entity domiciled in Colombia. The entity must extend an invitation letter to the foreign national.

Visa waiver benefits are available to citizens of Albania, Andorra, Antigua and Barbuda, Argentina, Australia, Austria, Azerbaijan, the Bahamas, Barbados, Belgium, Belize, Bhutan, Bolivia, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Bulgaria, Canada, Chile, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark, Dominica, the Dominican Republic, Ecuador, El Salvador, Estonia, the Federal State of Micronesia, Fiji, Finland, the Former Yugoslavian Republic of Macedonia, France, Georgia, Germany, Grenada, Greece, Guatemala, Guyana, the Holy See, Honduras, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Kazakhstan, Korea, Malta, Marshall Islands, Mexico, Moldova, Monaco, Montenegro, the Netherlands, New Zealand, Norway, Palau, Panama, Papua New Guinea, Paraguay, Peru, the Philippines, Poland, Portugal, Qatar, Romania, Russia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, San Marino, Saint Lucia, Solomon Islands, Samoa, Serbia, Singapore, Slovakia, Slovenia, Spain, Suriname, Sweden, Switzerland, Trinidad and Tobago, Türkiye, the United Arab Emirates, the United Kingdom, the United States, Uruguay and Venezuela.

Visitor visa requirements are waived for citizens of Hong Kong SAR, the Military Order of Malta, Taiwan, and Nicaragua (who can demonstrate that they are from the Autonomous Region of the North Caribbean Coast and the Autonomous Region of the South Caribbean Coast).

This visa waiver also applies to citizens of Cambodia, India, Mainland China, Myanmar, Thailand and Vietnam who either (i) hold a residence permit issued by a member state of the Schengen Area or the US or (ii) hold a Schengen visa or US visa with a validity of 180 days or more when entering Colombia.

Employment assignments

M visa — work visa

Under Colombian immigration laws, any foreign national that intends to work in the country must request an M visa or a visa under a different category that allows them to work (e.g., M visa for spouses of Colombian nationals, V visa for technical assistance, M visa — Mercosur, or R visa). The M visa for work is granted to foreign nationals who enter Colombia by virtue of a labor relation or a service agreement with an entity domiciled in Colombia.

These visas are issued for a maximum term of three years and allow multiple entries. They expire automatically if the foreign national is absent from the country for a period that exceeds six continuous months and can be renewed for a period of up to three years in accordance with the term of the labor contract and the evaluation of the submitted documents.

The M visa must be issued before the foreign national renders services locally or becomes part of a local payroll.

The foreign national's spouse or permanent companion, parents, and children under the age of 25 may obtain a temporary beneficiary visa provided that the foreign national holds an M visa. This allows them to enter Colombia to study or engage in home activities but does not entitle them to work.

A foreign national who holds an M visa is only allowed to perform the activity authorized by the visa and only for the company authorized by the visa. If there is any change of activity or position, the foreign national and the sponsoring company must inform the immigration authorities in writing of the change and, if necessary, request a change of visa.

V visas — technical visitor visa

The V visa for technical visitors can be granted to foreign nationals who intend to enter Colombia to perform specialized technical activities, with or without employment or independent services agreements with public or private entities.

This type of visa can be valid for up to two years and allows multiple entries. The stay in the national territory will be a maximum of 180 calendar days (non-extendable), continuous or discontinuous, in each 365 calendar days from the issuance of the visa.

The visa must be sponsored by a local entity in Colombia, which will be responsible for the foreign nationals during their stay in Colombia.

Visa waiver — POA

The normal technical visitor visa requirement may be waived, allowing citizens of certain countries to be issued a POA by the UAEMC in the following circumstances:

- The services required are provided on an urgent basis.
- The foreign national does not have a labor relationship with the Colombian sponsor.
- The foreign national will not receive any kind of remuneration in Colombia (compensation or salary).

The POA permit may be granted to foreign nationals with nonrestricted nationalities who enter Colombia to perform urgent technical services that cannot be provided by a Colombian citizen.

This permit may be granted for a term of up to 30 calendar days per calendar year and cannot be renewed in the same calendar year.

This type of permit is commonly granted to technicians or engineers who inspect, test or install equipment or perform any duties related to their technical expertise.

The local sponsoring company must request the POA from the UAEMCs regional director at least five business days before the foreign national enters Colombia. The issuance of this permit must be authorized by the UAEMCs regional director prior to the foreign national entering Colombia. The foreign national must provide a copy of the authorization letter to the immigration official at the airport.

Visa waiver benefits are available to citizens of the same countries listed for the PT mentioned above.

Post-entry procedures — obligations of registration, foreign ID and control

Any foreign national who obtains a visa that is valid for more than three months should appear at the UAEMCs offices to be registered in the immigration files. Further, if the foreign national is seven years or older, they should obtain a foreign identity card (cédula de extranjería). When the immigration authorities issue or renew any visa, the foreign national and their family must present themselves before the UAEMC within 15 calendar days of the day of entry or visa issuance (e.g., in the case of renewals) to register and obtain a foreign identity card.

Foreign nationals entitled to any type of visa valid for a term of less than three months can choose to go to the UAEMC to register their visa and obtain a foreign identity card. No sanctions will be imposed if the foreign national chooses not to go before the UAEMC.

Entry based on international agreements — M visa — Mercosur

Citizens from Argentina, Brazil, Bolivia, Peru, Paraguay, Uruguay and Ecuador may apply for a special visa called the Mercosur visa. This is a temporary residence permit that can be granted by the immigration authorities and is valid for up to two years. With a Mercosur visa, a foreign national can perform any of the following occupations or activities:

- Home activities (cleaning the home, grocery shopping, caring for one's children)
- Independent services
- Educational, business or work activities for any employer in Colombia

A foreign national that holds a Mercosur visa for at least two continuous years can apply for an R visa.

The Mercosur visa is recommended for companies that recently established their entities in Colombia to hire foreign nationals from the countries mentioned above.

Entry based on international agreements — M visa — Andean Migrant

Citizens from Bolivia, Peru and Ecuador may apply for a special visa called the Andean Migrant visa. This is a temporary residence permit that can be granted by the immigration authorities and is valid for up to two years. With an Andean Migrant visa, a foreign national can perform any lawful activity.

A foreign national that holds an Andean Migrant visa for at least two continuous years can apply for an R visa.

The Andean Migrant visa is recommended for companies that recently established their entities in Colombia to hire foreign nationals from the countries mentioned above.

Training

Foreign nationals who intend to enter Colombia for the purposes of participating in training programs should obtain a V visa.

The V visa requirement for trainings is waived for foreign citizens with nonrestrictive nationalities. For these foreign nationals, the UAEMC may issue a PID, provided that the foreign national has neither a labor nor commercial relationship with the Colombian sponsor and will not receive any kind of remuneration in Colombia (compensation or salary).

Please refer to the "V visa for temporary visits" and "Visa waiver — PT" sections.

Other comments

Visa application process

The Ministry of Foreign Affairs has broad discretional powers to approve the issuance or renewal of visas and, when denied, applicants do not have the opportunity to appeal the decision. It is important to minimize the risk of denial since a new petition may only be presented after a six-month wait if a visa request is denied.

The requirements to obtain visas change periodically and should be verified prior to submitting the application.

The visa process must be performed either online with the visas office in Bogotá or at the Colombian Consulate. If the foreign individual is abroad, it is mandatory to request a visa at the nearest consulate. The process takes between 30-60 days.

Noncompliance with immigration regulations can result in fines for the foreign national and the company and, in some cases, may result in the foreign national being deported or expelled from Colombia.

Obligation to report information to the Ministry of Labor

As of October 2018, all public sector entities and private companies that hire foreign nationals in Colombia (either as employees or contractors) must report this act to the Ministry of Labor through the Single Registry of Foreign Workers in Colombia (RUTEC) platform. RUTEC is an electronic platform that aims to quantify and identify employment-related immigration to Colombia.

Starting from the day that the foreign national is hired, they must be registered with RUTEC for a period of up to 120 days.

Employers and contracting entities should update the reports in RUTEC when any of these events occur:

- Termination of employment or services agreement
- Whenever there is a change in the economic activity to be performed
- When a foreign employee or contractor permanently changes their domicile

Employers and contracting entities have 30 days from the date of these events to update reports in RUTEC.

Reports in RUTEC are valid throughout the term of the employment or services agreement.

Employers and contracting entities must create reports every time a foreign employee or foreign contractor is hired, regardless of whether the individual was previously reported by other entities.

Obligation to report information to the UAEMC

Employers (entities, institutions or individuals) and companies admitting foreign visitors must inform the UAEMC of the hiring, termination of employment, or the engaging and termination of activities of any foreign nationals within 15 calendar days of such event.

These notices should be given to the UAEMC electronically via the SIRE (Information System for the Reporting of Foreign Nationals) platform. The SIRE registration aims to facilitate the reporting and registry obligations for companies that hire foreign citizens. To successfully register foreign citizens on the SIRE platform, companies must register on the electronic platform here.

Furthermore, foreign nationals must notify the UAEMC of any change of residence or domicile within 15 days of such event.

Czech Republic

Introduction

The Czech Republic provides several solutions to assist employers of foreign non-EU nationals. A different process is when foreign non-EU nationals are seconded to the Czech Republic and when foreign non-EU nationals are employed directly by a Czech entity. Requirements, processing time, employment eligibility and benefits for accompanying family members vary by visa classification and purpose of stay. The immigration process can be lengthy in some cases. As such, applications should be filed sufficiently well in advance.

If a foreign non-EU national is employed but does not have the required valid work permit, Blue Card, Employee Card or Intra-Company Transfer Card ("**ICT Card**"), both the employer and the foreign national are subject to administrative penalties.

Economic migration quotas apply to applications for Employee Cards and long-term visas for business purposes (this type of visa is applicable for third-party nationals who reside in the Czech Republic for the purpose of performance of office of a member of a statutory body of a Czech entity).

The quotas restrict the number of applications that can be filed (not approved) with respective embassies within one calendar year. The total number is distributed equally between calendar months. Once the set quotas are reached at a specific embassy for that month, no additional applications are accepted. The quotas apply only to embassies that are listed in the relevant government regulation.

Key government agencies

Applications for a Blue Card, Employee Card or ICT Card (which serve as both a residency and work permit) are generally filed with a Czech embassy abroad and processed by the Department for Asylum and Migration Policy of the Czech Ministry of the Interior. The relevant Czech labor office is responsible for the processing of a work permit required for non-EU nationals seconded to the Czech Republic. Czech embassies are responsible for approving or rejecting applications for short-term Schengen visas.

A potential employer must first notify the Czech labor office of a job vacancy before hiring a non-EU national to be employed directly by the Czech entity. Such a vacancy must be advertised to Czech nationals by the labor office for 30 days before the Czech entity is allowed to employ a non-EU national (the period may be shortened to 10 days if required by the situation within the Czech labor market). The minimum vacancy period does not apply to Blue Card employees (see below).

Current trends

As of 1 July 2023, the Amendment to the Act No. 326/1999 Coll., on the Residence of Foreign Nationals in the Territory of the Czech Republic and to the Act No. 435/2004 Coll., the Employment

Act, entered into force and brought several changes, among others, in the regulation of conditions for granting long-term visas and long-residency permits, and in the area of Blue Cards.

The applicant (older than 15 years) for a long-term visa, long-term residence and other types of residence permits has a new obligation to provide an extract from the criminal register issued by the state of which the foreigner is a citizen, to be filed with the application. This document may be replaced by an affidavit of good character (in particular in cases where the applicant is from a jurisdiction that does not issue criminal register extracts).

For the foreign national applying for a long-term visa, or an Employee Card, Blue Card or ICT Card, the minimum coverage of the travel health insurance has been increased to EUR 400,000 (previously EUR 60,000).

There is also a change in the application process for Blue Cards: it is no longer necessary for a job vacancy reported by an employer to the labor office to remain vacant for a minimum period of 30 days. Following the changes, the job vacancy only needs to be reported and the Blue Card application can then be immediately filled by the employee. The 30-day minimum period during which the job opening must be unoccupied remains in effect for Employee Cards.

Business travel

Uniform Schengen visa

Czech law currently adheres to the EU Visa Code for short-term visas, which specifies: the conditions for granting a short-term visa, the reasons for potential denial, conditions for extending the period of stay and the reasons to revocation its validity.

In accordance with the EU Visa Code, short-term visas are granted by the embassies or consulates of individual member states. The request for an extension of stay in the Czech Republic while on a short-term visa must be submitted by the foreign national to the Foreign Police.

The foreign national's total duration of stay within the territory of the member states under a uniform visa may not exceed 90 days within a 180-day period from the first date of entry into the member states.

Schengen visa: airport transit visa

Generally, a foreign national can stay in the international transit area of the Czech airport without a Czech visa while waiting for a connecting flight. However, some nationalities must have a valid airport transit visa, even if they do not leave the international transit area. The airport transit visa only authorizes the holder to transit through the airport's international transit area.

Short-term visa

A single-entry visa allows foreign nationals to enter, stay and leave only once. The visa may be used at any time in which it is valid. A multiple-entry visa allows foreign nationals to enter, stay and leave the country several times. The visa may be used at any time that the visa is valid until the permitted number of days of entry and stay is reached.

A short-term visa for a foreign national includes the following activities:

- Tourism
- Spa treatment
- Medical treatment

- Attending an invitation
- Studies
- Scientific purposes
- Business trips
- Meetings and conferences
- Cultural and sports purposes
- Short-term employment (a work permit required)
- Seasonal employment
- Training

Schengen visa: visa with limited territorial validity

A Schengen visa with limited territorial validity is only valid within the member state that issued the visa. Occasionally, it may be valid in several member states, provided that each of these member states agrees. This visa is granted mainly on humanitarian grounds, grounds of national interest or for the implementation of international commitments.

Long-term visa

A long-term visa is a visa for a stay exceeding a period of 90 days.

Permitted purposes under a long-term visa are as follows:

- Business
- Studies
- Seasonal employment
- Joining family
- Attending an invitation
- Cultural purposes
- Taking over of residence permit

Additionally, special work visas have been introduced in 2019, which can be issued in cases of extreme labor shortages in certain industries (e.g., agriculture).

Long-term visas cannot be issued for the purpose of employment because this type of visa has been replaced with Employee Cards, long-term visas for the purpose of seasonal employment and special work visas.

A long-term visa is valid for up to one year. However, visas for the purpose of seasonal employment and visas to take over a residence permit are not.

The foreign national can, subject to minor exceptions, apply for an extension of a long-term visa, provided that the entire period of stay does not exceed one year. The application should be submitted in person by the foreign national to the appropriate Department for Asylum and Migration Policy of the Czech Ministry of the Interior no earlier than 90 days before, and no later than on the day before the expiration of the long-term visa.

If the entire period of stay is to exceed one year, the foreign national must apply for a long-term residence permit. The application should be submitted in person by the foreign national to the appropriate Department for Asylum and Migration Policy of the Czech Ministry of the Interior no earlier than 120 days before, and no later than on the day of the expiration of the long-term visa.

There is no legal entitlement to being granted a Czech visa or long-term residence permit.

Visa waiver/Visa exemptions

EU citizens do not need a visa to stay in the Czech Republic. They are subject to the registration requirement only. A similar treatment also applies to citizens of Norway, Lichtenstein, Iceland and Switzerland. Some non-EU citizens traveling to the Czech Republic as tourists are not required to obtain a Czech visa, provided their stay does not exceed the stipulated number of days. These individuals are subject to the registration requirement only.

For example, a US citizen entering the Czech Republic for tourist purposes may only stay in the territory of the Czech Republic and Schengen area countries for a period of up to 90 days within a six-month period. If they interrupt their stay in the Schengen area (including the Czech Republic) within these six months (i.e., they travel outside the Schengen territory), the days spent outside of the Schengen territory are not calculated in the 90-day period.

However, the visa waiver does not apply to stays with economic purpose. Once the foreign national performs an economic activity, they are obligated to apply for a short-term visa and a work permit.

Employment assignments

EU citizens do not need a work or residence permit to work in the Czech Republic. They are only subject to the registration requirement. Similar treatment applies to citizens of Norway, Lichtenstein, Iceland and Switzerland.

Non-EU foreign nationals can work in the Czech Republic under two different scenarios — either the foreign national is employed directly by the Czech entity or they remain employed by a foreign entity and are only seconded to perform work in the Czech Republic. These two basic options are described in more detail below.

Post-entry procedures

A non-EU citizen staying in the Czech Republic must report: the beginning of their stay; the purpose of their stay; the place of residence; and the expected length of stay to the Foreign Police within three business days after their arrival. If a non-EU citizen stays with a person/entity that accommodates more than five foreign nationals or provides accommodation in return for compensation (e.g., a hotel), registration must then be made by the provider of the accommodation. The preceding rule will not apply if the accommodation provider is a person "close" to the non-EU citizen.

If the foreign national changes their place of residence, they must notify the relevant Foreign Police or Department for Asylum and Migration Policy of the Czech Ministry of the Interior. Foreign nationals who possess an Employee Card (or other type of long-term residence permit or long-term visa) must also notify of a change of residence within 30 days of when such a change occurred, as long as the change lasts (or is expected to last) at least 30 days.

An EU citizen must register with the Foreign Police within 30 days of the date of their last entry into the Czech Republic if their stay is expected to exceed 30 days. This obligation also applies to their family members staying in the Czech Republic. However, this obligation does not apply to EU citizens who fulfill the obligation through an accommodation provider.

If an EU citizen and their family members change residence, they must notify the appropriate Department for Asylum and Migration Policy of the Czech Ministry of the Interior, provided that the change will last longer than 180 days.

All foreign nationals (including EU citizens) must report changes regarding their personal data and IDs during their stay in the Czech Republic to the relevant Foreign Police or to the appropriate Department for Asylum and Migration Policy of the Czech Ministry of the Interior. They must report the changes within three business days (for EU citizens the deadline is 15 business days) from the date such change occurred. Changes that need to be reported include the following:

- Change of travel documents
- Change of marital status
- Change of surname

Foreign nationals are also obligated to do the following:

- Possess a travel document that is valid for three months beyond the intended stay in the Czech Republic (i.e., beyond the applied visa period, if the visa is granted)
- Prove their identity with a valid travel document or a residence permit card, if requested by a competent authority, and prove that their stay in the territory is legitimate
- Return their immigration document to the authority that issued the immigration document if it has expired or if it is contained within official records
- Return their immigration document to the relevant authority that issued the immigration document no later than three days before the termination of residence in the Czech Republic (except their visa and travel identification card, if such documents were issued for the purpose of travel outside of the Czech Republic)
- Report the loss, destruction, damage or theft of an immigration document within three days from the date of such occurrence
- Immediately report the loss or theft of travel documents to the Foreign Police
- Submit to procedures such as taking fingerprints, video recording and medical examination in the manner and to the extent stated in Czech law

In principle, foreign nationals must have valid and effective health insurance for the entire period of their stay in the Czech Republic. If the foreign national is applying for a short-term visa, they must present evidence of travel health insurance with a minimum coverage of EUR 30,000. If the foreign national seeks a long-term visa, or an Employee Card, Blue Card or ICT Card, they must provide evidence of travel health insurance, with a minimum coverage of EUR 400,000, before they can be issued a long-term visa. The foreign national must submit evidence of travel health insurance when inspected by the Foreign Police.

Violation of immigration rules may result in a fine, deportation, prohibition of stay, and in special cases, criminal proceedings.

Employee is employed by a Czech entity

Employee Card (dual)

Non-EU foreign nationals may be employed directly by a Czech entity provided that they have been granted an Employee Card that contains both a residence and a work permit.

For the purpose of applying for an Employee Card, the employer must notify the labor office of a job vacancy. The foreign non-EU national can only apply for the Employee Card for the respective position if the position remains vacant for at least 30 days (the period may be shortened to 10 days if required by the situation on Czech labor market).

An application for an Employee Card is filed at a Czech embassy or a consular post either in the applicant's country of origin, a country where the applicant's long-term or permanent residence is permitted or a country that issued the applicant a passport.

An Employee Card is valid only for the specific job, site and employer listed on the permit. Generally, the foreign national must notify the Ministry of Interior of the change of employer or their position at least 30 days before the change is effective.

An Employee Card cannot be valid for more than two years but can be repeatedly extended (there is no maximum duration).

Employee Card (non-dual)

In certain cases, in which a foreign national can work in the Czech Republic on the basis of a separate legal title (e.g., they have free access to the Czech labor market or obtained a work permit), it is also possible to issue a non-dual Employee Card that only serves as a residence permit.

A work permit is not required to employ a non-EU citizen in the Czech Republic (however, a non-dual Employee Card is still required) if the foreign non-EU citizen has free access to the Czech labor market.

The immigration laws list groups of foreign nationals that are authorized to freely access the labor market. For example, these are foreign nationals with the following circumstances:

- Have a permanent residence permit
- Have obtained secondary or tertiary professional education, or tertiary professional education at a conservatory or university education in the Czech Republic
- Attend regular daily studies in the Czech Republic (the study program must be duly accredited in the Czech Republic)
- Do not work within the territory of the Czech Republic for more than seven consecutive calendar days or a total of 30 days within a calendar year if the foreign national is a performer, performing artist, pedagogical worker, or an academic worker of a university, scientific researcher or development worker participating in a scientific meeting, a scholar or student up to 26 years of age, an athlete, or a person providing the delivery of goods or services within the territory of the Czech Republic under a business agreement.

Skilled workers — Blue Card

A Blue Card is a type of long-term residence permit in the Czech Republic for citizens of all non-EU countries, which enables the foreign national to perform work that requires a high qualification. Non-EU foreign nationals may be employed in a position requiring a high level of skills, provided that they have been granted a Blue Card that contains both a residence and a work permit. Duly completed university education or higher vocational education, the duration of which was at least three years, or the attainment of higher vocational skills (knowledge, skills and competences evidenced by professional experience comparable to higher education, which are related to the occupation or sector referred to in the employment contract or in the binding job offer) is deemed to constitute a high level of skills.

To apply for a Blue Card, the employer must notify the labor office of the job vacancy. However, following recent changes, there is no minimum vacancy period. Once a vacancy has been notified, the applicant can immediately file for a Blue Card for such position.

A Blue Card application is filed at a Czech embassy or a consular post either in the applicant's country of origin, a country where the applicant's long-term or permanent residence is permitted, or a country that issued the applicant a passport.

A Blue Card is only valid for the specific job, site and employer listed on the permit, but it can be changed as long as the new job, site and employer fulfil the statutory conditions for issuing a Blue Card. The change to this data must be notified to the authorities within three working days.

A Blue Card cannot be valid for more than three years but can be repeatedly extended (there is no maximum duration).

Employee remains employed by foreign entity

Intracompany transfer

The ICT Card is a type of a long-term residence permit within the Czech Republic where the foreign national's purpose of residence (longer than three months) is to work as a manager, specialist or employed intern where they have been transferred. The ICT Card serves both as a residence permit and a work permit.

In simple terms, intracompany transfer is the temporary transfer of an employee from a functioning section of a multinational company in a country that is not an EU member state to a functioning section of the company located in the Czech Republic.

The ICT Card is issued for the duration of transfer to the territory of EU member states. However, the maximum duration of the transfer is three years for a manager and specialist and one year for an employed intern. The ICT Card validity may be repeatedly extended, while it cannot exceed the duration of three/one year(s).

Secondment

Foreign nationals who are seconded to the Czech Republic by their employer, which is located outside the EU/EEA or Switzerland on the basis of an agreement between their employer and a Czech entity to perform work for the Czech entity (while remaining employed by the foreign employer), need to obtain a work permit and a non-dual Employee Card (as a residence permit) separately. A work permit is issued by the Czech labor office for up to two years.

On the contrary, a work permit is not required to employ (accept secondment of) a non-EU foreign national who was seconded to the Czech Republic within the scope of providing services by their employer residing in another EU member state. However, there are special requirements for such an arrangement.

Training

Long-term visa — Long-term business permit for study purposes

Foreign nationals may apply for a long-term visa (up to one year) or long-term residence permit (following the stay based on long-term visa) for the purposes of studies.

If the foreign national's studies are deemed as systematic preparation for future occupations, the foreign national has free access to the Czech labor market, which means that the foreign national can be employed by a local Czech entity without the relevant work permit.

The following types of studies, which also include school holidays, are considered systematic preparations for future occupations:

- Full-time study at a secondary school, conservatory, higher vocational school or language school (with the authorization to hold language exams)
- Regular (i.e., not distance) studies at a university under the condition that the study program is duly accredited by the Ministry of Education, Youth and Sports in the Czech Republic

A Czech employer who intends to hire a foreign national who resides in the Czech Republic based on a long-term visa or a long-term residence permit for study purposes should bear in mind that the employment of the foreign national should not interfere with the primary purpose of the foreign national's stay. In other words, it is not recommended to employ the foreign national who resides in the Czech Republic for the purpose of study for a full-time employment, unless the foreign national changes the primary purpose of their stay. Full-time employment of foreign nationals whose primary purpose of stay is study may be regarded as circumventing the immigration laws.

Other comments

Residency in the Czech Republic

Temporary residence confirmation

If an EU citizen intends to stay in the Czech Republic for a period exceeding three months and has not threatened safety of the state or gravely infringed public order, temporary residence confirmation can be issued by the Ministry of the Interior upon the EU citizen's request.

Temporary residence permit

An EU citizen's family member who is not an EU citizen and accompanies the EU citizen to the Czech Republic must apply for a temporary residence permit if they intend to stay in the Czech Republic for more than three months.

Long-term residence permit

This type of permit is issued to a foreign national (a non-EU citizen) that has a Czech long-term visa and intends to stay in the Czech Republic for a period longer than one year, based on the assumption that the purpose of the stay will be the same for the entire period of stay.

Such a permit may be issued for the purposes of study, scientific research, searching for employment (for foreign nationals completing their studies or scientific research in the Czech Republic), business, family reunification, and investment purposes within the Czech Republic. It cannot be issued for the purpose of employment. In contrast, an Employee Card, Blue Card or ICT Card can be issued for the purpose of employment and contain both a residence permit and a work permit.

Permanent residence permit

In general, this permit may be issued to a foreign national after five years of continuous, lawful stay in the Czech Republic.

Under special circumstances (e.g., humanitarian reasons or other reasons worthy of special consideration), a permanent residence permit may be issued to an applicant without fulfilling the requirement of previous continuous stay in the Czech Republic.

A foreign national must, subject to exceptional situations, submit evidence that their income is regular to prove funds for permanent residence.

Additional comments

All Czech immigration procedures are time-consuming and administratively demanding. The key steps and timeline of the typical immigration procedure applicable to a non-EU citizen intending to work in the territory of the Czech Republic based on an employment relationship with a local employer are as follows:

- Preparation stage: four to six weeks to obtain all necessary documentation (the documents issued by foreign authorities must be apostilled/legalized and translated by a court sworn translator into Czech)
- Notification of the job vacancy to the labor office by the Czech employer: up to 30 days to complete administrative proceedings
- Application of the non-EU citizen for an Employee Card or Blue Card shall be made at a Czech embassy or a consular post (in certain countries, the waiting period for the appointment to file the application exceeds one month. In addition, it is necessary to keep in mind that quotas for Employee Card applications might be reached in the relevant month, which would prolong the entire procedure by at least one additional month).
- The deadline for the authorities to decide on the application is 60 days for the Employee Card and 90 days for the Blue Card. However, it is not uncommon for the decision-making process to be prolonged to 90 and 120 or more days, respectively.

In light of these demanding immigration procedures, advanced planning is crucial.

Germany

Introduction

Many people immigrate to Germany each year. The reasons why foreign nationals leave their home countries vary, but most foreign nationals come to Germany for employment, business or tourism purposes.

To enter and reside in Germany, any non-EEA national (i.e., from outside the European Economic Area) needs permission in the form of a residence permit. All accepted reasons for residence are defined by law.

Key government agencies

Depending on their nationality and the purpose and length of their stay, foreign nationals may either require an entry clearance in the form of a visa, or enter Germany without a visa and apply for a residence permit once in Germany.

When a foreign national is required to obtain a visa, the application is submitted to the German Embassy (Botschaft) or Consulate General (Generalkonsulat) at their place of residence abroad. In a growing number of cases, appointments have to be made with external visa service providers. Before issuing the visa, the German authorities will involve the immigration office (Auslaenderbehoerde) responsible for the place of intended residence in Germany and ask the Federal Employment Agency (Bundesagentur fuer Arbeit), if necessary, for approval. Approval from the Federal Employment Agency is required for most work and employment activities carried out in Germany.

Foreign nationals from a privileged or semi-privileged country that is party to a non-visa movement treaty signed by Germany or the EU may enter Germany without an entry clearance, and may submit their applications to the local immigration office directly (except for applications for the ICT Permit, see further information below). The immigration office will internally involve the Federal Employment Agency as necessary.

Current trends

Germany passed the Skilled Labour Immigration Act

In August 2023, a law outlining new regulations for the further development of skilled labor immigration was passed. The aim of the law is to meet the needs of Germany as a business location and to make it more attractive for skilled workers. In the coming years, the so-called boomer generation will retire and leave the labor market. This will lead to an even greater shortage of skilled workers than exists today. There are currently around two million unfilled vacancies in Germany. Projections indicate that this number could increase fivefold in the next 10 years. Immigration is therefore one of the most important tools to at least reduce the shortage of skilled workers.

The Skilled Labour Immigration Act provides for the following key points:

EU Blue Card: The most common and attractive residence and work permit — bigger target group, lower income threshold and simplified procedure (please see below for more details)

Simplification of the recognition procedure

Employees from non-EU countries will have more opportunities to work in Germany by proving their qualification for a non-regulated profession through a foreign vocational or university degree and professional experience, as set out below:

Formal recognition of the foreign qualification is no longer required.

However, to ensure fair working conditions, a salary threshold must be met, or the employer must be bound by a collective bargaining agreement.

The recognition of a foreign qualification can be initiated after the employee has already traveled to Germany. For this purpose, the employee and the employer must enter into a so-called "recognition partnership." This gives the employer the opportunity to hire qualified specialists faster.

Opportunity card

Third-country nationals who do not yet have a job in Germany are to be given new opportunities to find work with a so-called "opportunity card." This will allow individuals with potential to enter the country for up to a year to look for work. This should make it easier for both sides, employers and potential employees, to find each other.

During the job search, trial or secondary employment is allowed. In addition, the opportunity card can be extended by up to two years if the foreign national has an employment contract or a binding job offer for qualified employment in Germany, and the Federal Employment Agency agrees. However, the procedure for changing from this opportunity card to a more permanent residence permit has not yet been tested and may be time consuming and difficult.

Summary and practical outlook

The changes in the law are a step in the right direction for Germany to simplify immigration procedures, reflecting a commitment to a diverse workforce. However, amid these advancements, the new changes do not solve the most urgent issues and certain challenges persist. Inadequate staffing within immigration authorities and a lack of digitalization have led to prolonged processing times and limited personal appointment availability, hampering the potential benefits of the Skilled Labour Immigration Act.

Employers seeking to hire foreign nationals should proactively plan, considering potential delays caused by these issues. As Germany aspires to remain competitive in the global job market, addressing both the improvements and challenges of the Skilled Labour Immigration Act is pivotal to fostering an environment where international talent can thrive.

Changes to the German citizenship law

The German parliament passed a law on 19 January 2024 that eases the process of naturalization significantly. With the new law, fundamental changes in German citizenship law are to be expected, particularly in relation to the minimum residency requirement for obtaining German citizenship and the acceptance of multiple citizenships. For more details, please see below (in the Other comments section).

Business travel

Temporary business visitor

In the case of business visitors, a distinction must be made depending on whether the traveler concerned is a national of a privileged country or not.

Nationals of so-called privileged countries are not required to obtain a visa or a residence permit for their business trip, provided that their stay does not exceed 90 days within a 180-day period.

Please note that anyone who enters Germany as a business visitor is expressly barred from taking up employment, and to do so is a criminal offense. A business visitor is defined as an individual who normally lives and works outside Germany, and comes to Germany to transact business and attend meetings and briefings, for fact-finding purposes or to negotiate. Business visitors may conclude contracts with German businesses to buy goods or sell services. However, a business visitor must not intend to produce goods or provide services within Germany.

Short-term visa (Schengen visa)

Nationals from non-privileged countries must obtain a short-term visa for the entire duration of their business trip to Germany. The application for this visa must be submitted to the competent German diplomatic mission abroad.

A valid Schengen visa entitles the holder to travel through, and stay in, member countries of the Schengen Agreement (Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Romania and Bulgaria will join the Schengen area in the course of 2024) for up to 90 days within a 180-day period.

Schengen visas must be applied for at the diplomatic mission of the main destination of the intended travel or at the diplomatic mission of the country first entered into in the Schengen area if a main destination cannot be ascertained.

Employment assignments

For most work and employment activities carried out in Germany, a residence permit for employment purposes must be obtained. As a rule, this type of permit requires the approval of the Federal Employment Agency.

The residence permit for employment purposes is one that enables a specifically designated foreign employee to carry out a specific activity for a particular employer based in Germany.

The residence permit will usually be limited to one year but can be extended if necessary. In most cases, the Federal Employment Agency will only approve a corresponding application if the following criteria are met:

- The skilled worker (having vocational qualifications or an academic education) wishes to pursue a well-qualified employment in Germany, which is appropriate for their qualifications.
- The salary is comparable to that offered to resident workers in similar positions.
- The intended employment falls into one of the categories as defined in the Ordinance on Employment of Foreign Nationals (Beschaeftigungsverordnung), which is a detailed catalog covering different types of qualified professions.

- Approval may also be granted for executive staff, members of a body or a legal entity who are entitled to act as its legal representative, or persons who possess particular, above all company-specific, specialist knowledge pertinent to engaging in skilled employment in Germany.

Highly qualified specialists

Highly qualified specialists may apply for temporary residence titles and — under additional pre-conditions — for settlement permits that give them unlimited residence rights.

Prior approval from the Federal Employment Agency is not required in these cases.

Highly qualified persons include the following:

- Scientists with special technical knowledge
- Teachers or scientists in prominent positions

EU Blue Card

The EU Blue Card, which offers favorable conditions for family reunification, permanent residence and job changes, will be made available to more professionals with a university degree if their salary exceeds the threshold of 50% of the annual social security ceiling (EUR 43,800 gross annually). This figure has been reduced from EUR 58,400 (respective EUR 45,552 in 2023 for MINT positions).

In addition, the consequence of being recognized as a skilled worker is broader than before. It is no longer necessary to work in the field for which the worker was formally qualified.

To reduce the number of formalities, the period during which an EU Blue Card holder must obtain permission from the immigration authorities to change their job (change of employer, promotion, etc.) has been reduced from two years to one year. The new law replaces the requirement to obtain permission from the immigration authorities with a simple notification requirement.

Finally, the rules on family reunification have been simplified to make the EU Blue Card more attractive to potential applicants.

In most cases, the EU Blue Card can be issued without the consent of the Federal Employment Agency. As a consequence, the application procedure is usually significantly faster.

This type of permit enables the holder not only to reside and work in Germany but also facilitates moving within the Schengen territory.

After 33 months of employment, EU Blue Card holders can be eligible for an unlimited settlement permit, provided that contributions to the (statutory) pension scheme have been paid. EU Blue Card holders can be eligible for a settlement permit after 21 months provided that they possess level B1 German-language skills.

Intracompany transfer

There are two options for intracompany transferees, which are as follows:

Personnel exchange

Foreign employees, working for an internationally operating group, who are being transferred to Germany temporarily, may apply for a residence/work permit under simplified conditions provided that the intended assignment can be seen as part of an international personnel exchange program and that the said assignment is of crucial interest for the cooperation and development of the internationally operating group.

To be granted this permit, the foreign employee must have a university degree or a comparable vocational qualification and, above all, company-specific specialist knowledge. The employee in question must remain employed with the affiliated entity abroad. Furthermore, from time to time, the German company must send skilled employees abroad in the reverse direction.

A work-related residence permit under this provision can be granted for up to three years. Work permits of this kind will only be issued if the local Employment Agency has given its approval. Due to the latest changes in German immigration law, labor market checks no longer need to be performed. This speeds up the application process considerably.

ICT Permit

Foreign nationals can apply for an Intra-Corporate Transfer Permit ("**ICT Permit**") if they intend to be posted to Germany for more than 90 days. The ICT Permit is only granted to managers, specialists and trainees who are bound (and remain bound during their secondment) by an employment contract with an affiliated, non-EU entity. Both companies involved must belong to the same group of companies and the employee must have been employed by the company for at least six months before the assignment.

In the case of managers and specialists, the ICT Permit can be granted for up to three years and up to one year for trainees.

As stated above, it is not possible to file the application for an ICT Permit from within Germany. Even foreign nationals from privileged countries must file their applications for an ICT Permit at German missions abroad.

Post-entry procedures

If foreign nationals intend to stay in Germany for more than three months, they must register their residence at the local registration office (Einwohnermeldeamt). Furthermore, they need to schedule an appointment with the local immigration office to attend a personal interview and to apply for a work-related residence permit.

Foreign nationals are not allowed to start working before they have received a (temporary) work permit. However, they also have the option to apply for a work-related national visa at a German Embassy or Consulate abroad before entering Germany. They will be allowed to work with such a visa even before the appointment at the local immigration office takes place, provided that the visa comprises a corresponding work permit.

Rights of entry and residence, based on international agreements

In general, citizens of the European Economic Area (EEA countries) are free to reside and work in Germany without any prior formalities.

Family members of EEA nationals (who are not themselves EEA nationals) are required to obtain a so-called Residence Card if they want to accompany or join an EEA national residing in Germany.

EEA nationals and their family members are free to work for a company or to be self-employed. They do not need to obtain a German work authorization before doing so. Their only obligation is to register their local address shortly after moving to Germany.

Besides Germany, the following countries belong to the EEA: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Iceland, Republic of Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

According to treaties between Switzerland and the EU, Swiss nationals also enjoy special rights of residence equal to those of nationals from the EEA countries.

On 1 February 2020, the United Kingdom left the European Union. Consequently, UK nationals are no longer seen as EU nationals. However, UK nationals who fall under the scope of the Withdrawal Agreement will continue to enjoy special rights in Germany. In fact, they may live, work and study in Germany without needing a corresponding residence title.

Service delivery

Approval from the Federal Employment Agency is not required for non-EEA employees working for an EEA company that provides its services to customers within Germany, provided that they are employed at the company's place of residence abroad and that the assignment to Germany is only temporary.

Specific assignments

For some categories of visitors, the Federal Employment Agency's approval is not required for the granting of a work-related residence permit, provided that the foreign national concerned retains residency outside of Germany.

Such privileged categories can include the following:

- Students of foreign universities who want to do a compulsory, study-related internship in Germany, or students of foreign universities who want to carry out a study-related internship after the fourth semester. In some cases, the approval of the Federal Employment Agency is still required.
- Employees of a company whose registered office is seated abroad, outside of Germany, and who are seconded to Germany either to set up a "ready-to-use" machine or a (computer) system supplied by their employer abroad, or to provide training for the use of such machine or system, and the maintenance or repair thereof.

Individuals are only eligible for the latter exemption if they can prove that their employer sold a product or (computer) system that is to be used at the customer's office and that requires some installation or training measures.

Moreover, the employee's stay in Germany may not exceed a duration of 90 days within a 12-month period. The rule providing for an exemption from the Federal Employment Agency's approval only applies if the employer has notified the authority prior to the commencement of work.

Training

The German Residence Act (Aufenthaltsgesetz) does not provide for a specific visa category for foreign employees seeking on-the-job training in Germany.

In principle, training is considered a form of employment. Trainees must therefore apply for a residence permit for employment purposes.

Exceptions apply if the duration of the inter-company training will not exceed 90 days within a 12-month period, and if the foreign employee only takes part in in-house training and does not perform any work.

There may also be some privileges for specific occupational groups, such as highly qualified information technology specialists or in the case of employees taking part in an international exchange program of personnel (for more details, see the above chapter on personnel exchange).

In most cases, the consent of the Federal Employment Agency is also needed. Exceptions exist especially if the training is promoted by special programs of the EU, such as Leonardo, Sokrates or TACIS.

Other comments

There are also privileges for some additional groups.

For example, foreign students who have completed their studies and have obtained a German university degree can stay in Germany for an additional period of 18 months and look for adequate work.

Foreign nationals may apply for a settlement permit, which confers unlimited residence rights, if they have held residence permits for at least four years, and if they fulfill further requirements (e.g., contribution to the German (statutory) pension scheme for at least 48 months and sufficient knowledge of the German language). Holders of EU Blue Cards may apply for a settlement permit after 33 months. This period is reduced to 21 months if the foreign national concerned can prove sufficient knowledge of the German language (language skills at B1 level).

Spouses and dependent children may accompany the holder of a work-related residence permit. They are entitled to a residence title for family reunion purposes. Family members may only stay in Germany as long as the primary applicant does. Furthermore, the primary applicant must provide evidence of the ability to financially support all family members during their stay in Germany. Foreign nationals who receive a German residence title for family reunion purposes are entitled to work without any restrictions.

Changes to the German citizenship law

As stated above, the German parliament passed a law on 19 January 2024 that significantly eases the process of naturalization. The key aspects of the new reform include the following changes to German citizenship law:

- Naturalization will be accelerated — the minimum period of residence in Germany required for naturalization will be reduced from the current eight years to five years. In addition, in exceptional cases of "special integration achievements," the minimum period of residence will be reduced to three years.
- Acceptance of dual citizenship —immigrants can have dual citizenship without having to give up their current citizenship. This is something that has not been possible for many people outside the European Union, as they were required to give up their previous citizenship to obtain German citizenship. In addition, German citizens who wish to acquire another citizenship will be able to retain their German citizenship and will not have to apply for permission to retain their German citizenship, which will be a significant relief.
- Simplified naturalization process for children of foreign parents — children born in Germany to foreign parents will be granted German citizenship at birth if at least one parent has lived legally in Germany for at least five years and has been granted permanent residency. Previously, this requirement was eight years.
- Modification of the language requirements for the guest worker group "Gastarbeiter group" — B1 level German language skills will no longer be required, and instead, conversational German language skills will be deemed sufficient for those in this group. Furthermore, the requirement for a citizenship test will be waived.

This new law is expected to come into force in the first half of 2024.

According to the new citizenship law described above, foreign nationals who want to become naturalized German citizens will generally be able to apply for naturalization after five years of legal residence in Germany. In exceptional cases, applicants who have demonstrated a high level of integration in school, training or work, or who have high language skills, may apply for naturalization after three years of legal residence in Germany. In addition, the applicant must meet the following conditions:

- Be established in Germany (i.e., have the ability to support both themselves and all other family members without the help of welfare benefits or unemployment assistance)
- Not have a criminal record
- Possess an adequate command of the German language
- Be familiar with the legal system, society and living conditions in the Federal Republic of Germany, and pass the naturalization test

However, foreign applicants must not relinquish their former citizenship. German naturalization is generally not possible from abroad.

The same requirements apply to foreign nationals who are the spouse or legal partner of a German citizen. They can be naturalized if they have been married for two years and have been residing in Germany for at least three years.

Hong Kong SAR

Introduction

On 1 July 1997, Hong Kong became a Special Administrative Region (SAR) of People's Republic of China ("**Mainland China**"). Although part of Mainland China, Hong Kong SAR continues to operate under a common law legal system that is distinct from other parts of Mainland China.

Key government agencies

The Hong Kong Immigration Department (HKID) is responsible for all immigration-related matters in Hong Kong SAR. It monitors and controls the movement of people in and out of Hong Kong SAR by land, sea and air. The HKID is also responsible for processing applications for visas, right of abode (i.e., permanent residency), naturalization, travel documents, identity cards and registrations of births, deaths and marriages.

Current trends

Focus on retaining and attracting top talent

In recent years, there has been an emphasis on retaining and attracting top talent in and to Hong Kong SAR. There has also been a drive to advance technology within the region. Considering this, new visa categories such as the Top Talent Pass Scheme (TTPS) and the Technology Talent Admission Scheme (TechTAS) have been established.

In the chief executive's 2023 policy address, which was delivered on 25 October 2023, the Hong Kong SAR government announced various initiatives to attract and retain talent. Proposed initiatives include but are not limited to the following:

1. Expanding the coverage of universities under the TTPS: From 1 November 2023, the list of eligible universities under the TTPS has been expanded to include eight institutions from Mainland China and overseas, making a total of 184 eligible institutions under the scheme. The TTPS allows qualifying foreign, high-income talents and graduates from top universities to receive a two-year visa, allowing them to work or establish a business in Hong Kong SAR.

2. Facilitating business travel to Mainland China: From 26 October 2023, foreign employees working for companies registered in Hong Kong SAR are eligible to apply for multiple-entry business visas to Mainland China at the China Visa Application Service Center in Hong Kong SAR. The visa is valid for two or more years with expedited processing.

3. Reactivating the Capital Investment Entrant Scheme (CIES): Eligible foreign investors who invest HKD 30 million or above in assets such as stocks, funds and bonds will be able to apply for entry into Hong Kong SAR. These assets do not include investment in residential real estate.

4. Establishing the Vocational Professionals Admission Scheme (VPAS) pilot program: Non-local students admitted from the 2024/25 admission cohort onward are allowed to stay in Hong Kong SAR for one year after graduation to look for a job relevant to their disciplines. The VPAS is expected to run as a pilot scheme for two years.

Dependent visa eligibility for same-sex spouse

The HKID's dependent visa policy was judicially reviewed in the case of *QT v. Director of Immigration* [2018] (FACV No. 1 of 2018). In this landmark decision, a lesbian expatriate won an appeal against the HKID's refusal to grant her a dependent visa. The court of appeal unanimously held that the refusal amounted to indirect discrimination based on sexual orientation. The director of immigration lodged an appeal against the decision and the Court of Final Appeal (CFA) confirmed that same-sex couples who are lawfully married or in a civil partnership overseas are eligible for dependent visas, even though same-sex marriage/civil partnership is not recognized in Hong Kong SAR. The CFA agreed with the Court of Appeal's decision that the director of immigration's refusal to award a dependent visa to a same-sex couple was indirectly discriminatory, in breach of Article 25 of the Basic Law and Article 22 of the Hong Kong SAR Bill of Rights.

Following the CFA decision, the director of immigration announced an official change in its dependent visa policy. Now, a person who has entered into a same-sex civil partnership, same-sex civil union, same-sex marriage, opposite-sex civil partnership or opposite-sex civil union outside of Hong Kong SAR is eligible to apply for a dependent visa or entry permit into Hong Kong SAR. Previously, dependent visas were only offered to heterosexual married couples. The same assessment criteria apply to both heterosexual married couples and same-sex couples applying for a dependent visa.

Business travel

Visitor visa

Citizens from non-visa waiver countries should apply for visitor visas at the nearest Chinese consulate in their country of citizenship or residence, or directly with the HKID by mail.

Mainland China nationals residing in Mainland China must obtain appropriate entry permits and exit endorsements from the relevant Mainland China authorities prior to traveling to Hong Kong SAR. They can apply through an authorized travel agent in Mainland China if visiting Hong Kong SAR on group tours. Mainland China residents from certain provinces may also directly apply through relevant Mainland China authorities to visit Hong Kong SAR under the Individual Visit Scheme.

Alternatively, Mainland China nationals traveling on Mainland China passports through Hong Kong SAR to and from another country may be granted a stay of seven days without the need to obtain a prior entry visa to Hong Kong SAR or entry permit and exit endorsement from Mainland China, if the usual immigration requirements are met, including possession of a valid entry visa for the destination country and a confirmed onward booking.

All visitors are required to have adequate funds to cover the duration of the stay without working and have return tickets.

Visa waiver/visa exemptions

Citizens of over 160 countries do not need a tourist visa or business visitor visa if they are visiting Hong Kong SAR for a limited period. Their permitted period of stay depends on their country of citizenship. For example, citizens of the following countries may visit Hong Kong SAR visa-free for the period of stay shown below:

Country	Period of stay in days
Australia	90
Belgium	90
Canada	90
Finland	90
France	90
Germany	90
Greece	90
India	14 (subject to pre-arrival registration)
Indonesia	30
Ireland	90
Italy	90
Japan	90
Korea	90
Malaysia	90
Netherlands	90
New Zealand	90
Philippines	14
Russian Federation	14
Singapore	90
Spain	90
Sweden	90
Switzerland	90
Thailand	30
UAE	30
United Kingdom	180

Country	Period of stay in days
United States	90

The HKID's regularly updated list of visa-free countries and countries requiring visitor visas is published here:

Non-visitors

Foreign nationals seeking to enter Hong Kong SAR, other than as tourists or business visitors, should consider applying for one of the following visas based on the eligibility criteria described below (please note that special guidelines apply to Mainland China nationals):

- Training
- Employment
- Employment (investment)
- Quality migrant
- Top talent
- Technology talent
- Dependent

Employment assignments

An employment visa is required for a foreign national to work in Hong Kong SAR, regardless of (i) whether the foreign national is paid or unpaid for services rendered in Hong Kong SAR, (ii) the locality of the employer and (iii) the duration of the employment or assignment in Hong Kong SAR. Failure to do so is an offense under the Hong Kong SAR Immigration Ordinance.

Employment visas can be extended in increments of three years. The employment visa is employer-specific. A foreign national granted an employment visa is only authorized to work for the sponsoring employer in Hong Kong SAR. If the foreign national wishes to work for another employer, and the visa has not expired, they must obtain prior approval from the HKID. If an employment visa holder must work for someone other than the approved employer, the foreign national must first obtain sideline approval from the HKID. This requirement is noteworthy in cases where a foreign national may be required to supervise or engage in activities for several related companies in Hong Kong SAR.

The sponsoring employer in Hong Kong SAR must inform the HKID after an employee is terminated. The employer may be required to pay for the foreign national's repatriation.

General Employment Policy (GEP)

A foreign national who possesses special skills, knowledge or experience that is of value to and not readily available in Hong Kong SAR may apply for an employment visa under the GEP.

The HKID assesses each employment visa application on its own merits. An application may be favorably considered if the following conditions are met:

- The business sponsoring the employment visa is beneficial to the economy, industry and trade of Hong Kong SAR.
- The foreign national possesses skills, knowledge and experience not readily available in Hong Kong SAR.
- The position cannot be easily filled by someone locally in Hong Kong SAR.

Foreign nationals from Afghanistan, Cuba and the Democratic People's Republic of Korea are not eligible for employment visas under the GEP. Employment visas for Mainland China nationals residing in Mainland China are discussed below.

Admission Scheme for Mainland Talents and Professionals (ASMTP)

Despite Hong Kong SAR's reversion to Mainland in 1997, the entry of Mainland China nationals into Hong Kong SAR remains restricted. For example, a Mainland China national residing in Mainland China traveling to Hong Kong SAR from Mainland China as a visitor or resident must carry an Exit-entry Permit (EEP) for Traveling to and from Hong Kong SAR and Macau SAR with the appropriate exit endorsement issued by the Public Security Bureau (PSB) in Mainland China. Restrictions on the use of available visa categories by Mainland China nationals are noted in various sections in this chapter.

Employment visa applications for Mainland China nationals are evaluated under the ASMTP. Chinese residents of Mainland China who possess special skills, knowledge or experience of value to and not readily available in Hong Kong SAR may apply to come to work under the ASMTP.

The sponsoring entity should submit the application directly to the HKID on behalf of Mainland China national. Upon approval of the application, the HKID will issue an entry permit. The Mainland China national must present the entry permit to the PSB in Mainland China and apply for an EEP and relevant exit endorsement before traveling to Hong Kong SAR.

Top Talent Pass Scheme (TTPS)

The TTPS launched toward the end of 2022 with the aim of attracting top talent with rich work experience and strong academic qualifications to Hong Kong SAR.

Applicants are not required to have secured an offer of employment in Hong Kong SAR upon application. Categories under the TTPS are as follows:

(a) Category A: persons with annual income of HKD 2.5 million or above in the year immediately preceding the date of application

(b) Category B: degree graduates of eligible universities with at least three years of work experience over the past five years immediately preceding the date of application

(c) Category C: degree graduates of eligible universities in the past five years immediately preceding the date of application with less than three years' work experience, subject to an annual quota (not applicable to persons who obtained their undergraduate qualification in a full-time accredited program in Hong Kong SAR)

Overseas Chinese nationals holding a Mainland China passport may also apply under one of the categories above, if the applicant (a) has permanent residence overseas (i.e., outside Mainland China, Hong Kong SAR, Macau SAR and Taiwan), and (b) has been residing overseas for at least one year immediately before the submission of the application and the application is submitted from overseas.

Successful applicants may be granted 24 months' stay and may change employment or establish a business during their stay.

Foreign nationals from Afghanistan, Cuba and the Democratic People's Republic of Korea are not eligible for visas under the TTPS.

Technology Talent Admission Scheme (TechTAS)

This scheme allows eligible companies to admit non-local technology talent to undertake research and development (R&D) work in Hong Kong SAR. Eligible companies must apply for a quota. Once allocated with a quota by the Innovation and Technology Commission, the relevant company can apply to sponsor an eligible person for an employment visa/entry permit within the 24-month validity period.

The individual must be a full-time employee of the sponsoring company and must also fulfil certain other criteria such as be a degree holder in science, technology, engineering and mathematics (STEM) from a top 100 university for STEM-related subjects and be engaged principally in conducting R&D in certain specified areas.

Foreign nationals from Afghanistan, Cuba, and the Democratic People's Republic of Korea, are not eligible for visas under the TechTAS.

Immigration Arrangements for Non-Local Graduates (IANG)

Foreign nationals and Mainland China nationals who have completed a tertiary full-time education through locally accredited programs in Hong Kong SAR (e.g., undergraduate or higher qualification) ("**Non-Local Graduates**") may remain in or reenter Hong Kong SAR for employment after graduation.

Additionally, persons who have completed a tertiary full-time education (e.g., undergraduate or higher qualification) at a higher education institution in the Greater Bay Area, which has been jointly established by universities of Mainland China and Hong Kong SAR in accordance with the Regulations of Mainland China on Chinese-Foreign Cooperation in Running Schools, may also apply to come and work in Hong Kong SAR under the IANG ("**GBA Campus Graduates**").

Non-Local Graduates and GBA Campus Graduates who want to remain and work in Hong Kong SAR within six months of their graduation date may submit an IANG visa application to the HKID, even without having an offer of employment. Non-Local Graduates and GBA Campus Graduates who wish to re-enter and work in Hong Kong SAR six months after their graduation date must have secured an offer of employment by the time they apply.

Non-Local Graduates and GBA Campus Graduates who obtained their visa under the IANG are free to change employers during their permitted stay without obtaining prior approval from the HKID.

Foreign nationals from Afghanistan, Cuba and the Democratic People's Republic of Korea are not eligible for visas under the IANG. Specific rules apply to nationals from Laos, Nepal and Vietnam.

Admission Scheme for the Second Generation of Chinese Hong Kong Permanent Residents (ASSG)

The ASSG is available to foreign nationals between the ages of 18 and 40 who were born overseas (i.e., not in Mainland China, Hong Kong SAR, Macau SAR or Taiwan) to at least one parent who is both a Hong Kong SAR permanent resident at the time of application and was a Chinese national settled overseas at the time of the foreign national's birth.

Eligible foreign nationals must also have (i) a good educational background, (ii) proficiency in either Chinese (written and spoken Mandarin or Cantonese) or English, and (iii) sufficient financial means

and be able to meet the living expenses for their (including their dependents, if any) maintenance and accommodation in Hong Kong SAR without recourse to public funds. Applicants do not need to have an offer of employment prior to application.

Foreign nationals who obtained their visas under the ASSG are free to change employers during their permitted stay without obtaining prior approval from the HKID.

Foreign nationals from Afghanistan, Cuba and the Democratic People's Republic of Korea are not eligible for visas under the ASSG.

Other entry visa options

Investment as entrepreneur

A foreign national investing and starting a business in Hong Kong SAR can apply for an employment (investment) visa. The business should be beneficial to the local economy. Relevant factors for consideration include but are not limited to, the relevant business plan, business turnover, financial resources, investment sum, number of new jobs created and the introduction of new technology or skills. It is important to show that the foreign national has both the expertise and resources to finance and continue to operate the business.

Foreign nationals from Afghanistan, Cuba and the Democratic People's Republic of Korea are not eligible for employment (investment) visas.

Overseas Chinese nationals holding a Mainland China passport who are living overseas and meet the relevant eligibility requirements may also apply if the applicant (i) has permanent residence overseas (i.e., outside Mainland China, Hong Kong SAR, Macau SAR and Taiwan) and (ii) has been residing overseas for at least one year immediately before the submission of the application and the application is submitted from overseas.

Quality Migrant Visa

The Quality Migrant Admission Scheme is available for highly skilled foreign nationals. Applicants do not need to have an offer of employment prior to application. There are two types of points-based assessments: the General Points Test and the Achievement-based Points Test.

The General Points Test allocates marks according to the following six factors:

Factors	Maximum points
Age	30
Academic/professional qualifications	70
Work experience	75
Talent list	30
Proficiency in Chinese and English	20
Family background	20
Total points	245

Applicants must score higher than the minimum mark set by the HKID. The minimum score is subject to change.

The Achievement-based Points Test is for individuals with exceptional talent or skills and requires that they have either received exceptional achievement awards (e.g., Olympic medal, Nobel prize) or can prove that their work has been recognized by industry peers or has significantly contributed to the development of the foreign national's field (e.g., lifetime achievement award from an industry). An applicant who is considered to have met one of the above criteria under this test will be awarded 245 points, otherwise no points will be awarded and the application will be refused.

High-scoring applicants assessed under either the General Points Test or Achievement-based Points Test will be short-listed for further selection. The director of immigration may seek advice from the Advisory Committee on Admission of Quality Migrants and Professionals ("**Advisory Committee**"), which comprises of official and nonofficial members appointed by the chief executive of Hong Kong SAR. The Advisory Committee will consider the prevailing socioeconomic needs of Hong Kong SAR, the sectoral mix of candidates among other relevant factors and recommend to the director of immigration how best to allocate the quota. Applicants that are allotted a place in the scheme quota will be published on the HKID's website and sent an approval-in-principle letter. After their documents are verified, successful applicants will be granted formal approval.

Foreign nationals from Afghanistan, Cuba or the Democratic People's Republic of Korea are not eligible under the Quality Migrant Admission Scheme.

Dependent visa

Foreign nationals not subject to a limit of stay in Hong Kong SAR (i.e., foreign nationals who are Hong Kong SAR permanent residents, residents with the right to land or on unconditional stay), may sponsor their spouse, the other party to their same-sex civil partnership, same sex civil union, same sex marriage, opposite sex civil partnership or opposite sex civil union, unmarried biologically related or formally adopted dependent children under the age of 18 and dependent parents aged 60 and above to take up residence in Hong Kong SAR as their dependents.

Foreign nationals and Mainland China nationals admitted to Hong Kong SAR to take up employment, invest, train, study in full-time undergraduate or post-graduate programs in local degree-awarding institutions or who are admitted to remain in Hong Kong SAR under the Capital Investment Entrant Scheme, the Quality Migrant Admission Scheme, the ASSG, the TTPS or the TechTAS may sponsor their spouse, the other party to their same-sex civil partnership, same sex civil union, same sex marriage, opposite sex civil partnership or opposite sex civil union and unmarried biologically related or formally adopted children under the age of 18 for dependent visas.

Dependent visa holders are free to study and work in Hong Kong SAR without needing to apply for separate visas (except for dependents sponsored by student visa holders), if their principal sponsor maintains their resident visa status or their sponsors are not subject to a limit of stay in Hong Kong SAR.

Under current immigration policy, children born by surrogacy are not eligible for dependent visas but may be able to obtain prolonged visitor visas. The HKID has sole discretion when issuing a prolonged visitor's visa.

Mainland China nationals residing in Mainland China (except for those whose sponsors hold an employment visa, employment (investment) visa, training visa, student visa and visas under the Quality Migrant Admission Scheme, Capital Investment Entrant Scheme, ASSG, the TTPS or the TechTAS), are not eligible for a dependent visa. Additionally, the dependent entry arrangements do not apply to former Mainland Chinese residents residing in Macau SAR who have acquired residence

in Macau SAR through means other than the One-way Permit Scheme and nationals of Afghanistan and the Democratic People's Republic of Korea.

Hong Kong SAR Identity Card

Once a foreign national (including a Mainland China national) has secured the appropriate resident visa, they must register for a Hong Kong SAR Identity Card with the Registration of Persons Office if they are permitted to reside in Hong Kong SAR for more than 180 days.

Hong Kong SAR residents who are 11 years and older must register for a Hong Kong SAR Identity Card. Hong Kong SAR residents who are 15 years and older must carry their Hong Kong SAR Identity Card at all times. Failure to do so is an offense under the Immigration Ordinance.

Training

Training visas are typically granted to foreign national students and intracompany transferees in order for them to acquire skills, knowledge or experience in Hong Kong SAR otherwise not available in their country of residence. A training visa is valid for a maximum period of 12 months and is not renewable. At the end of the training, the foreign national is expected to apply the knowledge they gained in Hong Kong SAR to their studies or work overseas.

Foreign nationals from Afghanistan, Cuba and the Democratic People's Republic of Korea are not eligible for training visas. Additionally, this entry arrangement does not apply to Chinese residents of Mainland China (other than Mainland China employees and business associates of well-established and multinational companies based in Hong Kong SAR).

Other comments

Foreign nationals may be eligible to apply for right of abode (permanent residence) after maintaining continuous residence in Hong Kong SAR for seven years or more.

A Chinese national who is a permanent resident of Hong Kong SAR and holds a valid Hong Kong Permanent Identity Card may apply for a Hong Kong SAR passport. Naturalization to become a Chinese national is possible under strict criteria. However, naturalization applicants must relinquish all foreign citizenships prior to acquiring Chinese nationality because Mainland China does not recognize dual nationality.

Hungary

Introduction

Hungarian immigration legislation provides different solutions to help employers of foreign nationals and assist foreign nationals entering the country for business purposes. There are several possible ways to enter and stay in Hungary that are worth considering when planning for Hungarian residency.

Hungarian immigration law has various exemptions to simplify the process of obtaining residency and employment for foreign nationals who are executive employees of Hungarian entities or employees of international companies sent to Hungary on secondment, scientific researchers or students. As a result, foreign nationals can easily choose which residence and employment fits their expectations and needs in Hungary.

Key government agencies

Depending on their nationality and the purpose and length of their stay in Hungary, foreign nationals may need a specific visa or residence permit to enter the country. However, some foreign nationals do not need a visa or residence permit.

If the foreign national must obtain a visa, the application must be processed in accordance with the Visa Code adopted by the European Parliament and the Council in July 2009 ("**Visa Code**"). This regulation aims to unify all European legislation on visa matters into one document, therefore increasing transparency, enhancing the rule of law and the equal treatment of visa applicants, and harmonizing the rules and practice of Schengen countries where a common visa policy applies.

The Visa Code has all the currently effective provisions applicable to the Schengen visa. It defines the common rules on the conditions and procedure for issuing a visa, and the conditions for obtaining a visa. The Visa Code also harmonizes the rules on processing applications and orders.

Pursuant to the Visa Code, the visa application must generally be submitted to the Hungarian Embassy (Nagykövetség) or Consulate (Konzulátus) where the foreign national resides abroad. The visa application can also be processed by various forms of cooperation among member states, such as limited representation, colocation, common application centers, recourse to honorary consuls and cooperation with external service providers.

The application for a residence permit is forwarded to the regional office of the National Directorate-General for Aliens Policing (Országos Idegenrendészeti Főigazgatóság), which is authorized to issue these permits in Hungary.

The issuance of a visa or residence permit is only a preliminary requirement for entry and does not ensure automatic entry for foreign nationals. At the Hungarian border, foreign nationals must prove that they meet the specific requirements set out in Regulation (EU) 2016/399 of the European Parliament and of the Council (i.e., they hold a valid passport and visa and can justify the purpose of

their stay, the cost of them living in Hungary is covered by sufficient financial resources, no alert has been issued in the Schengen Information System (SIS) for the purposes of refusing entry for them, and they are not considered a threat to public policy, internal security, public health or the international relations of Hungary).

If the purpose of a foreign national's entry into Hungary is to work, a work permit or joint work and residence permit (joint permit) is required, provided that the performance of these activities is not exempted from work permit requirements.

Current trends

Foreign nationals from a privileged or semi-privileged country (for which the European community has abolished or simplified the visa requirement) may enter Hungary without a visa and submit the application for a residence permit/joint permit directly to the regional office of the National Directorate-General for Alien Policing. Notwithstanding this, the foreign national cannot work until a work permit/joint permit has been issued.

Simultaneously with European integration, Hungary developed a unified immigration system of regional immigration offices that are responsible for all aspects of immigration. Hungary joined the EU on 1 May 2004 and became a party to the Schengen Treaty on 31 December 2007. These milestones in Hungary's integration had a substantial impact on Hungarian immigration law by harmonizing Hungarian law with EU law. Further, specific provisions applicable to EEA citizens have been introduced into the Hungarian legal system.

Hungary has developed extensive business and commercial relations across the world in the last two decades. As a result, there is a significant demand for flexible immigration rules that decrease bureaucratic burdens for business travelers and foreign nationals employed by Hungarian entities or international corporations and sent to Hungary for work.

Foreign nationals from non-privileged countries must obtain a visa for a short-term stay in Hungary. These are generally issued within 15 calendar days but may take up to 30 days if the application is scrutinized or a diplomatic delegation processes the visa application and consults certain authorities of Hungary. In exceptional situations where additional documentation is necessary, the period may be extended to up to 60 days.

On 13 December 2023, the Hungarian Parliament adopted Act XC of 2023 on the general rules for entry and residence of third-country nationals ("**New Immigration Act**"). It entered into force on 1 January 2024. The requirements for a short-term stay remain the same under the New Immigration Act; however, the rules of long-term residence have been changed significantly.

For long-term residence in Hungary, non-EEA nationals must obtain a residence permit/joint permit. There are various residence permits, depending on the purpose of staying in Hungary. These include the following:

- Performing work (individually, as a guest worker or carrying out an investment)
- Investment
- Intragroup transfer
- Studying
- Family reunification
- Scientific research
- Visiting

- Healthcare
- Performing voluntary activities
- Assignment within a group of undertakings
- Job-seeking
- Starting a business
- Student mobility
- Training

Applicants can easily choose a category that accommodates their stay in Hungary. Additionally, the applicable laws also contain specific provisions for foreign nationals intending to work seasonally or whose residence is related to the fostering of Hungarian traditions or study of the Hungarian language, culture or family relations (except in the case of family reunification).

Currently, foreign nationals seconded within the same group of undertakings can only obtain a residence permit in Hungary if they are an executive, expert or trainee. If seconded employees are not employed as any of the above positions, or if the secondment is not intragroup, they must have a local employment contract with the Hungarian receiving entity to be issued work and residence permits.

As of 1 January 2019, family members of EEA nationals (who are not themselves EEA nationals) must obtain a residence permit to reside in Hungary. They also must have a work permit if they want to work in Hungary. Prior to 1 January 2019, they enjoyed the same rights as EEA citizens.

Summary procedures are available for certain immigration procedures. However, if the background facts and documents for an application are clear and the administrative deadline is in less than two months (60 days), the immigration bureau will decide whether to grant the permit within eight days, which can accelerate certain residence permit procedures.

In line with Directive (EU) 2021/1883 of the European Parliament and of the Council regarding the conditions of entry and residence of foreign nationals for the purposes of highly qualified employment, the National Directorate-General for Aliens Policing issues EU Blue Cards for foreign nationals to work and reside in Hungary, especially those that are highly skilled.

Simultaneously with the increased number of foreign nationals employed in Hungary, there has been significant growth in the number of foreign nationals employed illegally. The applicable law has been amended to combat illegal employment by strengthening the immigration rules. As such, employers of foreign nationals are increasingly subjected to penalties and other sanctions for unauthorized employment.

As of 1 January 2019, residence permit applications can be submitted electronically, unless the application is filed with the Hungarian Embassy or Consulate abroad.

Business travel

Settlement permits (Niederlassungsbewilligungen)

The applicable law specifies three types of settlement permits:

- Interim settlement permit
- National settlement permit
- European settlement permit

However, the New Immigration Act also acknowledges settlement permits issued prior to it coming into force.

A third-country national intending to settle down in Hungary may obtain at least one of the following:

- An interim settlement permit
- A national settlement permit
- A European settlement permit, if specific requirements of the New Immigration Act are satisfied (e.g., expenses related to the third-country national's living and accommodation in Hungary are covered)

A foreign national holding a European settlement permit granted by an EU member state in accordance with Council Directive 2003/109/EC of 25 November 2003 can obtain an interim settlement permit if the purpose of their stay in Hungary is the following:

- To pursue gainful activities or to work, with the exception of seasonal employment
- To engage in studies or vocational training
- For another certified reason

This permit can be valid for up to five years, but occasionally can be extended for another five years.

A national settlement permit can be issued to foreign nationals holding a residence visa or residence permit or an interim settlement permit if that individual satisfies the specific requirements included in the New Immigration Act.

A foreign national can be issued an EC permit for settling down after they have legally lived in Hungary for at least five years prior to filing the application.

Long-term visa

Foreign nationals may enter and stay in Hungary for a period exceeding 90 days within any 180-day period if they meet the specific requirements (e.g., justify the purpose of their stay, have sufficient financial resources to cover their healthcare services and similar) listed in the New Immigration Act.

The applicable law distinguishes between the following types of visas and permits:

- Visa for a period longer than 90 days within any 180-day period (i.e., a visa for acquiring a residence permit or a national visa can be issued under specific international agreements allowing for single or multiple entry and a visit period longer than 90 days within any 180-day period)
- Residence permit (either a regular type of residence permit or a joint residence permit)
- Immigration permit
- Permit for settling down
- Interim permit for settling down
- National permit for settling down
- EC permit for settling down
- EU Blue Card

Short-term visa (Schengen visa)

Nationals from non-privileged countries must obtain a visa for the duration of their business trip to Hungary and apply for their visa at a Hungarian diplomatic post abroad.

A valid Schengen visa entitles the holder to travel through and stay in the member countries of the Schengen Agreement (Germany, Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland) for a maximum period of 90 days within any 180-day period.

Schengen visas must be applied for at the representation of the country that is the main destination of the intended travel or, if the main destination cannot be ascertained, at the representation of the country first entered into within the Schengen Area.

Residence permit

If in possession of a residence permit, a foreign national is entitled to stay in Hungary for longer than 90 days within any 180-day period. A residence permit must be applied for in a joint permit procedure if the purpose of the stay is to work, the applicant intends to terminate the local employment contract with the Hungarian receiving entity and the applicant is not subject to a work permit exemption. A joint permit will permit both work and residence in Hungary.

Foreign nationals seconded within the same group of undertakings may only obtain a residence permit in Hungary if they hold the position of executive, expert or trainee. If secondees do not hold any of the above positions, or if the secondment is not intragroup, a local employment contract with the Hungarian receiving entity is necessary to obtain a work and residence permit.

In addition to the gainful activities, under specific circumstances, a residence permit may be issued for the purpose of family reunification, studying, scientific research, job-seeking, training, starting a business or student mobility.

Visitor Investor Visa and Visitor Investor Residence Permit

The New Immigration Act introduces the Visitor Investor Visa, which will entitle its holder to stay for more than 90 days within a 180-day period and will allow multiple entries during the validity period of the visa. Only Visitor Investor Visa holders can apply for a Visitor Investor Permit.

To be eligible for a Visitor Investor Visa, the third-country national must meet the following conditions:

(a) Their entry and stay are in the national economic interest with regard to their investments in Hungary.

(b) They must have a valid passport.

(c) They must have the necessary authorization for return or onward travel.

(d) They must be able to prove the purpose of their stay.

(e) They must have sufficient resources to cover their accommodation, subsistence and travel expenses for the entire duration of their stay.

(f) They must not be subject to an SIS alert.

(g) They must make a written commitment that they hold or intend to hold in the future an investment of the type and in the amount specified in the law and shall certify that they have the financial resources of lawful origin to make the investment.

The New Immigration Act defines the following investments as being in the national economic interest:

(i) Acquiring investment funds of at least EUR 250,000 issued by a real estate fund registered by the National Bank of Hungary

(ii) Acquiring ownership of real estate in Hungary with a value of at least EUR 500,000

(iii) Making a financial donation of at least EUR 1 million to a higher education institution maintained by a public trust with a public-service mission for the purposes of education, scientific research or artistic creation

The visa is valid for up to two years.

Visitor Investor Residence Permit

According to the New Immigration Act, the holder of a Visitor Investor Residence Permit is entitled to carry out activities for consideration on their own or as a managing director of a company, cooperative or other legal person established for gainful purposes, or is entitled to work in Hungary within the framework of an employment relationship.

To be eligible for a Visitor Investor Residence Permit, the third-country national must meet the following conditions:

(a) Their entry and stay are in the national economic interest in view of their investments in Hungary.

(b) They must have a valid passport.

(c) They must have the necessary authorization for return or onward travel.

(d) They must be able to justify the purpose of their stay.

(e) They must have an accommodation or residence in Hungary.

(f) They must not be subject to expulsion or a ban on entry and residence.

(g) They must not be subject to an SIS alert.

(h) They must have a Visitor Investor Visa.

The maximum validity period of a Visitor Investor Residence permit is 10 years, which can be extended by a maximum of 10 years for the same purpose only. If the Visitor Investor Residence Permit is extended, the validity period may exceed the validity period of the third-country national's passport.

Hungarian Card

The New Immigration Act introduces the Hungarian Card, which will only be available to third-country nationals (i) whose purpose of residence is to carry out actual work for or under the direction of another person for consideration based on their employment relationship, or (ii) who, as the owner or manager of a company, cooperative or other legal person established for gainful purposes, is actually carrying out work in addition to the activities falling within the scope of that activity.

In addition to the above, the third-country national must meet at least one of the following criteria:

(1) Have the professional qualifications specified in the Communication from the Minister responsible for higher education

(2) Be a professional sportsperson or professional coach

(3) Be a performer

(4) Work in a film production company

The Hungarian Card can be valid for three years maximum.

EU Blue Card

The National Directorate-General for Aliens Policing issues EU Blue Cards to support the work and residence of foreign nationals with especially high skills. An EU Blue Card is both a work and residence permit. With an EU Blue Card, a temporary residence title is issued for four years. If the duration of the employment contract is less than four years, the EU Blue Card is valid for the duration of the employment contract plus three months. An EU Blue Card can be extended for an additional four-year period.

Spouses and children

Hungarian immigration law provides specific provisions regarding residence permits of spouses and other close relatives of foreign nationals holding a residence permit, a settlement permit or another valid long-term visa. These specific provisions aim to facilitate the cohabitation of families during their residence in Hungary.

Employment assignments

Entry based on international agreements — citizens from the EEA

In general, citizens of EEA countries are free to reside and work in Hungary without any prior formalities. Family members of an EEA national (who are not themselves EEA nationals) must obtain a residence permit to reside in Hungary and a work permit if they want to work in Hungary. EEA nationals and their EEA-national family members are free to work for a company or be self-employed without needing a work permit. If EEA nationals stay for longer than 90 days within any 180-day period, they must notify the competent regional office of the National Directorate-General for Alien Policing of their residence in Hungary no later than on the 93rd day of their stay. Then, the competent office will issue a registration card certifying the notification.

Besides Hungary, the following countries belong to the EEA: Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Greece, Germany, Iceland, Ireland, Italy, Liechtenstein, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

According to treaties between Switzerland and the EU, Swiss nationals enjoy immigration rights equal to those of EEA nationals.

EEA citizens and family members who have legally and continuously resided in Hungary for five years have the right of permanent residence. However, in certain cases, less than five years' residence will suffice for EEA citizens who have been residing in Hungary with the purpose of gainful activity (e.g., more than three years is required if the EEA citizen performing a gainful activity is entitled to receive a pension upon the termination of their employment). The right of permanent residence is terminated if the qualified EEA citizen spends more than two years outside of Hungary.

Entry based on international agreements — rules of entry and residence of UK citizens after Brexit

As of 1 February 2020, UK citizens are considered foreign nationals. However, they enjoy more benefits than other foreign nationals. For example, UK citizens arriving from the UK are exempted from visa requirements if the duration of their stay is less than 90 days within a 180-day period. Those who legally resided in Hungary prior to Brexit benefit from derogations from the requirements set forth in the immigration laws during the residence permit application process. For example, the conditions of accommodation (e.g., means of subsistence and health insurance) will not be examined during the residence application process for UK citizens who legally resided in Hungary (with a registration certificate) and apply for a residence permit after three years. All documents that the foreign national previously obtained (registration certificate, residence card or permanent residence card) remain valid until the three-year residence period ends. Foreign nationals who have acquired the right to move and reside freely but failed to register or apply for a new status can initiate their settlement status according to the New Immigration Act. by applying for a residence permit.

The Third-Country National Act also applies to UK citizens and their foreign-national family members who arrive in Hungary after Brexit if they intend to stay for more than 90 days within a 180-day period. Residence permits issued to UK citizens are valid for three years. Applications for national residence permits must be submitted to the regional directorate of the National Directorate-General for Aliens Policing of the jurisdiction that is the foreign national's future place of residence in Hungary.

The benefits granted to UK citizens are as follows:

- Residence permits issued to UK citizens are valid for three years from the date of Brexit (1 February 2020).
- UK citizens who held a valid residence permit at the time of Brexit can apply for a national residence permit after three years of residency.
- Only the existence of a previous three-year stay and grounds for refusal will be examined for UK citizens who have a registration certificate.
- At the time of application, only a valid travel document must be produced. However, the immigration bureau might require mandatory annexes.

Family members of UK citizens

Family members of UK nationals permanently residing in Hungary, with whom a current family relationship that predates Brexit exists, may continue to benefit from the preferential arrangements for up to three years after Brexit.

Foreign-national family members of a UK national legally residing in Hungary within three years from the date of Brexit may be granted a national permanent residence permit. During the application process, the following will be examined: the existence of a legal residence, a family relationship (both prior to and after Brexit) and the existence of grounds.

Employment by a Hungarian entity

EU nationals are not required to obtain a work permit or visa to stay or work in Hungary. They are only subject to registration requirements. Similar treatment applies to citizens of Norway, Liechtenstein, Iceland and Switzerland. However, the employer must notify — no later than on the date the employment commences — the competent labor center of the employment of an EEA national without a work permit. Further, the employer must also notify the labor center upon the termination of this employment. In general, a workforce demand procedure must be initiated before the competent labor center. The procedure must be initiated by the Hungarian entity seeking to employ a third-country

national. This entity must submit a form in which it demands the workforce to fulfill the positions specified in the request. During the procedure, the labor center examines whether there are any Hungarian or EU nationals registered as jobseekers in Hungary who could be employed in the position that the third-country national is seeking to fulfill. If there is such a registered jobseeker, the third-country national cannot be employed in that position.

Other foreign nationals can also be employed, provided that they have been granted at least one of the following:

- A work permit
- A joint permit (depending on the length of their stay in Hungary)
- A residence permit

Permit for assigned managers, experts and trainees

Third-country managers, experts and trainees assigned to a Hungarian receiving enterprise must, within the same group of undertakings, obtain a special type of residence permit tailored to assignments within the group of undertakings. The processing deadline is 60 days, and no workforce demand procedure is to be conducted.

Work permit and joint permit

According to the New Immigration Act, third-country nationals can work if they obtain a (i) work permit, (ii) work permit issued for the purpose of carrying out an investment or (iii) guest worker permit.

(i) Third-country nationals who actually perform work for or under the direction of another person, for remuneration, based on an employment relationship: The work permit entitles its holder to stay in Hungary for a fixed period of up to two years. The validity may be extended for a period of up to one year, provided that the residence permit for employment purposes may not be extended for a period exceeding three years from the date of its first issue. The third-country national may not apply for a residence permit on other grounds in the territory of the country, which means that they will have to leave Hungary if they want to apply for another type of residence permit. The family members of third-country nationals working with a work permit in Hungary may not apply for a family reunification permit.

(ii) According to the New Immigration Act, a work permit for the purpose of carrying out an investment may be issued to a guest worker who meets the following criteria:

(a) They are intended to carry out, based on their employment relationship, actual work for consideration, for or under the direction of another person, a project.

(b) Their employer has concluded an agreement with the minister for foreign economic affairs, acting on behalf of the government.

(c) They work on carrying out the investment.

(d) Their employer has obtained prior group employment approval, as defined by law.

The permit is valid until the investment has been carried out, but for no more than three years. After three years, the permit cannot be extended.

(iii) A guest worker residence permit can be issued to guest workers who meet the following criteria:

(a) The purpose of their stay is to carry out actual work based on an employment relationship, for consideration, for or under the direction of another person.

(b) Their employer is a registered preferential employer or a registered qualified lender.

(c) They are a national of a third country as defined in a decree of the minister responsible for the employment of third-country nationals in Hungary, issued with the Defense Council's approval.

(d) Their employment is in an occupation not excluded by the minister responsible for employment policy in their notification.

The New Immigration Act defines preferential employers as follows:

- An employer with a strategic partnership agreement with the government
- An employer who is implementing an investment of major importance for the national economy
- An employer with a partnership agreement under the Priority Exporter Partnership Program

The guest worker permit may be extended for a period of up to one year, provided that the residence permit for employment purposes may not be extended for a period exceeding three years from the date of its first issue.

As a general rule, a work permit must be obtained if a foreign national would like to work in Hungary for less than 90 days within any 180-day period. A joint permit (including the labor center's approval and a residence permit) is required if a foreign national would like to work in Hungary for more than 90 days within any 180-day period.

If a work permit or a joint permit is required, the Hungarian entity for which the foreign employee will work must initiate a workforce demand procedure with the regional branch of the labor center as a preliminary step. A workforce demand form and the Hungarian entity's data sheet must be submitted for this purpose.

After a valid workforce demand has been filed, the following steps must be taken:

- A work permit application must be filed with the labor center if the foreign national is to work in Hungary for less than 90 days within any 180-day period.
- If a foreign national is to work in Hungary for more than 90 days within any 180-day period, the workforce demand procedure must be followed by a joint permit application filed with the immigration bureau. The immigration bureau will then make an official inquiry to the labor center and send the work permit application to the labor center. In this case, the relevant authorities have 70 days to decide on the joint permit application. If issued, the joint permit will be valid for up to two years, but it can be extended by up to two additional years at a time.

Under certain circumstances, both the work permit and the labor center's approval can be obtained in a simplified procedure (i.e., there is no need to go through a workforce demand procedure when submitting the work permit application to the labor center or the joint permit application to the immigration bureau). The following circumstances may give rise to a simplified procedure:

- If one or more foreign entities (or persons) have a majority ownership interest in the company applying for the work permit, provided that the total number of foreign nationals to be employed by the applicant during one calendar year does not exceed 10% of the company's total workforce on the last day of the quarter preceding the date of the application
- If the applicant, pursuant to an agreement between themself and a foreign entity, intends to employ a foreign national for installation work or to provide guarantee, maintenance or warranty-related activities for more than 15 consecutive working days (However, no work

permit is required if the foreign nationals are to be employed occasionally by the applicant for less than 15 consecutive working days.)

- If the foreign national is exempt from the work permit requirements (However, they must still apply for a residence permit.)

Rather than providing an exhaustive list of each category exempted from the work permit requirements, below is a summary of the categories most often used for multinational corporations sending business travelers and foreign nationals to work in Hungary.

No work permit is required for the performance of work by a foreign national who meets at least one of the following criteria:

- They are an executive officer or a member of the supervisory board of a Hungarian company operating with foreign participation.
- They are the head of the branch of the representative office of an enterprise that has its registered seat abroad based on international treaties.
- They perform work related to installation, warranty or other repair activities based on a contract with a foreign enterprise, provided that this activity does not exceed 15 working days per occasion.
- They perform scientific, educational or art-related work for a period of no more than 10 working days per calendar year.

Training

There is a category of residence permit exclusively for training. The residence permit may be valid for six months or for the shorter period of the training. Trainees may apply for a residence permit for training based on a training agreement between the trainee and the approved host entity.

Other comments

There are additional authorizations that may apply to specific cases, such as work permit exception and residence authorizations for professors or other university lecturers, researchers performing research or educational activities, students sent to Hungary by international student organizations for vocational training, athletes, students with a Hungarian student card working in Hungary, foreign nationals employed in Hungary through the EU Erasmus+ program or the reunification of families.

The issuance of visas is a discretionary decision. If the immigration bureau rejects an application, applicants are entitled to an appeal. However, one cannot appeal a favorable decision by the immigration bureau. The applicant may appeal within 15 days from the date that the residence permit application was rejected, and the appeal must be lodged with the immigration bureau that rejected the application. That immigration bureau will then forward the appeal, and the relevant documents, to the authority of second instance.

Italy

Introduction

Italian law provides many solutions to help employers of foreign nationals, ranging from short-term visas to long-term visas. Often, more than one solution is worth consideration. Requirements, processing times, employment eligibility and benefits for accompanying family members vary by visa classification.

Key government agencies

Italian consular representatives are responsible for processing visas. To obtain an entry visa, an application must be filed with the visa department along with a number of documents. The issuance of the visa is at the discretion of these diplomatic authorities, meaning that, under the applicable laws, the consular representations are entitled to discretionally ask for any additional information or documents they deem necessary to evaluate the application.

Many visa applications first require an approved work permit petition (nulla osta) by the prospective Italian employer, filed with the Italian immigration office through a dedicated public office (sportello unico per l'immigrazione) responsible for many aspects of the immigration process, along with a number of documents. The issuance of the nulla osta is at the immigration office's discretion.

The immigration office processes work permit applications through the local labor office (Ufficio Territoriale del Lavoro) and the nulla osta through the foreign national's local Bureau of Police Headquarters (Questura), which also handles residence permits (permesso di soggiorno) after arrival in Italy.

Current trends

Differences exist between EU citizens and non-EU citizens regarding immigration to Italy and becoming an Italian resident.

EU citizens have the right of free movement throughout the EU. If an EU citizen would like to work or reside in Italy, they must declare their presence in the country at the local registry office, specifying their purposes, financial means of support and accompanying family members in Italy.

Non-EU citizens are subject to stricter requirements when obtaining work and residence permits. There is a fixed quota of permits available each year, and a non-EU citizen needs to have gainful employment with an Italian employer or the financial means to support themself while in Italy.

However, Italian immigration law provides for a number of different immigration permits that can be granted for specific reasons and are independent of the restricted quota.

It is increasingly important for employers to ensure that their foreign employees comply with all legal formalities while in Italy. Employers that employ foreign nationals unauthorized for this employment are subject to civil and criminal penalties.

Employers involved in mergers, acquisitions and reorganizations must evaluate how foreign nationals' employment eligibility will be impacted when structuring transactions. Due diligence to evaluate the immigration-related liabilities associated with an acquisition is increasingly important as enforcement activity has increased.

Business travel

Visa waiver

As noted previously, EU citizens have the right of free movement throughout the EU. Further, the normal requirement of first applying at an Italian consular post for a business visa is waived for non-EU citizens of certain countries. The permitted scope of activity is the same as for a business visa, and the length of stay is up to 90 days, without the possibility of extending or changing status. A departure ticket is also required.

The following countries are presently qualified under this program:

Albania, Andorra, Antigua and Barbuda, Argentina, Australia, the Bahamas, Barbados, Bosnia and Herzegovina, Brazil, Brunei, Canada, Chile, Colombia, Costa Rica, Croatia, Dominica, Timor-Leste, El Salvador, the Former Yugoslav Republic of Macedonia, Guatemala, Grenada, Honduras, Hong Kong SAR, Israel, Japan, the Republic of Kiribati, Malaysia, Macau SAR, Mauritius, Mexico, the Federated States of Micronesia, Monaco, Montenegro, New Zealand, Nicaragua, Northern Marianas, Palau, Panama, Paraguay, Peru, Saint Kitts and Nevis, Samoa, Saint Lucia, Serbia, Seychelles, Singapore, South Korea, Saint Vincent and the Grenadines, the Solomon Islands, Taiwan, Tonga, Trinidad and Tobago, Tuvalu, the United States, the United Arab Emirates, Ukraine, Uruguay, Vanuatu and Venezuela

The list of qualified countries is subject to change. The regularly updated list can be found here: http://www.esteri.it.

Business visa

Foreign nationals coming to Italy for short-term business trips can use a business visa. Generally, the foreign national must be traveling to Italy for "economic or commercial purposes, to make contacts with local businesses or carry out negotiations, to learn, to implement or to verify the use of goods bought or sold via commercial contracts and industrial cooperation" to obtain a business visa.

Foreign nationals cannot be employed in Italy while on a business visa. Each individual can have one 90-day business visa in any given 180-day period. Business visas also usually allow multiple entries into the Schengen Area while valid. This visa requires the following:

- A return-trip booking, ticket or proof of available personal transport
- Proof of economic means of support
- Health insurance with a minimum coverage of EUR 30,000 (to cover emergency hospital and repatriation expenses)
- A specific business purpose for the trip
- The applicant's status as a financial-commercial operator

EU Blue Card

Another possibility that exists for non-EU nationals hired by an Italian company is the EU Blue Card. The EU Blue Card is an existing visa created at EU level granting a fast-track process to work in Italy with a company based in Italy. Based on the previous legislation, the workers that were beneficiaries of this special regime were high-level managers and highly skilled workers.

Based on recent legislation, beneficiary workers are now not only those who hold a university degree with at least three years of studies, but also those who fulfill one of the following criteria:

- Have a post-secondary professional qualification of at least three years or correspondent to at least level 6 of the National Qualifications Framework pursuant to Legislative Decree 13/2013 (published in OJ No. 20 of 2018)
- Have five years of professional experience in the sector relevant to the job offer
- Have three years of professional experience gained in the seven years preceding the application for managers and specialists in the information and communication technology sector

The minimum duration of the employment relationship with an EU Blue Card is six months. The minimum annual salary threshold is the minimum gross annual salary defined by the National Collective Labor Agreement applied by the employer in Italy.

During the first 12 months, the worker hired with an EU Blue Card has some restrictions: They cannot change employer or carry out duties other than those for which they have been hired.

EU Blue Card holders may carry out self-employment activities concurrently with the subordinate activities.

Holders of a Blue Card issued by another EU member state can enter and stay in Italy for a maximum of 90 days in a time frame of 180 days.

After staying for 12 months in another member state, holders of a Blue Card issued by another EU member state can enter Italy and obtain an EU Blue Card, if the expected period of stay will be above 90 days, without the need to apply for a visa. However, a work authorization issued by the Italian immigration authority remains obligatory.

If the conditions for family reunification are met and the complete applications are submitted at the same time, the family member's residence permit is issued at the same time as the EU Blue Card.

Permit issued pursuant to Article 27, paragraph 1, letter i) of the Italian immigration law (Legislative Decree 286/1998)

This is a special type of permit for non-EU citizens, regularly employed and paid by foreign employers, who come to Italy temporarily for employment reasons through secondment to perform their activities under a contract (contratto di appalto) executed between their employer and an Italian client.

These permits are valid for a maximum period of two years and may be renewed. Additionally, this type of work permit is also granted independently of quota restrictions that otherwise generally apply to non-EU citizens.

A permit holder's spouse and children (that enter Italy before reaching the age of majority or who cannot autonomously provide for their own needs even if above the majority age) can obtain work and residence permits independently from the quota system for the same validity period as the work permit.

Employers must undertake to give foreign national employees wages, working conditions and benefits equal to those normally offered to similarly employed workers in Italy.

Employment assignments

Permits granted to non-EU citizens outside quotas

This permit is issued pursuant to Article 27, paragraph 1, letter a) of the Italian immigration law (Legislative Decree 286/1998).

This is a special type of permit that is valid for up to five years and specifically for managers or highly skilled employees employed by a company abroad that are seconded to Italy to perform activities within an Italian company.

To obtain a work and residence permit, an application must be filed through an online system. The application must contain the terms and conditions of the foreign national's subordinate employment relationship (contratto di soggiorno per lavoro). This is basically a new type of employment agreement. It requires the following to be valid:

- The guarantee that the employer will provide the foreign national with a house or other living accommodations
- The undertaking to pay travel expenses for the foreign national to return to their country of origin once either their permit has expired or they do not obtain a renewal

This type of contract must be signed with the mediation of the sportello unico per l'immigrazione. The duration of the permit is as follows:

- For seasonal employment, no longer than nine months
- For fixed-term employment, one year
- For employment for an indefinite period of time, one or two years, at the immigration authorities' discretion

On 11 January 2017, Legislative Decree 253/2016 entered into force and implemented the so-called ITC Directive (Intercorporate Transfers) No. 2014/66/EU, which regulates the conditions of entry and residence of foreign nationals in the framework of an intra-corporate transfer (the entering into force of this new law determined the introduction of Article 27, section 5 of the Italian immigration law (Legislative Decree 286/1998)).

This legislation seeks to facilitate the mobility of workers subject to intra-corporate transfers within the EU and reduce the administrative burden associated with work assignments in different member states.

The requirements to benefit from this mobility program are as follows:

- The employing entity and the host entity belong to a group of companies according to Article 2,359 of the Italian Civil Code. We expect that it will not be easy to represent the existence of the group of companies in cases of articulated structures that lack a consolidated balance sheet or proof of the existence of entities within the group outside Italy.
- The employee has been employed by any company of the group for at least three consecutive months prior to the secondment in Italy.
- The employee has the qualifications and experience required by their classification as an executive, skilled worker or trainee.

The maximum length of the secondment is three years for executives and skilled workers and one year for trainees.

A permit holder's spouse and children (that enter Italy before reaching the age of majority or who cannot autonomously provide for their own needs even if above the majority age) can obtain work and residence permits independently from the quota system for the same validity period as the work permit.

Training

Student visa

A study visa allows foreign nationals to come and stay in Italy for a short or long period to attend university courses, training courses or vocational training held by qualified or certified entities or as an alternative for foreign nationals performing educational and research activities. This visa requires the following:

- Documents concerning the study, training or vocational courses to be attended by the applicant
- Proof of economic means of support during the entire stay in Italy
- Health insurance covering healthcare and hospitalization, unless the applicant is entitled to public health assistance in Italy according to any bilateral agreement in force between Italy and their country of origin
- The applicant be at least 14 years old

Investor visa

This permit is issued pursuant to Article 26-a of the Italian Immigration Law (Legislative Decree 286/1998).

This is a special type of permit for non-EU citizens that intend to invest the following amounts within three months of their entry into Italy:

- EUR 2 million in government bonds, for at least two years
- EUR 1 million in "equity instruments representing the assets of a company constituted and operating in Italy," for at least two years (This amount will be decreased to EUR 500,000 if the investment concerns an "innovative" start-up.)
- EUR 1 million in a philanthropic initiative

This visa requires proof of available means of support during the stay in Italy and the amounts to be invested under the obligation undertaken through the visa application.

Permits are valid for a maximum period of two years and can be renewed.

Start-up visa

This permit is issued pursuant to Article 26 of the Italian Immigration Law (Legislative Decree 286/1998).

This permit is issued to non-EU citizens that intend to create or join an "innovative" start-up in Italy, either with the support of a "certified incubator" (a company that hosts start-ups and supports business ideas, meeting the requirements set out by the Ministerial Decree of 22 December 2016) or without.

Applicants must provide both a business model to be evaluated by the technical committee set up by the Italian Ministry of Economic Development and proof of available means to be invested in the start-up.

Permits are valid for a period of one year and can be renewed.

Promise to integrate

Starting 10 March 2012, all applicants for residence permits with a minimum of a one-year duration must sign an integration agreement. This integration requirement is a points-based system concerning permission to stay, according to which each applicant starts with 16 points and must obtain 30 points within the first two years of their residence permit.

Within 30 days of signing the agreement, the applicant is required to attend a five-hour course in English (eight other languages are also available) to learn about Italy and Italian culture. Failure to attend this course results in the loss of 15 points.

One month before the integration agreement expires, the prefecture will carry out an audit to verify the number of points the applicant has obtained. The applicant may take a test to demonstrate their degree of knowledge of the Italian language, civic culture and civic life in Italy. The result of the audit can be a finding that the requirement has been completed (if more than 30 credits are obtained), a one-year extension (if fewer than 30 credits are obtained) or a final resolution (if zero credits or fewer are obtained, resulting in permit of stay revocation and expulsion from Italy).

Other comments

There are additional visas less frequently used for global mobility assignments that are worth mentioning. One of them is the mission visa, which is issued at the discretion of the Italian consular representatives in the applicant's place of residence for "reasons of public utility between a foreign state/international organization and Italy." This type of visa is granted independently of quota restrictions. This visa requires the following:

- An invitation letter prepared by the foreign state or international organization concerned clearly outlining the purposes of the invitation, the scope and the description of the mission that the invited applicant will have to perform, the duration of the stay in Italy, and the entity that will be responsible for the travel and living costs
- A letter from the applicant outlining the proposed itinerary and confirming the purpose and duration of the trip as indicated in the invitation letter
- A confirmed return airplane ticket or reservation print-out (Open airplane tickets are acceptable.)

The processing time for this application depends on the Italian Consulate's caseload at the time of application. It is normal for the process to take at least 90 to 120 days. The foreign national must file an application via an Italian post office to the local Bureau of Police Headquarters (Questura) to complete the immigration procedure and obtain the final stay permit within eight days of entering Italy and once the mission visa is issued. A meeting with the local police office and the foreign national is required for this purpose.

A non-EU citizen who has legally resided (i.e., by means of a regular work and residence permit) in Italy for more than 10 years may request Italian citizenship. Citizenship is discretionally granted by decree of the president of the republic upon the Ministry of Internal Affairs' proposal.

Japan

Introduction

Generally, foreign nationals who come to Japan must apply for landing permission at the port of entry. The appropriate status of residence (zairyu shikaku) from among the 38 different types (there are 29 official categories) will be granted if the Japanese passport control officers grant landing permission and depending on the nature and period of the stay. In Japan, foreign nationals are only allowed to engage in those activities permitted under the status of residence granted.

In most cases, foreign nationals are recommended to obtain a Certificate of Eligibility (CoE) prior to coming to Japan, except for temporary visitors.

In addition, foreign nationals are generally required to obtain an appropriate visa from a Japanese Consulate. In Japan, the term "visa" carries all or at least one of the following meanings:

- A visa issued from a Japanese Consulate located overseas
- Landing permission applicable at the port of entry
- A visa granting residency status

To avoid confusion, this chapter will refer to the specific category (i) as a visa, (ii) as landing permission and (iii) as either status of residence or visa status.

In Japan, the focus is on facilitating entry and residency for foreign nationals with specialized knowledge and skills, whereas the admission of unskilled foreign nationals has generally been outside the scope of discussion.

Key government agencies

The Ministry of Justice is the government organization responsible for immigration control services and includes the Immigration Services Agency and eight regional Immigration Services Bureaus, seven district offices, 61 branch offices and two detention centers. The Immigration Services Agency and regional Immigration Services Bureaus are in charge of entry into and departure from Japan, residency, deportation and recognition of refugee status.

The issuance of visas is handled by Japan's Ministry of Foreign Affairs through consulates and diplomatic offices abroad.

Current trends

The Immigration Bureau started the e-Notification System on 24 June 2013. The e-Notification System allows medium- to long-term residents and their employers to submit mandatory notices online to the minister of justice. Currently, the e-Notification System accepts notices concerning

employers that are filed by their medium- to long-term resident employees and notices concerning medium- to long-term resident employees that are filed by their employers.

The Immigration Act was amended, effective June 2014. Notable changes are as follows:

- Reorganization of statuses of residence (effective 1 April 2015)
- To further promote the acceptance of foreign nationals with advanced and specialized skills, a new status of residence, highly skilled professional I, is now available for foreign nationals with advanced and specialized skills. These foreign nationals were previously granted the "designated activities" status of residence, which affords various kinds of preferential immigration treatment. In addition, another status of residence, highly skilled professional II, was established for holders of highly qualified professional I status who remain in Japan under the highly skilled professional I status for a certain period of time. These foreign nationals will be permitted to engage in a wider range of activities and remain in Japan for an indefinite period of time.
- The name of the investor/business manager status of residence has been changed to business manager and no longer requires applicants to establish ties to foreign capital/investment. Holders of business manager status may now engage in business operations/management of Japanese-owned business entities.
- The engineer and specialist in humanities/international services statuses of residence have been consolidated. The division between the two statuses of residence, previously based on differences in the types of knowledge in which they had specialized (e.g., natural sciences versus humanities), has been abolished to respond to the needs of companies' acceptance of foreign nationals in specialized and technical fields. These statuses of residence are now the comprehensive engineer/specialist in humanities/international services status of residence.
- The categories of foreign nationals eligible to use automated gates will be expanded to include foreign nationals who frequently visit and stay in Japan under temporary visitor status. The start date will be announced in due course.

The Immigration Act, through the amendments from November 2016, established a new category called nursing care for a foreign national to engage in nursing care services when they hold a Certified Care Worker license under the relevant laws of Japan.

Further, a new set of laws concerning the protection of technical interns and appropriate operations of a technical internship for foreign nationals came into force on 1 November 2017, and the new technical internship system was accordingly put into effect.

On 8 December 2018, the Immigration Act was partially amended, and the amendments came into effect on 1 April 2019. Under the new amendments, the Immigration Bureau was renamed the Immigration Services Agency on 1 April 2019 to assist with increasing foreign visitors and medium- to long-term residents and to develop a favorable living environment for foreign nationals. The new categories of residence status of specified skilled worker No. 1 and No. 2 were also introduced on 1 April 2019 to solve a workforce shortage. These workers are currently permitted to engage in limited areas of jobs in 14 specified industry fields.

In accordance with the Regulatory Reform Implementation Plan, approved by the Cabinet on 17 July 2020, the stamp column on each application form has been abolished.

Business travel

Visa waiver

As of July 2017, Japan has entered into reciprocal visa exemption agreements with 68 countries and regions, as shown in the list below. Foreign nationals from these areas are not required to obtain a visa to enter Japan if the purpose of their stay is within those authorized under the temporary visitor visa status, and the length of their stay does not exceed the terms of the agreement between their country and Japan (either six months, 90 days, 30 days, 15 days or 14 days).

The list of countries and regions with visa exemption is as follows:

Countries and regions	Term of residence
Asia	
Brunei	14 days
Hong Kong (BNO, SAR passport)	90 days
Indonesia (ICAO standard ePassport that is registered with a Japanese Embassy/Consulate in advance)	15 days
South Korea	90 days
Macau (SAR passport)	90 days
Malaysia (ePassport in compliance with the ICAO Standards)	90 days
Singapore	90 days
Taiwan	90 days
Thailand (ePassport in compliance with the ICAO Standards)	15 days
North America	
Canada	90 days
United States of America	90 days
Europe	
Austria	six months
Germany	six months
Ireland	six months
Liechtenstein	six months
Switzerland	six months

Countries and regions	Term of residence
United Kingdom	six months
Andorra	90 days
Belgium	90 days
Bulgaria	90 days
Croatia	90 days
Cyprus	90 days
Czech Republic	90 days
Denmark	90 days
Estonia	90 days
Finland	90 days
Former Yugoslav Republic of Macedonia	90 days
France	90 days
Greece	90 days
Hungary	90 days
Iceland	90 days
Italy	90 days
Latvia	90 days
Lithuania	90 days
Luxembourg	90 days
Malta	90 days
Monaco	90 days
Netherlands	90 days
Norway	90 days
Poland	90 days
Portugal	90 days

Countries and regions	Term of residence
Romania	90 days
San Marino	90 days
Serbia (ePassport in compliance with the ICAO Standards)	90 days
Slovakia	90 days
Slovenia	90 days
Spain	90 days
Sweden	90 days
Latin America and Caribbean	
Mexico	six months
Argentina	90 days
Bahamas	90 days
Barbados (MRP, ePassport in compliance with the ICAO Standards)	90 days
Chile	90 days
Costa Rica	90 days
Dominican Republic	90 days
El Salvador	90 days
Guatemala	90 days
Honduras	90 days
Suriname	90 days
Uruguay	90 days
Middle East	
Israel	90 days
Türkiye (MRP, ePassport in compliance with the ICAO Standards)	90 days
United Arab Emirates (ICAO standard ePassport that is registered with a Japanese Embassy/Consulate in advance)	90 days

Countries and regions	Term of residence
Oceania	
Australia	90 days
New Zealand	90 days
Africa	
Lesotho (MRP, ePassport in compliance with the ICAO Standards)	90 days
Mauritius	90 days
Tunisia	90 days

Immigration inspectors at ports of entry have wide discretion to decide on a period of stay in Japan for foreign nationals that would like to enter Japan. As for temporary visitor status applicants, the immigration inspector grants either 15 days, 30 days or 90 days, whichever they consider appropriate to cover the foreign national's stay.

Nationals of countries and regions that have taken measures concerning the waiver of visa requirements with Japan for stays of up to six months are granted permission to stay in Japan for 90 days at the time of entry. Nationals of these countries and regions who would like to stay in Japan for more than 90 days must apply at their nearest local Immigration Services Bureau in Japan to extend their period of stay.

However, nationals of some of these countries that have taken measures concerning the exemption of visa requirements, including Peru (since 15 July 1995) and Colombia (since 1 February 2004), are still encouraged to obtain visas before entering Japan; otherwise, these nationals without visas will be strictly examined upon entering Japan.

Similarly, the above measure applies to those who possess non-machine-readable passports, in the case of nationals of Barbados (since 1 April 2010), Lesotho (since 1 April 2010) and Türkiye (since 1 April 2011).

Expanded eligibility for the use of automated gates

Eligibility for the use of automated gates was to be expanded to include foreign nationals who frequently travel to Japan and are deemed to pose little immigration control risk (Trusted Travelers) on the condition that they complete the prior registration process (including filing of fingerprints). Trusted Travelers are permitted to enter and leave Japan without needing to apply for landing permission each time, for the purpose of simplifying and streamlining the immigration process.

Temporary visitor

Temporary visitor is a status of residence for foreign nationals who intend to stay in Japan for a limited amount of time (up to 90 days) for business purposes, such as meetings, contract signings, market surveys and post-sale services for machinery imported into Japan.

Activities involving business management (i.e., profit-making activities) or remuneration other than those activities permitted under the status of residence (paid activities) by temporary visitor visa status

are not permitted. Violating the status of residence rules is considered illegal labor. Both the foreign national and the employer may incur criminal liability.

Paid activities means activities for remuneration for certain services, such as employment by another person or organization for compensation or any other activities for compensation (both financial and material) for the completion of any project, work or clerical work. There is an exemption for certain types of incidental or nonrecurring compensation of certain amounts that occur within regular, daily life.

In principle, temporary visitor status may not be extended because it is intended for foreign nationals who stay in Japan for a short period of time.

Employment assignments

Foreign nationals may only engage in the activities authorized for the specified period of time under their visa after obtaining the appropriate status of residence. Therefore, it is crucial that the applicant and their intended activities meet the criteria for at least one status of residence category and that they fulfill the criteria required specifically by the status of residence for which they are applying.

Among the 36 types of status of residence allowed in Japan, holders of 23 categories are allowed to engage in profit-making and paid activities. The four most common statuses of residence for employment are engineers, specialists in humanities or international services, intracompany transferees, and investors or business managers, as well as family members with dependent visa status.

Intracompany transfer

This status of residence authorizes activities for personnel transferred to business offices in Japan for a limited period of time from business offices established in foreign countries by public organizations or private companies that have head offices, branch offices or other business offices in Japan, and where applicants' work at these business offices is encompassed by the activities described in the engineers/specialists in humanities/international services status.

The applicant must be transferred from a business office located overseas to a business office in Japan, with both offices being of the same company, to engage in a job requiring skills or knowledge pertinent to one of the following:

- Physical science, engineering or other natural science fields
- Jurisprudence, economics, sociology or other human science fields
- Services that require specific training or sensitivity based on experience with foreign cultures

The main difference between the intracompany transferee and engineers/specialists in humanities/international services status of residence categories is that an intracompany transferee status does not require the applicant to have a contract with public organizations or private companies in Japan. Therefore, the applicant may receive their salary from business offices overseas.

Transfers between offices of the same company include transfers between the parent company and its subsidiary, and transfers between group companies that have a certain level of financial ties with each other. In addition, applicants for the intracompany transferee status of residence differ from applicants who are to operate or manage the operations of business offices located in Japan (who should apply for the business manager status).

Applicants must have been continuously employed at business offices outside of Japan for at least one year immediately prior to the transfer to Japan in a position that falls under the status of residence category of engineers/specialists in humanities/international services.

Furthermore, the applicant must receive a salary equal to that of a Japanese national for comparable work. The Immigration Services Agency does not announce the actual amount that satisfies this requirement; however, it is currently understood that a minimum of JPY 200,000 is to be paid as a monthly salary.

Engineers/specialists in humanities/international services

This status of residence covers both the former engineer and specialist in humanities/international services statuses of residence. No major changes have been made to the required qualifications for this category. It still targets applicants who intend to engage in services that require knowledge and/or skills relevant to one of the following:

- The natural sciences (e.g., physical science, engineering) (engineers)
- The humanities (e.g., law, economics, social science) (specialist in humanities)
- Specific ways of thinking or sensitivity acquired through experience with foreign cultures (international services)

The law requires the activities to be based on contracts with public organizations or private companies in Japan. Therefore, the applicant must enter into an employment agreement, service contract or consignment agreement. The applicant's employer must have an office located in Japan, and is, in many cases, required to arrange social and labor insurance for the applicant.

Applicants must meet one of the following requirements:

- Have graduated from or completed a course at a college or acquired an equivalent education majoring in a subject relevant to the skills and/or knowledge necessary for the proposed employment, and have at least 10 years of experience (including the time spent studying the relevant skills and/or knowledge at a college or upper secondary school)
- Be coming to work in a job that requires skills or knowledge concerning information processing for which the applicant has passed an information processing skills examination designated by the minister of justice or has obtained the information processing skills qualification designated by the minister of justice

If the job requires specific training or sensitivity based on experience with foreign cultures, the applicant must have a minimum of three years of experience in the relevant field, except where the applicant will engage in a translation, interpretation or language-related role.

In addition, the applicant must be offered a salary equal to the salary a Japanese national would receive for comparable work. The Immigration Services Agency does not announce the actual amount that satisfies this requirement; however, it is currently understood that a minimum of JPY 200,000 is to be paid as monthly salary.

Business manager

This status of residence authorizes foreign nationals to operate or manage international trade or other businesses.

Further, if the applicant is to operate or manage that business, the following conditions must be satisfied:

- The business office must be located in Japan. If the business has not yet completed the start-up process, the location that will serve as its office must be in Japan.
- One of the following conditions should be satisfied:
    - The business concerned must have the capacity to employ at least two full-time employees residing in Japan in addition to those who operate and/or manage the business. Full-time employees mentioned here exclude foreign nationals residing in Japan, except for foreign nationals with a status of residence as permanent resident, spouse or child of a Japanese national or spouse or child of a permanent resident or long-term resident.
    - The amount of investment in the business is at least JPY 5 million, which may vary depending on the size of the entire business operating in Japan.

If the applicant is to engage in the management of international trade or other businesses in Japan, the applicant must meet the following requirements:

- Have at least three years' experience in the operation or management of the business (including the time during which the applicant majored in business operation and/or management at a graduate school)
- Receive a salary equal to a salary a Japanese national would receive for comparable work

Highly skilled professional I

This status of residence targets applicants who will engage in one of the following activities designated by the relevant Ministry of Justice ordinances as those offered by highly skilled professionals who are expected to contribute to Japan's academic research and/or economic development:

- Research activities, research guidance activities or education activities based on a contract with a public or private organization in Japan, and the same activities engaged in simultaneously with the aforementioned activities based on the business the applicant runs themselves or a contract with another public or private organization in Japan
- Activities that require knowledge, or skills related to the natural sciences or humanities fields based on a contract with a public or private organization in Japan, and activities related to operating a business that simultaneously engages in the aforementioned activities
- Activities related to the operation of international trading or other businesses, management of such trading and businesses at a public or private organization in Japan designed by the minister of justice, and activities related to operating a business that simultaneously engages in the aforementioned activities

Applicants for the highly skilled professional I category must first qualify for a status of residence other than diplomat, official or technical intern training. The applicant's intended activities in Japan must not be considered harmful to Japan's industries or the lives of its citizens.

A holder of highly skilled professional I status will be given preferential immigration treatment, including the following:

- Permission to engage in multiple types of activities during their stay in Japan
- A five-year period of stay

- Relaxation of the requirements for granting permission for permanent residence in line with their history of staying in Japan
- Preferential processing of immigration and stay procedures
- Employment permission for their spouse
- Permission to bring their parents into Japan
- Permission to bring a domestic servant that they employ

In addition, a qualified applicant must engage in activities categorized as academic research activities, advanced specialized/technical activities or business management activities and earn 70 points or more under the points-based system to be recognized as a highly skilled foreign professional.

Highly skilled professional II

This status of residence targets holders of highly skilled professional I status who have lived in Japan for three years or longer.

In addition to enjoying the above-listed types of preferential treatment granted to holders of highly skilled professional I status, holders of highly skilled professional II status will be allowed an infinite period of stay (as opposed to a maximum of five years for highly skilled professional I) and will be allowed to engage in a much wider variety of activities (practically any work activities authorized under any work-related status of residence).

Dependents

This status of residence is for applicants whose daily activities are as the spouse or dependent children of foreign nationals who are staying in Japan with a status of residence other than diplomat, official, temporary visitor, precollege student or designated activities.

A dependent spouse must be legally and substantively married to the principal applicant. The Immigration Services Agency does not recognize common-law or same-sex marriages. Dependent children include adult children (age 20 or above) and adopted children.

Permissible daily activities include non-profit-making activities that family members are reasonably expected to be engaged in, such as household duties or attending elementary and high schools. Profit-making activities and paid activities are excluded. However, job hunting is considered to be within a dependent's authorized activities. Subject to obtaining special permission from the Immigration Services Bureau, a holder of the dependent visa status may engage in profit-making activities within the limit of 28 hours per week.

Other comments

CoE

The CoE is a document issued by the minister of justice prior to the arrival at a port of entry in Japan, certifying that the applicant fulfills the requirements for the status of residence requested. It is the applicant's responsibility to prove conformance to the disembarkation and residency requirements. The CoE procedure helps expedite the process for landing permission at the port of entry and aims to complete the inquiry into the applicant's qualification prior to arrival.

The CoE is evidence that the examination of status of residence has been completed and disembarkation permission has been granted. Therefore, a CoE will speed up the visa process at the Japanese Consulate overseas (usually completed within three to five business days after filing), as well as the process for obtaining landing permission at the port of entry.

In principle, the applicant's proxy (staff of the sponsoring company) or its agent (authorized attorney-at-law and administrative scrivener or gyoseishoshi) in Japan must submit the CoE application to the local Immigration Services Bureau. The application documents, as provided by the Immigration Control Act Enforcement Regulations, differ depending on the status of residence category.

Landing permission and residence card

When a foreign national enters Japan, they will be granted landing permission, which includes their status of residence and an authorized period of stay if they meet the landing requirements upon screening at the port of entry.

When landing permission is granted, a residence card will be issued to a foreign national authorized to stay in Japan for three months or more (called a medium- to long-term resident). A residence card carries the holder's ID photo, name, address in Japan, gender, status of residence and period of stay (expiration date) and contains an integrated circuit (IC) chip that also stores the holder's information.

Medium- to long-term residents are now required, as with Japanese nationals, to file a resident registration to allow their relevant local city governments to provide them with the same services that are available to Japanese nationals.

Where any items stated/recorded in a medium- to long-term resident's residence card are changed, the medium- to long-term resident must report such change(s) to their local city government so that these can be reflected in the residence card and resident registration.

Reentry permit

The status of residence granted to foreign nationals at the time of their entry automatically expires upon departure. If a foreign national subsequently would like to reenter and continue the status of residence they were previously granted, it is important to obtain reentry permission prior to departure. By obtaining reentry permission prior to leaving, the procedure for entry and landing can be simplified and the foreign national can retain the status of residence for the period of stay originally granted.

A residence card holder is considered to hold a reentry permit valid for one year from the date of their last departure from Japan because the act of presenting a residence card to an immigration official at the port of departure from Japan is considered equivalent to issuing a valid reentry permit.

However, if a foreign national leaves Japan and presents the residence card at the port of their departure without holding an actual reentry permit and fails to return to Japan within one year after this departure, the foreign national will lose their status of residence. This is because the one-year period during which a residence card holder is deemed to hold a reentry permit cannot be extended while outside Japan.

Further, foreign nationals with a reentry permit may register their personal identification information (e.g., fingerprints and photograph) with the Immigration Services Bureau prior to departure to further simplify the immigration inspection at the time of departure and reentry.

Extension of period of stay

A foreign national who would like to remain in Japan under the same status of residence beyond the period originally approved and for the same purpose must apply for permission at the local Immigration Services Bureau before the current visa status expires.

Filing an application does not mean an extension of the period of stay will be approved. The minister of justice will only give permission if it can be determined that there are reasonable grounds to grant an extension.

As mentioned earlier, the temporary visitor visa status generally may not be extended because it is only intended for foreign nationals who plan to stay in Japan for a short period of time.

Change of status of residence

Foreign nationals in Japan who would like to change the activities authorized under their current status of residence must obtain permission to change their status of residence from the local Immigration Services Bureau.

Certificate of authorized employment

A certificate of authorized employment certifies that a foreign national seeking employment in Japan is legally authorized to be engaged in certain types of jobs. The minister of justice may issue this certificate when a foreign national files an application with the local Immigration Services Bureau for purposes such as intending to switch to another company for a job that falls under their current status of residence.

Luxembourg

Key government agencies

Visa applications are processed at Luxembourg embassies and consular posts around the world, or at a diplomatic mission that represents Luxembourg. Personal appearance at the embassy or consular post is generally required.

A request for a permanent residence permit with authorization to work in Luxembourg may only be filed further to receipt of a temporary authorization from the Ministry of Foreign Affairs (Direction de l'Immigration). If the foreign national resides in a non-European Economic Area country, the temporary residence certificate and visa request must be made in the foreign national's country of residence and submitted to the Ministry of Foreign Affairs in Luxembourg.

A registration or declaration of arrival will be required at the commune of the place of residence in Luxembourg.

A business that intends to recruit staff must file a job vacancy declaration with the Employment Administration Office (Administration de l'emploi (ADEM)) at least three working days before publishing the job offer. The ADEM will conduct a market labor test for occupations that are not listed as having serious shortage and, should a suitable candidate not be found within three weeks, the employer may request a certificate entitling the hire of a third-country national (Blue Card candidates are exempt from this requirement). This certificate will be required for the residency permit processing of certain categories of workers.

Non-EU nationals (or assimilated nationals) who wish to stay for more than three months in Luxembourg must undergo a medical check-up, involving a medical examination by a doctor established in Luxembourg and a tuberculosis (TB) screening by the Health and Social Welfare League (Ligue médico-sociale (LMS)).

Current trends

One ministry is in charge of the immigration procedure in Luxembourg and the time frame of immigration procedures is therefore fairly short in comparison to other EU countries. Specific status and/or fast-track procedures exist for different categories of applicants, including, for example, employees arriving in Luxembourg via an intragroup transfer, highly qualified employees, family members, students, researchers and sportspeople.

The posting procedures of employees to Luxembourg has undergone significant reinforcement and controls.

Business travel

Visa waiver

Visas are not required for EU and EEA (i.e., Norway, Liechtenstein, and Iceland) citizens to visit Luxembourg.

In addition, the normal visa requirements are waived for citizens of the following countries:

Albania
Andorra
Antigua and Barbuda
Argentina
Australia
Bahamas
Barbados
Bosnia and Herzegovina
Brazil
Brunei
Canada
Chile
Columbia
Costa Rica
El Dominica
East Timor
El Salvador
Grenada
Guatemala
Honduras
Hong Kong SAR (only for those holding a passport for the "Hong Kong Special Administrative Region")
Israel
Japan
Kiribati
Macau SAR
Macedonia
Malaysia
Marshall Islands
Mauritius (Isle)
Mexico
Micronesia
Moldavia
Monaco
Montenegro
New Zealand
Nicaragua
Palau
Panama
Paraguay
Peru
Saint Lucia
Saint Kitts and Nevis
San Marino
St Vincent and the Grenadines
Solomon Islands
Samoa
Serbia
Seychelles
Singapore
South Korea
Taiwan
Timor-Oriental
Tonga
Trinidad and Tobago,
Tuvalu
United Arab Emirates
United Kingdom (and British National (Overseas))
United States
Uruguay
Vanuatu
Vatican City
Venezuela

Before entering Luxembourg

Citizens of the EU/EEA are entitled to freely train in Luxembourg without a visa.

Except for cases of visa waiver, non-EU citizens must qualify for either a short-stay type C visa for professional training if the training is under three months, or a long-stay type D visa for private reasons for training lasting over three months.

A non-EU national wishing to reside in Luxembourg to undergo intragroup training for under three months may be exempted from requiring a work permit. A non-EU national wishing to reside in Luxembourg to undergo intragroup training will be required to apply for a temporary residence permit for private reasons with the Ministry of Foreign Affairs in Luxembourg prior to arriving.

Among the documents annexed to the application, there must be evidence of the training in Luxembourg. The temporary residence certificate is valid for 90 days as of its delivery, during which time the non-EU trainee must finalize the administrative formalities to receive a permanent residence permit.

A non-EU national holder of a residence permit issued by another EU member state where said person shall continue to reside during the intragroup training in Luxembourg is exempted from requesting a work permit during the validity of the EU residence permit.

After entering Luxembourg

Declaration of arrival/Accommodation form

Non-EU/EEA citizens staying for a period of under three months in Luxembourg will be required to either make a declaration of arrival in their new commune of residence within three days of their arrival, or complete an accommodation form at the establishment where they are staying (e.g., hotel, bed & breakfast).

Non-EU citizens staying for over three months in Luxembourg must make a declaration of arrival at their commune of residence.

Registration certificate (EU nationals)

EU nationals must register in their commune of residence and will receive a registration certificate within three months from their arrival.

Medical check (non-EU nationals)

A non-EU national must undergo a medical check as soon as possible, which consists of the following:

- A medical examination by a doctor established in Luxembourg
- A TB screening by the LMS

After receiving the results of these examinations, the Immigration Medical Department of the National Health Directorate will issue a medical certificate, which will be sent to the Immigration Directorate of the Ministry of Foreign Affairs to allow the residence permit application to be processed.

Residence permit application (non-EU nationals)

Non-EU nationals must submit an application for a residence permit to the Ministry of Foreign Affairs within 90 days of their entry into Luxembourg.

The residence permit takes the form of a chip card containing the individual's biometric data.

Short-term visas (less than three months)

The nationality of the non-EU national will determine whether or not a visa is required for them to travel to Luxembourg (see below). In general, and subject to the visa waiver described below, non-EU nationals wishing to visit, transit through or work in Luxembourg for a period of less than 90 days must obtain a Schengen short-stay type C visa from Luxembourg embassies and consular posts where the non-EU national resides, or from a diplomatic mission representing Luxembourg, prior to coming to Luxembourg.

The type C Schengen visa allows the holder to enter Luxembourg and move freely within other countries in the Schengen Area.

The Schengen visa does not grant its holder the right to visit other EU countries that are not members of the Schengen Area.[1]

A short-stay type C visa is granted for an uninterrupted period of no more than 90 days or for 90 days accumulated over a 180-day period, for a limited number of activities, including the following:

- Business trips
- Participating in corporate management or shareholding meetings
- Intragroup service provision and so forth

The visa may be issued for one or multiple entries, depending on the reasons for the stay. The type C visa does not grant its holder the right to carry out a paid activity in Luxembourg. Only a long-term type D visa confers the right to a non-EU citizen to carry out a paid activity in Luxembourg (together with a work or residence permit).

The visa application must be accompanied by supporting documentation, including the following:

- A valid passport or travel document recognized by Schengen countries, valid for at least three months beyond the validity of the requested visa
- Evidence of the reason for the visit
- Health insurance
- A hotel reservation and a return travel ticket
- Evidence of sufficient resources for the stay in Luxembourg

EU Blue Card

Highly qualified employee

A foreign national with high qualifications or experience in a specific sector, who meets the following conditions, may request an EU Blue Card work and residence permit:

- They will be employed for a highly qualified position of one year minimum in Luxembourg.
- They will earn at least EUR 84,780 per year, except for functions for which a particular need is noted by the government, in which case it is set at EUR 67,824 for the position (certain

[1] Currently, the Schengen Area is comprised of Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden and Switzerland.

professions have a lower minimum salary requirement in comparison to the average gross annual salary).

- They can provide proof of having the requisite professional qualifications to carry out the activities indicated in the employment contract

Before entering Luxembourg

The position must be declared with the ADEM but will not be subject to the local market test.

Temporary residence certificate

The highly qualified employee must submit a temporary residence application to the Luxembourg Immigration Directorate. The application must be submitted and approved before entering the country.

The application for a temporary residence certificate must contain, in particular, the following:

- A copy of a valid passport
- A police record
- A copy of an employment contract for a highly qualified position with a minimum of a one-year duration and a minimum salary required for an EU Blue Card (see above)
- Certified copies of the applicant's diplomas or professional qualifications
- A curriculum vitae

After entering Luxembourg

The foreign national must fulfill the conditions detailed above for foreign national employees with no special status (see Visa waiver section):

- Declaration of arrival
- Registration certificate (EU nationals)
- Medical check (non-EU nationals)
- Residence permit application (non-EU nationals)

The EU Blue Card is valid for a period of four years, or for the duration of the employment contract plus three months, and may be renewed upon request if all requirements are satisfied. The EU Blue Card provides the highly qualified employee with limited access to the employment market for two years. After two years, the highly qualified worker benefits from equal treatment to Luxembourg nationals regarding highly qualified employment (with certain exceptions).

Employment assignments

EU/EEA employees

Citizens of the EU/EEA are entitled to free circulation within the EU, giving them the right to work and live anywhere in the EU.

EU/EEA nationals must hold a valid national identity card or passport.

A business that intends to recruit staff must file a declaration of job vacancy with the ADEM at least three working days before publishing the job offer.

The formalities to be completed depend on whether the EU/EEA citizen intends to stay for over three months. If they intend to stay for a duration of over three months, then a declaration of arrival must be completed within eight days of arrival in Luxembourg at the offices of the authorities of the commune where they intend to reside.

The EU/EEA national will receive a registration certificate as a result of their application.

Third-country employee

Before entering Luxembourg

Declaration of vacant position

A business that intends to recruit staff must file a declaration of job vacancy with the ADEM at least three working days before publishing the job offer. If the ADEM cannot provide a suitable candidate within three weeks, the employer may request a certificate entitling the hire of a foreign national.

Temporary residence certificate

Prior to their arrival in Luxembourg, the future foreign national employee must submit an application for a temporary residence certificate to the Luxembourg Immigration Directorate from their country of origin. The application must be submitted and approved before entering Luxembourg.

The application for a temporary residence certificate must contain, in particular, the following:

- A valid passport
- A police record
- A copy of the applicant's diplomas or professional qualifications
- A copy of the employment contract (compliant with Luxembourg law), dated and signed
- A curriculum vitae
- The original certificate issued by the ADEM authorizing the employer to hire a third-country employee

The temporary residence certificate will be sent by post to the address given by the applicant. It is valid for 90 days.

After entering Luxembourg

Declaration of arrival

A foreign national must arrive in Luxembourg with valid travel documents (passport and visa, where required) within 90 days of issuance of the temporary residence certificate.

A declaration of arrival at the administration of the commune where they intend to establish residence must be completed within three days of arrival in Luxembourg. The applicant will receive a copy of such declaration of arrival.

The copy of the declaration of arrival together with the residence certificate is valid as a work and residence permit until the permanent residence permit has been processed (or for a stay of less than 90 days).

Medical check

The foreign national salaried worker who intends to stay for more than three months must undergo a medical check as soon as possible, which consists of the following:

- A medical examination by a doctor established in Luxembourg
- A TB screening by the LMS

After receiving the results of these examinations, the Immigration Medical Department of the National Health Directorate will issue a medical certificate, which will be sent to the Immigration Directorate of the Ministry of Foreign Affairs to allow the residence permit application to be processed.

Permanent residence permit

Foreign national salaried workers who hold a temporary residence permit must submit an application for a permanent residence permit to the Ministry of Foreign Affairs within 90 days of entry into Luxembourg.

The residence permit takes the form of a chip card containing the individual's biometric data.

Intracompany transfer

The employees in this category are those working under an employment contract for an indefinite duration and who are temporarily assigned by their employing company to a Luxembourg entity that is part of same group as the transferring company.

The transferring and the receiving companies must have concluded a transfer contract, and a new employment contract must be concluded between the transferred worker and the Luxembourg entity, indicating the specific activities and duration covered by the transfer.

Intragroup transfers do not require prior declaration and are not subject to the ADEM local market test.

Employee seconded in the framework of a service agreement

This category concerns employees temporarily seconded to Luxembourg by their foreign employer to a third-party company for the performance of specific services (i.e., technical assistance) in the scope of a service agreement.

The secondment should not result in the employee's effective involvement in the daily running of the Luxembourg host company's activity, and the seconded employee will remain part of the sending business's permanent staff.

Before entering Luxembourg

Although the posting business will not need to file a declaration with the ADEM for a local market test, a number of procedures will need to be fulfilled, which are listed below.

Secondment authorization

The Luxembourg host company must submit a posted work application form to the Luxembourg Inspectorate of Labor and Mines, and appoint a temporary holding person who will be charged with providing the mandatory documentation in the event of an inspection by the Luxembourg authorities. The application must be submitted and approved before entering the country. If more than one employee is concerned, a collective secondment application will be filed online.

Social security

The posting entity established in an EU member state or equivalent must demonstrate affiliation to the social security in the country of origin for the full duration of the posted work (notably by requesting an A1 or E101 certificate).

A posting entity established outside the EU must ensure that the seconded employee is affiliated with the social security system in the country of origin if a bilateral social security agreement exists between Luxembourg and the posting company. If no bilateral convention exists, the posted worker must be affiliated with Luxembourg social security for the duration of the secondment.

Tax

If the posted worker is to stay in Luxembourg for under 183 days, the posting entity must ensure that the seconded workers' salaries are subject to the income tax of the country in which the posting company has its registered office. If their stay exceeds 183 days, the posting entity must ensure that the workers' salaries are subject to Luxembourg income tax.

Labor law

Luxembourg labor law provisions must be respected for the duration of the seconded employees' posting, notably regarding working times and minimum salary.

Temporary residence certificate

A non-EU citizen being posted to Luxembourg by a non-EU business will need to apply for a temporary residence permit prior to arriving in Luxembourg. The application for a temporary residence certificate must contain the nature and duration of the work to be performed and the circumstances that justify the issuance of a posting authorization. A copy of an employment contract for an indefinite duration with a minimum of six months' length of service with a foreign employer and a copy of service contract between this foreign employer and the Luxembourg host company will also be required.

As an exception, the undertaking located in any other EU/EEA member state or in Switzerland may post their workers, within the framework of a service provision agreement, to Luxembourg, irrespective of their nationality, insofar as such workers are entitled to reside and work during the posting in the country where the posting entity is located.

Visa D

Before traveling and leaving the country of origin, the foreign national subject to a visa must complete the visa type D application form and deposit it at the Luxembourg diplomatic or consular mission in their country of residence, or the embassy or consulate of the country in the Schengen Area that represents Luxembourg in relation to the issuance of visas (Belgium or the Netherlands).

The visa, valid for a maximum period of three months to one year, is affixed in the passport in the form of a seal.

After entering Luxembourg

The foreign national must fulfill the three conditions detailed above in the section "Third-country employee," specifically:

- Declaration of arrival
- Medical check
- Permanent residence permit application as a posted worker

The residence permit with authorization to work as a posted employee will be issued for the effective duration of the work foreseen to perform the provision of services. It may be extended in exceptional circumstances.

Training

Luxembourg law differentiates between paid and unpaid training, and the immigration requirements differ accordingly. Unremunerated training is generally defined as the obligatory professional training provided by an educational institution or company in Luxembourg in the context of a training course, or a continuing educational scheme organized and taught by a higher educational institution. The training must be of an educational nature and may not, in any case, be considered employment. Intragroup training conducted within companies of the same group is not considered as being an occupation equal to employment, and is therefore treated as unremunerated training.

Remunerated training is, on the other hand, considered equivalent to employment.

Other comments

Depending on the type of work permit, for a continuous and lawful stay in Luxembourg for a minimum period set out by law, foreign nationals may apply for long-term residence status (Carte de resident), if they can prove that they have a regular business activity in Luxembourg (e.g., as corporate executive, regular employee or otherwise) from which they derive stable, regular and sufficient income to support themselves and any family members. The long-term residence permit is valid for five years and is renewable.

Legislative change in relation to Brexit

New legislation has been passed and under said legislation, there is a distinction between the following:

- British nationals benefiting from the Withdrawal Agreement and residing in Luxembourg as of 31 December 2020
- British nationals benefiting from the Withdrawal Agreement who arrived after 31 December 2020

British nationals benefiting from the Withdrawal Agreement and residing in Luxembourg as of 31 December 2020

British nationals and their family members residing in Luxembourg at the end of the transition period will keep their right of residence after the end of the transition period.

Residence permits issued before 31 December 2020 remain valid until they are replaced.

British nationals benefiting from the Withdrawal Agreement who arrived after 31 December 2020

British nationals and their family members who acquired a right of residence in Luxembourg before 1 January 2021 keep this right of residence after 1 January 2021 under the specific status of beneficiary of the Withdrawal Agreement.

Under certain conditions, family members of a British national who is a beneficiary of the Withdrawal Agreement, and who have settled in Luxembourg since 1 January 2021, are also beneficiaries of the Withdrawal Agreement, and as such, benefit from a right of residence. The persons concerned must have a specific residence certificate attesting to their status as beneficiary of the Withdrawal Agreement. The request for this document must be made no later than three months after their arrival in Luxembourg.

British nationals and their respective family members who have legally resided in the territory for an uninterrupted period of five years acquire the right of permanent residence.

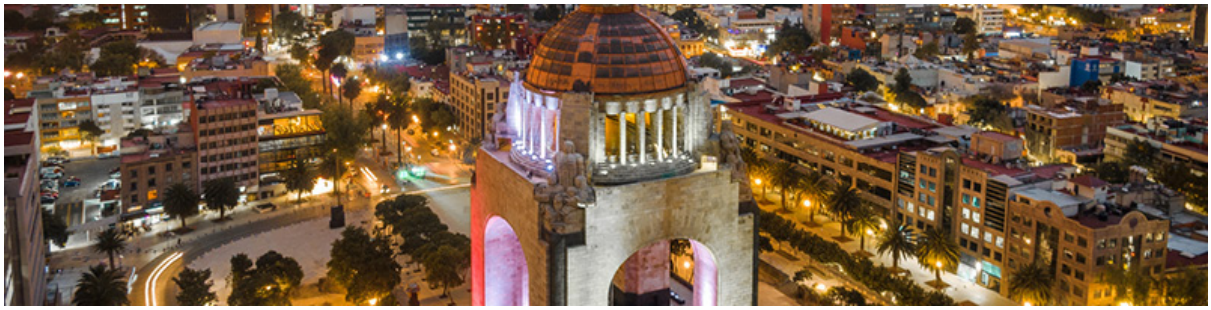
The periods of legal residence or activity before and after the transition period's end are considered for the calculation of the period necessary for the acquisition of the right of permanent residence. Once acquired, the right of permanent residence is only lost by absences of more than five consecutive years, or for serious reasons of public order or public security.

New draft bill to implement EU provisions in favor of third-country, highly qualified employees

Directive (EU) 2021/1883 of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment ("**Directive**") will be implemented in the foreseeable future in local law. The primary goal of the Directive is to update the EU Blue Card rules, providing a more targeted legal migration system to address skill shortages and facilitate entry for highly qualified workers. Key changes in Luxembourgish law are therefore expected, such as the following:

- Flexible admission criteria required for EU Blue Card applicants
- More extensive rights for EU Blue Card holders and more favorable conditions for family reunification and facilitated intra-EU mobility
- Administrative practice formalization to make the system more adaptable and to simplify the entry process for highly qualified workers in Luxembourg

Mexico



Introduction

This chapter outlines how foreign nationals can remain in Mexico in accordance with the country's immigration procedures and receive authorization to perform activities, remunerated or not.

The Immigration Law (IL) determines the different conditions through which visas and immigration documents may be authorized. The IL Regulations (ILR) and Guidelines (ILG) determine the processes that need to be followed to obtain the various types of visas and immigration documents. The IL, ILR and ILG now require anticipated planning for the issuance of visas and immigration documents, as changes to immigration status are no longer authorized for most cases.

Fines for sponsoring companies have been eliminated. However, penalties, including fines, deportation and expulsion from Mexico, still apply to foreign nationals who do not comply with immigration regulations.

Key government agencies

The local, state and central offices of the National Immigration Institute (Instituto Nacional de Migración (INM)), under the Ministry of the Interior (Secretaría de Gobernación), hold the power to authorize visas for work, renewals, and notifications of changes of address, nationality, marital status and place of work, among other processes. Mainly, it issues resident cards, which serve to evidence foreign citizens' immigration status in Mexico.

The Ministry of Foreign Affairs (Secretaría de Relaciones Exteriores) is responsible for granting citizenship through the naturalization process, as well as all communication between the INM and Mexican embassies and general consulates. Embassies and the general consulates issue all kinds of visas and authorizations to enter the country.

Current trends

The INM is trying to improve immigration processes nationwide.

The digitalization of immigration files allows processes to be completed faster.

In certain INM offices, processes that used to take several months are now completed in a single day.

Business travel

The business immigration form for stays shorter than 180 days is called the Multiple Immigration Form (FMM). This form is used for all visitor visa authorizations. It also applies to tourism.

Visitor visa

Visitor visas are authorized for unremunerated activities in Mexico.

These visitor visas allow foreign nationals to undertake any work in Mexico, as long as they do not get compensated by a Mexican source (a Mexican company or person). It allows a maximum stay of 180 days. These visas and immigration forms may not be renewed under normal circumstances, but they may be requested each time a foreign national travels to Mexico.

Nationals of the countries listed on the government of Mexico's official website must apply for a visitor visa at a Mexican Embassy or Consulate prior to entering Mexico, unless one of the following waivers applies.

Visa waiver

All individuals in the following categories are required to present their valid waiver document along with their passports upon entry to Mexico:

- Individuals bearing a currently valid document evidencing permanent residence in Canada, the United States, Japan, the United Kingdom, Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, Chile, Colombia or Peru
- Individuals bearing any kind of currently valid visa for Canada, the United States, Japan, the United Kingdom, Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden or Switzerland
- Individuals bearing an ABTC (APEC Business Travel Card)

Both documents must be valid during their entire stay in Mexico.

The immigration authorities may request documents supporting a foreign national's trip to Mexico (i.e., invitation letter, support letter, proof of sufficient funds, return airplane tickets).

As long as the conditions are met, these visas will authorize any activity not remunerated in Mexico, including work, technical activities and training. It is essential that foreign nationals correctly indicate the intended activity to be performed while in Mexico at the port of entry, so that they avoid any immigration-based legal issues while in Mexico.

Employment assignments

Long-term stays

Foreign nationals who will remain in Mexico for periods longer than 180 days should secure a temporary resident visa issued by a Mexican representation. Once in Mexico, they should obtain a temporary resident card.

Foreign nationals are allowed to maintain temporary resident status for four continuous years.

At the end of this period, they may choose to apply for permanent residency or leave the country.

Temporary resident cards may include a work permit. This work permit allows foreign nationals to receive income from a Mexican source. Foreign nationals that will be employed by a Mexican entity require this permit. Temporary resident visas are required to be pre-authorized by the INM.

On the other hand, foreign nationals who will continue to be employed by a foreign entity do not require a work permit and are allowed to request a temporary resident visa at a Mexican foreign representation.

Short-term stays

Visitor visas may also be requested for work assignments of less than 180 days in Mexico. This authorization is only requested when a Mexican company or establishment will pay the foreign national's salary or remuneration. These authorizations must first be requested at the INM, which will send the proper authorization to the Mexican Consulate (MC) abroad. The foreign national will receive a visitor visa at the MC and will then travel to Mexico, where they will receive an FMM, which will authorize them to receive remuneration in Mexico for up to 180 days.

This visa and immigration document may not be renewed, and the foreign national must leave Mexico after the authorization period has expired.

Visitor visas for remunerated activities in Mexico are seldom requested, since foreign nationals usually have problems obtaining social security and tax ID numbers with these immigration forms.

Temporary residents

Temporary residents are allowed to stay in Mexico for up to four years. These visas and immigration documents also authorize multiple entries into and exits from Mexico. Temporary residents are allowed to enter to perform activities both remunerated and not remunerated by a Mexican source. If foreign nationals perform activities not remunerated by a Mexican source, they must request a temporary resident visa at any MC. However, if they perform activities remunerated by a Mexican source, authorization must first be requested at the INM, which will send the authorization to the MC abroad so that the MC may issue a visa.

After receiving a temporary resident visa, foreign nationals may travel to Mexico, where they will receive an FMM that authorizes a change from an FMM to a temporary resident document. Foreign nationals must request this change within the next 30 days. If not, their temporary residentauthorization will no longer be valid, and a new one must be requested.

As a temporary resident, foreign nationals are authorized to remain in Mexico for the entirety of their first year in Mexico and may request renewals for up to three additional years. After the total authorized time of four years has been granted, the foreign national may not extend their temporary resident visa and must either leave Mexico or seek permanent resident status.

Foreign nationals that are not authorized to receive remuneration in Mexico may request a work authorization to receive a salary or remuneration from a Mexican company or establishment.

Permanent residents

Permanent residents may remain in the country indefinitely and are authorized to work in Mexico. Permanent resident status may be obtained by having stayed in Mexico for four consecutive years, by being married to a Mexican national and remaining in the country for two years or by having Mexican children.

Permanent resident status may also be requested by a special points system that has yet to be published. There is no timeline for these new rules to be implemented.

Training

Depending on the length of the training program, foreign nationals would be required to enter as visitors (stays shorter than 180 days) or temporary residents (stays longer than 180 days).

The same requirements for a business visitor visa apply to this case, regarding visa waivers.

Other comments

Mexican entities receiving services from foreign employees

The Federal Labor Law protects the economic development of the country and Mexican workers. For that purpose, all companies or businesses are obligated to ensure that at least 90% of their workforce consists of Mexican nationals.

In the technical and professional categories, the employees must be Mexican citizens, except for when there are no specialized employees in that field. In this case, the employer may temporarily hire foreign national employees, provided that they do not exceed 10% of the total workforce. The employer and foreign employees in the technical and professional categories have the joint liability of training the Mexican employees in their specialty. In addition, company physicians must be Mexican citizens.

These rules do not apply in the case of foreign general managers, general administrators or general directors.

The IL also states that there will be a visa quota for specific activities. This has not yet been implemented, and it is still unclear how this will affect immigration into Mexico.

Employer Certificate

Mexican companies or institutions that have foreign nationals in their payroll or plan to hire foreign personnel must request the INM to issue an employer certificate, which will be incorporated with the company's or institution's information. This employer certificate must be updated annually after the annual federal tax return is filed on 31 March. Local INM offices will request that an employer certificate be incorporated as a prerequisite to process work visa authorizations for foreign nationals.

Notifications

Foreign nationals must notify the INM of changes in their domicile, marital status, name, nationality, and place of work within 90 days from the change. Otherwise, foreign nationals may be subject to administrative sanctions.

Temporary Permits to Leave and Return to Mexico

Foreign nationals with pending immigration processes may request a temporary permit to leave and return to Mexico to travel internationally. This permit may be requested at the INM or at a port of entry in cases of urgent travel.

Foreign nationals processing a regularization in Mexico who were discovered to have an irregular immigration status in Mexico (i.e., did not renew in time or did not leave Mexico in time) may not request a temporary permit to leave and return to Mexico and may only leave Mexico by canceling their immigration process.

Further information

Baker McKenzie's Mexico Immigration Manual provides further information about Mexican business visas, including a broader range of nonimmigrant visas, the immigration process and immigration-related responsibilities for employers and foreign national employees.

Netherlands

Key government agencies

The Ministry of Foreign Affairs issues visas through Dutch embassies and consulates around the world.

The Immigration and Naturalization Service (Immigratie- en Naturalisatiedienst (IND)) is part of the Ministry of Justice and, in general, is responsible for decisions on visa applications and residence permit applications.

The Public Employment Service (WERKbedrijf (UWV)) handles work permit applications, with investigations and enforcement actions involving employers and non-EU nationals being the particular focus of the Inspectorate SZW (the Labor Inspectorate).

Current trends

Relaxation of Dutch visa rules for start-ups

The Dutch government has relaxed the rules for start-ups by introducing a new pilot procedure specifically intended for these companies. The pilot applies between 1 June 2021 and 1 June 2025, with continued permit availability for one year thereafter.

To qualify for the procedure, the following conditions must be met:

- The start-up is allowed up to 15 employees, a maximum of five of which may be non-EU employees. Companies with more employees are considered sufficiently successful and, therefore, are not allowed to avail of the pilot procedure.
- The financial capacity of the start-up will be reviewed and should show that the start-up is not (yet) able to bear the salary levels required for a highly skilled migrant employee. Salary levels applied to the start-up's employees in the Netherlands will be assessed and any investments made in the start-up that would enable higher wages to be paid will also be reviewed.
- A salary threshold of EUR 2,631 gross per month, increased with 8% holiday allowance, will apply. Note that this threshold will be indexed every year.
- Non-EU employees must participate in the share capital of the start-up (e.g., through stock options, depositary receipts of shares or non-voting shares).

There are no specific education requirements to be able to benefit from the pilot procedure.

Business travel

Not exceeding three months

Non-EU nationals coming to the Netherlands from most countries are generally required to have a tourist or a business visa to enter the Netherlands. It is advisable to check with the Dutch Embassy or Consulate to confirm whether a visa is required since the countries qualifying for visa waivers can change.

The visa is issued for a maximum period of 90 days and is not extendable. Furthermore, the holder of the visa may remain no longer than 90 days in a 180-day period within the Schengen Area, whose member states include Austria, Belgium, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Spain, Slovakia, Slovenia, Sweden and Switzerland.

Visa waiver

Passport holders of the following countries do not require a visa for a stay of 90 days or less: Albania, Andorra, Antigua and Barbuda, Argentina, Austria, Australia, Bahamas, Barbados, Belgium, Bosnia and Herzegovina, Brazil, Brunei, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Domenica, East Timor, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Grenada, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kiribati, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Macau SAR, Marshall Islands, Mauritius, Mexico, Micronesia, Moldova, Montenegro, Naura, Monaco, New Zealand, Nicaragua, Northern Macedonia, Norway, Palau, Panama, Paraguay, Peru, Poland, Portugal, Romania, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and de Grenadines, Salomon Islands, Samoa, San Marino, Serbia, Seychelles, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, United Arab Emirates, United Kingdom, United States, Uruguay, Ukraine, Tonga, Trinidad and Tobago, Tuvalu, Vatican City and Venezuela.

The above list of countries also includes European countries. Nationals of EU/European Economic Area (EEA) member states and Switzerland do not require a visa in general, regardless of the duration of stay.

The absence of a visa requirement does not imply that a non-EU national is also allowed to perform work activities in the Netherlands. In principle, a work permit will be required, although there are certain exemptions (e.g., for business meetings). It is advised to consult an attorney to determine the scope and duration of such exemptions.

Temporary stay visa (MVV)

A non-EU national intending to remain in the Netherlands for more than three months must apply for a residence permit. The conditions for obtaining a residence permit depend entirely on the purpose of coming to the Netherlands. A non-EU national wishing to work in the Netherlands must usually obtain three types of documents:

- A temporary residence permit (Machtiging tot Voorlopig Verblijf (MVV)), which enables the holder to enter the Netherlands (an MVV is not required for citizens of the EEA, the EU and Switzerland, Australia, Canada, Japan, Monaco, New Zealand, the United Kingdom, the United States, South Korea and Vatican City. Foreign nationals of these nationalities may enter the Netherlands without an MVV or business visa, and may apply for a residence permit.)
- A residence permit, which enables the holder to live in the Netherlands

- A work permit, which under certain conditions, enables the holder to work in the Netherlands

The individual can apply for the MVV in their country of residence. Alternatively, the employer in the Netherlands, or the person with whom the non-EU national will be staying with in the Netherlands, can file the application in the Netherlands.

Depending on the purpose of the stay, obtaining an MVV can take between two weeks and six months. The employer in the Netherlands or the person with whom the non-EU national will be staying while in the Netherlands can follow a single procedure to apply for an MVV and a residence permit for the non-EU national.

Residence permit

A non-EU national who intends to stay in the Netherlands for more than three months is required to obtain a residence permit (verblijfsvergunning). A residence permit will not be granted if the non-EU national is first required to obtain an MVV.

The residence permit is generally issued for a maximum of one year or — in case of residence for labor purposes — for the duration of employment in the Netherlands, up to a maximum of five years. If no changes of circumstances have occurred, it is extendable. After possessing a residence permit for five years, the non-EU national may apply for a permanent residence permit, which is renewable every five years.

Certain residence permit categories will provide work authorization, in addition to residence privileges. In that case, a separate work permit will not be required, provided that applicable conditions are met.

Highly skilled migrant

Skilled and highly educated non-EU nationals do not require separate work permits for employment if they obtain a highly skilled migrant permit. To qualify as a "highly skilled migrant," one objective criterion is judged: the salary. A highly skilled migrant is a non-EU national who will be employed in the Netherlands (on a local contract) and will receive a gross monthly salary of at least EUR 5,331 (EUR 5,757.48, including 8% holiday allowance) or at least EUR 3,909 (EUR 4,221.72, including 8% holiday allowance) if younger than the age of 30. This threshold will be indexed every year.

Employers who want to hire highly skilled migrants must hold a special status with the IND, i.e., a so-called recognized sponsorship (erkend referentschap). Recognized sponsors benefit from the IND's assumption that they fulfill all relevant obligations under the Dutch Modern Migration Policy Act. As a result, the IND applies an expedited handling procedure and aims to decide on a permit application within a period of approximately two weeks. Unfortunately, the IND rarely meets its two-week target term in practice. Generally, the procedure takes an additional two to four weeks. Provided that the IND grants the request for qualification as a recognized sponsor, the status will be granted for an indefinite period, although it must be used regularly (at least every three years) for the IND not to withdraw the status.

The residence permit for a highly skilled migrant provides residence and work privileges in the Netherlands. As indicated above, a separate work permit is not required, as long as applicable conditions continue to be met.

A highly skilled migrant may receive a residence permit for up to five years, assuming that their passport and employment contract are valid for at least five years. Should this not be the case, then the residence permit will be issued for the shortest validity period mentioned in the employment contract or assignment letter.

The highly skilled migrant may start working in the Netherlands upon receipt of the residence card, or, if they require an MVV entry visa first, upon receipt of the visa with an indication that work activities are allowed in anticipation of the residence card.

Dependents who accompany the highly skilled migrant will not require a work permit to perform work activities in the Netherlands. Upon receipt of their residence cards, they will obtain residence and work privileges similar to those granted to the highly skilled migrant.

EU Blue Card

The Netherlands adopted the European Blue Card, a separate permit category alternative to the highly skilled migrant procedure. This permit category makes it easier for a non-EU national (and their family) to transfer from one EU member state to another.

To qualify for the European Blue Card, the non-EU national must have an employment contract for at least one year and must earn a gross minimum of EUR 6,245 per month (EUR 6,744.60, including 8% holiday allowance).

Furthermore, the non-EU national must have a degree for the completion of higher education that lasted at least three years (bachelor's or master's). The degree must be accredited and measured against the Dutch educational system (Nuffic).

A potential advantage for companies is that they do not require the recognized sponsor status with the IND to sponsor a European Blue Card, as opposed to when they intend to sponsor a highly skilled migrant.

A European Blue Card holder does not require a separate work permit, provided that applicable conditions are met.

Accompanying dependents will not require a work permit to perform work activities in the Netherlands either. Upon receipt of their residence cards, they will obtain residence and work privileges similar to those granted to the European Blue Card holder.

Intra-corporate transfer

The Intra-Corporate Transfer (ICT) permit category is for non-EU employees who reside outside of the EU and who are bound (and remain bound during their secondment) by a work contract with a non-EU entity belonging to the same group of companies, which is established in the EU member state to which they are seconded.

Further non-exhaustive terms and conditions are as follows:

- The individual must have been employed within the group of companies for at least three consecutive months immediately prior to the secondment.
- The individual must qualify as a "manager," "specialist," or "trainee" under the definition thereof stipulated in the European Intra-Corporate Transfer Directive (2014/66).
- The individual must have the qualifications and experience required by the host company to which they are seconded as manager or specialist (if the individual is seconded as a trainee, a university degree and training agreement are required).
- The individual must enjoy equal treatment with nationals occupying comparable positions in relation to the remuneration they receive during the entire secondment (in principle, the salary thresholds for a highly skilled migrant are considered for this purpose).

- The individual intends to return to a group company outside of the Netherlands after the secondment.

If the ICT permit conditions are applicable, other (labor-related) permit categories (e.g., the highly skilled migrant permit) will not be available as an alternative means to obtain work and residence authorization.

The maximum duration of the ICT permit is three years (one year for trainees). A new ICT permit after this period will only be issued if the individual leaves Europe for more than six months. To prevent a required period of interruption, other permit categories will have to be considered to allow continuation of residence and work in the Netherlands after the maximum duration of the ICT permit.

Companies do not require the recognized sponsor status with the IND to sponsor an ICT permit.

An ICT permit holder does not require a separate work permit, provided that applicable conditions are met.

Accompanying dependents will not require a work permit to perform work activities in the Netherlands either. Upon receipt of their residence cards, they will obtain residence and work privileges similar to those granted to the ICT permit holder.

Employment assignments

An employer who wishes to recruit a non-EU national from outside of the EU or EEA usually needs to apply for a work permit for that individual unless a residence permit category is available that provides for both residence and work privileges (e.g., the highly skilled migrant procedure or the European Blue Card procedure).

There are different procedures for work permit applications. The applicable procedure depends entirely on the applicant's specific circumstances, the nature of the current employer abroad and the nature of the company offering the work in the Netherlands. Under certain circumstances, a combined work and residence permit (GVVA) can be applied for via the IND (which liaises with the UWV regarding the conditions for work authorization).

Generally, the Dutch employer must prove that the labor market has been scanned for workers who have priority (workers from the Netherlands and the EEA are prioritized). In this respect, the employer must prove that the vacancy has been reported to the UWV and, usually, to the European Employment Service (EURES) at least five weeks prior to the work permit application. Furthermore, the employer is required to have engaged a recruitment office and advertised the job in a Dutch national newspaper and a professional journal. The employer also has to prove that candidates who were registered at the UWV's employment office were approached for the job and indicate the results thereof (i.e., the reason for not hiring a registered candidate). If a company is unsure whether it must report the vacancy, the company is advised to consult an attorney. To avoid unexpected refusals, companies should be cautious about assuming that a job does not need to be reported to the various authorities.

Work permits that are granted based on the state of the Dutch and European job markets will not be issued for more than one year, meaning that employers will need to renew the work permit each year. The work permit will only be renewed if there are no alternative personnel taking priority in the Dutch and European labor market.

The application procedures for different types of employment require extensive preparation. This is not only necessary for the application as described above, but also for those who want to stay in the Netherlands as self-employed individuals, and for those who want to work in a university or in the field of sports.

There are different types of procedures for which a recruitment period is not necessary (e.g., for highly skilled migrants, European Blue Card holders and ICT permit holders). It is not possible to apply for a GVVA for these categories. Consequently, separate permit application procedures must be followed.

Customer-producer relationship

The customer-producer relationship allows non-EU nationals to work in the Netherlands on a work permit if the following conditions are applicable:

- The individual will be sent to the Netherlands to supply/adapt/install goods on a contractual basis.
- The company that supplies the goods and employs the individual is established abroad.
- The supplied goods are produced in the country of the individual's original work location.
- The individual has been employed for at least one year.
- The total value of performed activities (measured against usual Dutch market levels) does not exceed the value of the supplied goods.

The foregoing conditions are not exhaustive.

A combined work and residence permit (GVVA) can be applied for via the IND (which liaises with the UWV regarding the conditions for work permit authorization).

Under certain circumstances, these types of temporary activities can be performed without the need for a work permit. Requirements must be reviewed on a case-by-case basis.

Self-employment

A non-EU national can qualify for a permit status as a self-employed person upon proof of the following:

- Registration in the Trade Register of the Dutch Chamber of Commerce, and ownership of more than 25% of the business or of being the sole owner of that business
- An essential Dutch interest will be served (this requirement is very comprehensive, and therefore it can prove difficult to secure a permit for a self-employed person)

The foregoing conditions are not exhaustive. Additional/other conditions will apply depending on the nature of activities in the Netherlands. Requirements must be reviewed on a case-by-case basis.

Permit approval is conditional upon the individual's activities serving an essential Dutch interest. To determine this, the Ministry of Economic Affairs has developed a points system based on the level of education, experience as an entrepreneur, work experience and the innovative aspects of the business. The points system does not apply for Turkish nationals or individuals who have the status of a long-term EU resident in another EU country.

The permit provides both work and residence authorization. A separate work permit will not be required.

Dutch-American Friendship Act and Dutch-Japanese Trade Treaty

Under the Dutch-American Friendship Act, US citizens can obtain a permit status as self-employed persons in the Netherlands without having to prove that their activities serve an essential Dutch interest. Japanese citizens can benefit from a similar scheme under the Dutch-Japanese Trade Treaty.

To qualify, the individual must be coming either to conduct trade and activities related to trade between Netherlands and the US or Japan respectively, or engage in a professional practice for which investment has been made in the Netherlands.

In this context, it should be noted that "professional practice" does not include the "free" professions (i.e., lawyers, dentists, doctors).

To meet the 'investment in the Netherlands' requirement, the following is applicable:

- General partnership (vennootschap onder firma) — at least 25% of the firm capital, with a minimum of EUR 4,500
- Limited partnership (vennootschap onder commandite) — for the managing partner, the same as the general partnership is applicable (since the limited partner cannot be classified as a self-employed person under Dutch immigration law, limited partners cannot qualify)
- Private company with limited liability (Besloten vennootschap) — at least 25% of the firm capital, with a minimum of EUR 4,500
- Corporation (Naamloze venootschap) — at least 25% of the placed capital, with a minimum of EUR 11,250
- Sole proprietor — a minimum investment of EUR 4,500

Training

The following applies for general trainees, not interns or intra-corporate trainees under the Intra-Corporate Transfer (ICT) permit category.

A trainee is a non-EU national who will receive on-the-job training for a maximum period of 24 weeks. The purpose of this is to allow the individual to receive training and experience abroad that is required for their function back in the trainee's home country.

A work permit application must be filed with the UWV. A detailed training program must be presented, as well as declarations from the employer and the Dutch company that the trainee will not fulfill a vacancy in the Netherlands. Compensation for the training is required on a basis of conditions in line with the Dutch market.

The trainee will require a residence permit unless they are of visa-waiver nationality and will not reside in the Schengen Area for more than 90 days within 180 days. A combined work and residence permit (GVVA) can be applied for via the IND (which liaises with the UWV regarding the conditions for work permit authorization).

Other comments

Post-entry procedures

All residents in the Netherlands (who stay for longer than four months) must register accordingly (in person) with the municipality where they take residence. The process should be started within five days upon arrival in the Netherlands. An appointment at the local city hall is often required.

The recorded information will remain stored in the Municipal Personal Records Database. In case of changes to the individual's information, the registration must be updated (e.g., in case of relocation to another municipality).

Residents who leave the Netherlands for a period of longer than eight months must de-register before departure.

In addition to the employment-based permits, immigration to the Netherlands is possible through family-based immigrant permits or exchange programs.

Immigrants to the Netherlands are often interested in becoming Dutch citizens. In principle, this is possible after they have had a Dutch residence permit for five consecutive years. It is advised to consult an attorney to determine which procedures are available.

Philippines

Introduction

Since 1989, the Philippines has had a relaxed set of immigration policies aimed at benefiting foreign nationals who wish to work, invest, retire or obtain permanent residence in the Philippines.

Key government agencies

The Bureau of Immigration (BI) is responsible for visa processing and the monitoring of the entry and exit of foreign nationals in the Philippines. Unlike other jurisdictions, the work visa application process is usually (and preferably) initiated after the arrival of the foreign national in the Philippines as a tourist or a temporary visitor.

The Department of Labor and Employment (DOLE) is also involved in the process of authorizing a foreign national to work in the Philippines. The DOLE determines whether the foreign national is competent, willing and able to perform the requested services and will thereafter issue an Alien Employment Permit (AEP) to the foreign national.

The Department of Foreign Affairs, through embassies and consulates around the world, is responsible for granting entry visas to restricted foreign nationals.

An Authority to Employ from the Department of Justice is required before a foreign national can be employed by an entity engaged in a nationalized or partly nationalized industry (entities in industries where foreign ownership/control is limited).

Business travel

Visa waiver

Non-restricted nationals are allowed to enter the Philippines without visas for a limited period, depending on their nationality.

As of April 2020, nationals from the following countries are allowed to enter the Philippines without a temporary visitor visa for a stay of 30 days or less:

Andorra, Angola, Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bahrain, Barbados, Belgium, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, Croatia, Colombia, Comoros, Congo, Costa Rica, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Kenya, Kiribati, Kuwait, Kyrgyzstan, Lao People's

Democratic Republic, Latvia, Lesotho, Liberia, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Norway, Oman, Palau, Panama, Papua New Guinea, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Romania, Russia, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Singapore, Slovak Republic, Slovenia, Solomon Islands, South Africa, Spain, Suriname, Swaziland, Sweden, Switzerland, Thailand, Togo, Trinidad & Tobago, Tunisia, Türkiye, Turkmenistan, Tuvalu, Uganda, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Vanuatu, Vatican City, Venezuela, Vietnam, Zambia and Zimbabwe.

Holders of Brazilian and Israeli passports are allowed to enter the Philippines without a visa for a stay not exceeding 59 days.

Holders of the following passports are allowed to enter the Philippines without a visa for a stay not exceeding seven days:

- Hong Kong Special Administrative Region (SAR) passports
- British National Overseas (BNO) passports
- Macau Special Administrative Region (SAR) passports
- Portuguese passports issued in Macau SAR

Visa waiver visitors are still required to hold valid tickets for their return journey to the port of origin or next port of destination. Department regulations require that their passports be valid for a period of no less than six months beyond the contemplated period of stay.

A foreign national who wishes to extend their stay must obtain approval from the BI.

If an individual intends to travel to the Philippines, it is suggested that they refer to the Department of Foreign Affairs website for the latest restrictions.

Temporary visitor/Tourist visa

Restricted nationals are required to obtain a temporary visitor visa from the Philippine embassy or consulate in their country of origin or residence before entering the Philippines. In addition to a temporary visitor visa, restricted nationals must also hold valid tickets for their return journey to the port of origin or next port of destination. Department regulations require that their passports should be valid for a period of not less than six months beyond the contemplated period of stay.

Employment assignments

Pre-arranged employment visas/9(g) visa

The most common work visa is the 9(g) visa, which is available to foreign nationals who intend to occupy an executive, technical, managerial or highly confidential position in a company in the Philippines. It is also available to foreign nationals who travel to the Philippines to engage in any lawful occupation, whether for wages or salary, or for other forms of compensation where a bona fide employer-employee relationship exists. The petitioning company must establish that there is no person in the Philippines who is willing and competent to perform the labor and service for which the foreign national is hired, and that the admission of the foreign national will be beneficial to the public interest.

The foreign nationals dependents who will join them in the Philippines are entitled to the same visa.

Special non-immigrant 47(a)(2) visas

The Philippine president is authorized to issue 47(a)(2) visas when public interest warrants so. The President, acting through the appropriate government agencies, has exercised this authority to allow the entry of foreign personnel employed in supervisory, technical or advisory positions in export processing zone enterprises, Board of Investments-registered enterprises and special government projects.

The employing entity must apply to the relevant government agency for authority to employ foreign nationals. This visa is generally valid for an initial period of one year and is renewable from year to year.

The foreign national's dependents who will join them in the Philippines are entitled to the same visa.

Philippine Economic Zone Authority (PEZA) Visa

Foreign nationals employed by PEZA-registered entities and their dependents are required to secure PEZA Visas to work in the Philippines.

The PEZA Visa may be issued for one or two years, subject to renewal. PEZA Visa holders are entitled to multiple entry privileges, and exemption from immigration permits and clearances to re-enter the country.

The number of non-resident alien employees of the PEZA-registered entity, including the applicant, shall not exceed 5% of the enterprises' total workforce.

If the number of the non-resident alien employees exceeds 5% of the enterprise's total workforce, the PEZA-registered entity must request clearance to employ additional non-resident aliens from DOLE, indicating the specific reasons for additional non-resident alien employees.

Multiple-entry special visa

Multiple-entry special visas are available to the following:

- Foreign personnel of offshore banking units of foreign banks duly licensed by the Central Bank of the Philippines to operate. Foreign personnel shall be issued a multiple-entry special visa (also known as a visa under Presidential Decree No. 1034), valid for a period of one year.
- Foreign personnel of regional or area headquarters of multinational companies, which are officially recognized by the Philippine government

These foreign nationals and their dependents may be issued multiple-entry special visas valid for three years, which may be renewed upon legal and meritorious grounds.

The holder of this visa is exempt from obtaining an AEP from the DOLE as a condition to working in the Philippines.

Treaty traders' or investors' visa

A foreign investor is entitled to enter the Philippines as a treaty trader or investor if they are a national of Germany, Japan or the United States (countries with which the Philippines has concluded a reciprocal agreement for the admission of treaty investors or traders). The local petitioning company must be majority-owned by German, Japanese or United States interests. The nationality of the foreign national and the majority of the shareholders of the employing company must be the same.

The term "treaty trader" includes an alien employed by a treaty investor in a supervisory or executive capacity.

When granted, the visa extends to the investor's spouse and unmarried children under 21 years of age. It is generally valid for a one-year period subject to extension upon application of the investor.

Alien Employment Permit (AEP)

In addition to acquiring the appropriate work or employment visa, a foreign national who wishes to work in the Philippines must obtain an AEP from the DOLE through the petitioning Philippine company.

The issuance of an AEP is subject to the non-availability of a person in the Philippines who is competent, able and willing to perform the services for which the foreign national is desired.

There are certain foreign nationals who are exempt from securing an AEP, including the following:

- Members of the governing board with voting rights only and not involved in the management/day-to-day operations of the corporation
- The president or treasurer of a corporation
- An intra-corporate transferee who is a manager, executive or specialist, and who has been employed by the foreign service supplier for at least one year prior to deployment to a branch/subsidiary/affiliate or representative office in the Philippines
- A consultant who does not have an employer in the Philippines
- A contractual service supplier who is a manager, executive or specialist, and an employee of a foreign service supplier that has no commercial presence in the Philippines[1]
- A representative of the foreign principal/employer assigned in the office of the Licensed Manning Agency in accordance with the Philippine Overseas Employment Administration Law

Provisional work permit (PWP)

Foreign nationals who have commenced employment while their applications for an AEP or work visa are still pending must secure a PWP. The PWP is valid for three months or until the work visa has been issued for the applicant.

Authority to employ

Entities engaged in nationalized or partly nationalized industries can only employ foreign nationals as technical personnel and are subject to the issuance by the Department of Justice of an Authority to Employ.

Short-term employment

Special work permit (SWP)

An SWP is a special permit issued to a foreign national who intends to work in the Philippines for a short-term (not exceeding six months) and to occupy a temporary position outside of an employment

[1] The supplier must: (i) enter the Philippines temporarily to supply a service pursuant to a contract between their employer and a service consumer in the Philippines; (ii) possess the appropriate educational and professional qualifications; and (iii) be employed by the foreign service supplier for at least one year prior to the supply of services in the Philippines.

relationship. The SWP is issued for an initial period of three months and is extendible for a final period of an additional three months. The holder of an SWP must maintain a valid temporary visitor's visa.

Immigrant visas

Generally, a foreign national may acquire immigrant status in the Philippines if their country reciprocally allows Philippine citizens to become immigrants in that country. This privilege is usually embodied in a reciprocity agreement between the Philippines and the foreign national's country. There are four types of immigrant/resident visas, as follows:

- Quota (or preference)
- Non-quota
- Special resident visas (SRRV and SIRV)
- Subic Bay Freeport Residency Visas

Quota visa

The issuance of quota or preference visas is governed by an order of preference and requires the possession of qualifications, skills, or scientific, educational or technical knowledge that will advance and be beneficial to the Philippine national interest. They are issued on a calendar basis and cannot exceed the numerical limitation of 50 in a given year. The most common type of non-quota visa is one that is issued to a foreign national on the basis of marriage to a Philippine citizen.

Special Resident Retiree's Visa (SRRV)

The SRRV is available to foreign nationals and former Filipinos who are at least 35 years of age and who deposit the minimum amount required by law with an accredited bank, to be invested in any of the specifically designated areas. The required deposit is USD 50,000 or USD 20,000 (maintained balance) for applicants who are aged 35 to 49, and USD 20,000 for applicants above 50 years of age (if the 50-year-old applicant receives a monthly pension, the required deposit is USD 10,000).

Retirees enrolled under the SRRV program (except for those who are aged 35 to 49 and have only deposited USD 20,000) may be allowed to withdraw their deposit for conversion into an investment after a holding period of 30 days from the issuance of the SRRV.

Special Investor Resident Visa (SIRV)

The SIRV is a program offered by the Philippine government to foreign investors wanting to obtain a special resident status with multiple entries for as long as they can make and maintain the minimum required USD 75,000 in qualified investments.

A variation of the SIRV is issued to investors in tourist-related projects and tourist establishments. A foreign national who invests at least USD 50,000 in a qualified tourist-related project or tourism establishment, as determined by a government committee, shall be entitled to an SIRV.

Subic Bay Freeport Residency Visas

An investor who has made and maintains an investment of at least USD 250,000 within the Subic Bay Freeport may apply for this visa. Such visa shall be valid as long as the visa holder maintains the investment.

Subic Bay Freeport Residency Visas for retirees

This visa requires the applicant to be over 60 years old, of good moral character, no longer employed or self-employed and receiving a pension or passive income that is payable in the Subic Bay Freeport

in an amount exceeding USD 50,000 per year, and have no previous convictions for a crime involving moral turpitude.

Naturalization

It is possible for foreign nationals who reside in the Philippines to be naturalized and become citizens. Dual citizenship of former Filipino citizens is permitted.

Other comments

Further information

Baker McKenzie's Philippine Immigration Manual provides further information about Philippine business visas, including a broader range of non-immigrant visas, the immigration process and immigration-related responsibilities for employers and foreign nationals.

Poland

Introduction

All nationals of the European Union and European Economic Area member states, as well as those of Switzerland, enjoy freedom of movement and the right of residence. These nationals are also released from the obligation to have a work permit to be employed in Poland.

Citizens of countries that are not members of the EU or EEA or Switzerland (collectively "**Non-EU citizens**") who would like to stay and work in Poland are subject to a different legal regime than EU citizens.

Non-EU citizens must legalize the following:

- Their stay in Poland, typically by obtaining an appropriate visa or residence permit (residence authorization)
- Their work, typically by obtaining a work permit or statement on entrusting work (work authorization)

In some cases, a permit may authorize a non-EU citizen to reside and work in Poland simultaneously without needing to apply for an applicable decision separately (e.g., a unified residence and work permit or an intracompany transfer permit).

As a general rule, to legally perform work in the Republic of Poland, a non-EU citizen should have a work permit issued by a Polish local authority (known as a voivode (wojewoda)). In some cases, it is alternatively possible to use a statement on entrusting work registered by the local employment authorities (powiatowy urząd pracy). Work authorization is required regardless of whether a foreign national is to perform work in Poland based on an employment contract or another type of agreement, such as a service agreement, or is entrusted to perform any other kind of remunerated work in Poland. Exceptions to this rule are detailed in the section concerning employment assignments.

Key government agencies

Polish consulates abroad are responsible for processing Polish visas. A foreigner must appear at the consulate in person to apply for a visa, generally in the country of their permanent residence.

When crossing the border, a foreign national (that has a visa) may be required to prove that they have financial means sufficient to cover the cost of entry, stay and exit from Poland. The commander of the Border Guard may decide to refuse entry into Poland if the foreign national's details are included in the register of foreign nationals denied the right to stay in Poland or the foreign national lacks a valid travel document/valid document certifying their identity and citizenship. The decision to refuse entry may be appealed with the commander of the Border Guard.

Applications for residence permits are submitted to the voivodeship office (Department of Citizen's Affairs) responsible for the foreign national's place of residence in Poland.

The Head of the Office for Foreign Nationals is the central authority of the Polish central government administration. It handles all matters connected with foreign nationals' entry into, transit through, residence in and departure from Poland, and granting of refugee status, asylum, tolerated stay and temporary protection subject to the competencies of other authorities, as provided for in the applicable laws. The minister responsible for internal affairs supervises the activities of the Head of the Office for Foreign Nationals.

Current trends

Since Poland joined the EU on 1 May 2004, all nationals of the EU and EEA member states, as well as those of Switzerland, have been able to enter Poland without having to obtain a visa, simply based on a valid travel document (passport or national identity card) issued by their state of origin confirming their identity and citizenship.

The current 27 member states of the EU are Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, France, Finland, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden.

The EEA member states are all EU member states, as well as Iceland, Liechtenstein and Norway. Switzerland is not an EU or EEA member state.

A total of 27 states, including 23 EU states (except for Bulgaria, Cyprus, Ireland and Romania) and four non-EU members (Iceland, Liechtenstein, Norway and Switzerland), are bound to the full set of rules in the Schengen Agreement, which deals with the abolition of systematic border controls among the participating countries. On 21 December 2007, Poland joined the Schengen Agreement, which means that, as of then, there are no internal borders (on land or water) between Poland and other EU countries. The air borders at airports were internally opened for the other Schengen zone countries on 30 March 2008.

Following the Schengen Agreement, Council Regulation (EC) No. 539/2001 of 15 March 2001 (with further amendments) states that nationals of the following countries are not required to possess a visa for entry and stay as tourists for a period not exceeding three months when crossing the external borders of the Schengen Agreement member states:

Albania, Andorra, Antigua and Barbuda, Argentina, Australia, the Bahamas, Barbados, Brazil, Brunei Darussalam, Bosnia and Herzegovina, Chile, Canada, Costa Rica, the Former Yugoslav Republic of Macedonia, Georgia (only individuals with biometric passports), Guatemala, Honduras, Israel, Japan, Malaysia, Mauritius, Mexico, the Republic of Moldova, Monaco, Montenegro, New Zealand, Nicaragua, Panama, Paraguay, Salvador, San Marino, Saint Kitts and Nevis, Serbia, Seychelles, Singapore, South Korea, Taiwan, Ukraine (only individuals with biometric passports; please note the exception below), the United States, Uruguay, Venezuela, Vatican City, Special Administrative Regions of the Mainland China: Hong Kong SAR and Macau SAR

As a basic rule in Polish law, a foreign national who is a citizen of two or more states will be treated as a citizen of the state whose travel document was used for entry into Poland.

A specific legal regime is in place for UK citizens and their family members who started residing and working in Poland before Brexit and continue to do so after Brexit. Namely, UK citizens and their family members may apply for a temporary residence permit (zezwolenie na pobyt czasowy) or a permanent residence permit (zezwolenie na pobyt stały) to legalize their stay and work in Poland, based on the fact that they were duly authorized to stay in Poland on 31 January 2020 (the day

preceding Brexit). In other cases, UK citizens are treated as non-EU citizens, meaning that it is necessary to ensure that their residence (e.g., a Schengen visa-free period) and work authorization (e.g., a work permit) are appropriate for their assignment. UK citizens may stay in the Schengen Area for up to 90 days without a visa.

Business travel

EU citizens

EU citizens may enter and reside in Poland for a period not exceeding three months provided that they have a valid travel document/valid document that certifies their identity and citizenship.

Additionally, an EU citizen who entered Poland in search of work may reside for a period not exceeding six months unless, after this period, the EU citizen demonstrates that they will continue to actively seek employment and are likely to find a job. A non-EU citizen family member of an EU citizen may enter Poland provided that they have a valid travel document or visa. During the stay in Poland (for up to three months), a family member who is a non-EU citizen must have a valid travel document.

EU citizens should have the right to stay in Poland for a period longer than three months if they fulfill one of the following conditions:

- They are an employee or a self-employed person in Poland (in this case, the right to stay extends to family members staying in Poland with an EU citizen).
- They have sufficient financial resources to cover the cost of living in Poland, without the need to use social insurance benefits (in this case, the right to stay extends to family members staying in Poland with an EU citizen), and they are covered by general health insurance, are entitled to health insurance or health insurance benefits (on the grounds of the regulations on coordination of health insurance benefits financed from public funds) and are covered by private health insurance of a specific scope.
- They study or receive vocational training in Poland and are covered by general health insurance, are entitled to health insurance or health insurance benefits (on the grounds of the regulations on coordination of health insurance benefits financed from public funds), or are covered by private health insurance of a specific scope, and they have enough funds to provide health coverage in Poland without the need to use social insurance benefits (in this case, the right to stay extends to the spouse and children supported by an EU citizen or by the spouse who is staying with or joining the EU citizen in Poland).
- They are married to a Polish national.

If residency in Poland lasts for more than three months, an EU citizen is obliged to register the residence address at the voivodeship office responsible for the place of residence in Poland. A family member who is a non-EU citizen is obliged to obtain an EU citizen family member residence card.

The application for registration or issuance of the residence card for a member of an EU citizen's family must be submitted personally to the competent voivodeship office, no later than on the day following the end of three months from the date of entry into Poland.

Non-EU citizens

Foreign nationals coming to Poland on short-term business trips will most likely use one of the following visitors' visas:

- Schengen visa, which gives right of entry and continuous stay inside the Schengen member states or several consecutive stays for a total period not exceeding three months within a period of six months, counted from the date of the first entry into the stated territory
- National visa, which gives right of entry and continuous stay in Poland or several consecutive stays for a total period not exceeding one year during the visa's validity period

A national visa can be issued if the circumstances require a foreign national to stay for more than three months.

Examples of purposes for entry and stay for both Schengen and national visas include the following:

- Visiting
- Carrying out economic activity
- Conducting cultural activities or participating in international conferences
- Performing official tasks as representatives of authorities of a foreign state or an international organization
- Participating in proceedings for granting asylum
- Performing work, receiving education or training
- Enjoying temporary protection
- Participating in a cultural/educational exchange, humanitarian aid program or holiday job program for students

The period of stay under the national visa must be defined within limits specified above, according to the purpose indicated by the foreign national.

Employment assignments

EU citizens

All EU citizens, including members of their family, are exempt from the obligation to obtain a work permit to be employed in Poland.

If the assignment in Poland is expected to last for more than three months, an EU citizen is obliged to register the residence address, as mentioned above in the "Business travel" section.

As long as EU citizens are in paid employment (or perform work in Poland as an independent service provider or on another basis), they are generally subject to the same legislation for social contributions and benefit from the same advantages as national employees. Exceptions may apply if the EU citizens perform work in more than one country or an EU citizen is temporarily seconded to Poland.

Every EU citizen may use public employment services.

Non-EU citizens

According to Polish law, a foreign national wanting to work legally in Poland must obtain the right to work in Poland. The right to work may result from a foreigner's specific status (e.g., a spouse of a Polish citizen; please see below). As a rule, a foreigner must have either of the following:

- A work permit (zezwolenie na prace), issued by one of the Polish voivodeship offices

- A statement on entrusting work (oświadczenie o powierzeniu wykonywania pracy), which may be applied temporarily in limited cases

Additionally, a foreigner must be authorized to reside in Poland during the term of work. In most cases, this means that, in addition to the work authorization document (please see above), a foreigner must additionally have the following:

- A visa (wiza) (except certain categories of visas, e.g., for the purposes of tourism) issued by a Polish Consulate
- A temporary residence permit in Poland (zezwolenie na pobyt czasowy) issued by the Department of Citizen's Affairs at the voivodeship office

By way of exception, a foreigner's right to reside and work in Poland may result from the same permit, such as an integrated temporary stay and work permit (zezwolenie na pobyt czasowy i pracę) or a temporary residence permit granted due to an intragroup company transfer (zezwolenie na pobyt czasowy w celu wykonywania pracy w ramach przeniesienia wewnątrz przedsiębiorstwa), issued by the Department of Citizen's Affairs at the voivodeship office. A choice of an applicable permit is limited by the circumstances of the case.

There are several categories of non-EU citizens who are exempt from the obligation to obtain a work permit, including the following:

- Foreign nationals with a permanent residence permit
- Foreign nationals granted long-term European Community (EC) resident status in Poland
- Foreign nationals granted a long-term EC resident status in another EU country with a temporary residence permit in Poland, issued based on the declared intention to start a business or study in Poland
- Refugees, people granted temporary protection and people granted tolerated stay status
- Foreign nationals holding a valid Pole's Card
- Foreign nationals who are allowed to perform work in Poland without having to obtain a work permit according to international contracts and agreements binding the Republic of Poland and the country of their citizenship
- Members of international military forces stationed in Poland
- Journalists and other foreign mass media correspondents fulfilling specific criteria
- Artists (individual or in groups) participating in different kinds of artistic events (not exceeding 30 days per calendar year)
- Athletes performing work for institutions registered in Poland in relation to sports events
- People delegated by their foreign employers (provided that they have permanent residence abroad), for a period not exceeding three months, for the following purposes:
    - Assembling, maintaining or repairing delivered devices, structures, machinery or other equipment, if the foreign employer is a manufacturer of these
    - Training the employees of the Polish employer, being the recipient of the devices, structures, machinery or other equipment referred to above, on its operation or use
    - Accepting devices, machinery, other equipment or parts produced by a Polish company

- Assembling and disassembling exhibition stands, if the exhibitor is a foreign employer who delegates them for this purpose

- People entitled to reside and work in an EU or EEA member state or Switzerland who are temporarily delegated by their EU employer to provide services in Poland
- Management board members of legal entities that have been registered under the respective provisions in Poland, if they enter Poland based on an appropriate visa/residence permit and their stay in Poland does not exceed six months within a 12-month period

A work permit is a specific type of authorization issued following an investigation by labor authorities into the reasons for employing foreign nationals in Poland.

There are several types of work permits, depending on the position the employee would take or the employer's location (in Poland or abroad).

As a rule, a work permit is issued if no Polish candidates suitable for the given work post can be found in the domestic market (in the case of a type A work permit), which is called the "labor market test" (test rynku pracy).

However, the local labor market test requirement is not necessary in the case of all work permits (e.g., in the case of a work permit granted due to secondment to an affiliated entity, type C, there is no need to go through the labor market test).

Commencing work in Poland without a work permit is strictly prohibited and may result in financial sanctions imposed on the individual concerned and the hosting entity employing the individual.

A work permit is applied for and issued to an employer as permission to employ a specific, named, non-EU citizen, for a specific job and for a specific period of time. Moreover, if a foreign national performs work in various positions at the same employer, a work permit for each position is needed.

In the case of a type A work permit, the employer who wants to employ a non-EU citizen must attempt to fill the vacancy with a Polish national. To do so, the employer is obliged to make an announcement on the free vacancy with the labor agency, i.e., the district labor office responsible for the place in which the work is to be performed.

If there are no available Polish citizens suitable for the position, the labor office issues an appropriate confirmation to the employer in writing (the labor market test).

Once the employer obtains confirmation from the district labor office, it submits an application for a work permit for a foreign national, attaching the received confirmation to the local immigration authority (the immigration section of the voivodeship office).

In the work permit application, the employer is obliged to provide documentation regarding its entity, the foreign national's personal details, the details of the passport document and, if needed, information on the foreign national's qualifications and professional experience.

Furthermore, the employer must specify the proposed post in Poland, the intended period of employment and the legal basis of employment (e.g., employment agreement, service agreement). All documents submitted to the Polish immigration authorities must be in Polish. Documents such as the foreign national's certificates and diplomas will have to be translated into Polish by a sworn translator.

After submitting the application form, the voivode examines the application in view of the local labor market situation, taking into consideration the confirmation from the district labor office.

If the confirmation from the district labor office shows that there are no Polish candidates on the local labor market that fulfill the employer's criteria and the application fulfills all the formal requirements, the voivode will issue the work permit.

According to the legal rules, the work permit may be granted for a period not exceeding three years. However, in practice, the voivode issues the first work permit for a maximum period of one year, after which it may be extended multiple times for longer periods.

The work permit document is issued in triplicate, one copy for the employer, one for the employee and one for the voivode office.

After obtaining the work permit, the employer must deliver it to the non-EU citizen so that they may submit it when applying for the work visa. Based on the work permit, the consulate authorities may issue the work visa (i.e., a visa granted for the purposes of performing work).

A national visa for the purposes of performing work may be issued to a non-EU citizen who presents a permit to work in Poland or a statement on entrusting work, where possible. This type of visa is issued by the consul responsible for the foreign national's place of permanent residence. It can be issued for the period of stay corresponding to the period indicated on the work permit or a statement on entrusting work.

Where a non-EU citizen intends to stay in Poland for longer than the period of stay provided by the visa, it is possible to apply for a temporary residence permit in Poland. That document can be issued for a maximum period of three years but no longer than the validity period of the work permit. When staying abroad, an application for a temporary residence permit should be filed via the consular office. If the foreign national is in Poland, the application for that permit is filed with the Department of Citizen's Affairs at the voivodeship office.

In May 2014, new provisions came into force that allow foreign nationals to apply for an integrated permit for residence and work. This new procedure includes the requirements of the separate work and residence permit procedures, with the difference being that it is mainly conducted by the foreign national (in cooperation with the employer). Previously, it was the employer's sole responsibility to obtain the work permit, which is issued in one document.

After completing all of the formalities, the employer signs an agreement with the non-EU citizen for the time specified in the work permit (or the integrated permit for residence and work). The contract should strictly reflect the conditions in the permit in regard to time, place of work and position. Change of workplace requires immediate notification to the voivode.

After arriving in Poland, the foreign national is obliged to register their residence in Poland with the administrative local authority using their temporary address in Poland (zameldowanie).

Ukrainian citizens

If a citizen of Ukraine arrived legally from Ukraine to Poland after 24 February 2022 in connection with war hostilities taking place in Ukraine and declares the intention to stay in Poland, their residence is considered legal until **30 June 2024** under the Act of 12 March 2022 on supporting Ukrainian citizens due to war in Ukraine. The same rule applies to a spouse of a Ukrainian citizen if they do not have a Polish or other EU member state citizenship.

All citizens of Ukraine whose stay in Poland is legal are entitled to **legally work** in Poland.

In the case of Ukrainian citizens benefiting from the special status under the Act of 12 March 2022 on supporting Ukrainian citizens due to war in Ukraine, the condition for legal work is the employer **notifying this fact to the district labor office** responsible for its registered office within 14 days from the date that the foreigner commences work. The obligation to notify the district labor office does not

apply to the employment of a Ukrainian citizen who legally performs work in Poland on a different basis, e.g., based on a work permit or an appropriate temporary residence permit, or they have the right to work in Poland due to their residence status (e.g., they have been granted refugee status or subsidiary protection, or have received permanent residence, long-term residence, a residence permit for humanitarian reasons or a tolerated residence permit).

Ukrainian citizens benefiting from the special status under the Act of 12 March 2022 on supporting Ukrainian citizens due to war in Ukraine or legally staying in Poland based on the Act on Foreigners (e.g., those with a visa, temporary or permanent residence permit, etc.) are entitled to **conduct business activities** on the same terms as Polish citizens (e.g., subject to registration with the local authorities) on the condition that they have a PESEL identification number.

Social security contributions

According to Polish law, there are four kinds of social security contributions that an employer and employee are obliged to pay in connection with an employment agreement. Furthermore, depending on the employer's headcount, an employee may fall by default under the PPK (Employee Capital Plan — a pension program) unless they opted out within a specific time frame.

With regard to the payment of social contributions for non-EU citizens, Polish law generally states that the duty arises in the country in which the person is employed and where the work is being performed (the lex loci laboris principle).

This means that the employer employing a foreign worker (as an employee or a service provider) in Poland is subject to Polish social security laws and not the social security laws of the country in which the employing entity might be located or of which the foreign worker is a citizen. The effect of this is that a foreign employer that does not have its place of business in Poland is, in principle, obliged to register with the Social Security Agency and pay all the required social security contributions for any worker employed in Poland. There are several exceptions to the above rule, such as employees who were seconded by their employers (provided they have permanent residence abroad) to perform work in Poland for a specified period of time or nationals of countries that are parties to international agreements, recommendations, conventions and provisions binding on Poland in the scope of social contributions regulations.

EU law also stipulates that social security contributions are paid in principle in the country where work is performed.

Training

In the case of vocational training, education or training in another form, a foreigner may apply for a visa indicating these circumstances as the purpose of the intended stay.

EU citizens have the right to stay in Poland for the purpose of studying according to the regulations described above.

For non-EU citizens, in most cases, the most suitable solution for training purposes is to obtain a visa (either Schengen or national, depending on the type and length of training).

EU citizens do not need any visa or work permit to receive training in Poland. According to the specific regulations, there are also several categories of non-EU citizens who are not required to possess a work permit in Poland in connection with training, such as the following:

- Trainers and qualified advisers participating in programs financed by the EU, by other international organizations or by loans taken out by the Polish government
- Foreign language teachers fulfilling additional criteria

- People who occasionally give lectures and presentations (not exceeding 30 days a year), if they have permanent residence abroad
- Students of Polish universities (only daily studies), studying based on a visa or an applicable residence permit
- Students on internships arranged by international student associations
- Students within a framework of cooperation between Polish employment services and their partners abroad
- Foreign students on paid internships (for a maximum period of six months during one calendar year)
- Scientists in R&D institutions

If a non-EU citizen intends to stay in Poland longer than the period of stay provided by the visa issued for the purpose of education, it is possible to apply for a temporary residence permit in Poland for a specified period of time. That document can be issued for the period necessary for achieving the purpose of the foreign national's stay in Poland, but for no longer than three years. An application for that permit is made to the Department of Citizen's Affairs at the voivodeship office in the capital city of the respective voivodeship.

Other comments

All applications for visas and residence or work permits must be written in Polish on official forms. Documents drawn up in languages other than Polish attached to the application must be submitted with their translations into Polish by a sworn translator.

All foreign nationals staying in Poland register on their own with the local administrative authority at their temporary registered address in Poland (zameldowanie). This registration must be done no later than after four consecutive days in Poland (excluding EU citizens for whom the deadline is currently 30 days). To register, a foreign national will be required to present the document confirming their legal title to the apartment in which they reside (e.g., a lease agreement) and the relevant work visa/residence or work permit or, in the case of EU citizens, a passport or an ID card.

The national visa of a foreign national staying in Poland can be extended if all of the following conditions are met:

- The foreign national has an important professional or personal interest, or there are humanitarian considerations in favor of it.
- The events causing the foreign national to apply for a visa extension were beyond their control and could not be foreseen at the time the visa was issued.
- The circumstances of the case do not indicate that the purpose of the foreign national's stay in Poland will be different from the declared one.
- There are no circumstances against issuing the foreign national a visa.

The period of stay in Poland based on an extended visa may not exceed the period of stay envisaged for the given type of national visa.

If a foreign national intends to stay in Poland for longer than the period of stay provided by the visa, instead of extending the visa, the foreign national can apply for a temporary residence permit. This document is issued for the period necessary to achieve the purpose of the foreign national's stay in Poland, but for no longer than three years. It is issued for various purposes, such as the following:

- Performing work
- Carrying out economic activity pursuant to the provisions applicable in this field in Poland
- Studying at a university
- Conducting scientific research

A temporary residence permit may also be granted to a foreign national who is married to a Polish citizen and for other reasons specified in the Foreign Nationals Act of 12 December 2013.

Legal stay in Poland is also guaranteed by obtaining the following:

- A permanent residence permit, issued generally to the following, among others:
    - A foreign national who has a valid Pole's Card and intends to settle in the territory of Poland
    - A foreign national who has been married to a Polish citizen for at least three years before filing the application and, immediately before that, had continuously stayed in Poland for at least two years based on a temporary residence permit
    - A foreign national who, immediately before filing the application, had continuously stayed in Poland for a period of at least 10 years based on a tolerated stay permit
    - A foreign national who is a child of a Polish citizen who exercises parental authority over them
- A long-term EC resident stay permit, which may be granted to a foreign national who has legally and continuously stayed in Poland for at least five years immediately before filing the application, and who has the following:
    - A stable and regular source of income sufficient to cover the costs of maintenance for themselves and dependent family members (and a secured place to live)
    - Health insurance within the meaning of the provisions on public health insurance or an insurer's confirmation of coverage of the costs of medical treatment in Poland

The above rules do not apply to the following:

- Foreign nationals who stay in Poland to undergo studies or professional training
- Foreign nationals who are workers delegated by a service provider for purposes of cross-border provision of services

Polish citizenship can be granted by decision of the president of the Republic of Poland. Additionally, a foreign national may be declared a Polish citizen after residing in Poland for at least three years based on having a permit to settle, long-term EC resident status or right of permanent stay, a stable and regular source of income in Poland, and the legal title to their occupied premises (provided that the foreign national has a certificate confirming their knowledge of the Polish language) or in other cases specified by the provisions of law.

Singapore

Introduction

Singapore's receptiveness to foreign talent is evident in its immigration laws, which offer many solutions to help employers of foreign nationals. These solutions range from nonimmigrant visas to permanent immigrant visas. However, requirements, processing times, employment eligibility and benefits for accompanying family members necessarily vary by visa classification.

Key government agencies

The Work Pass Division of the Ministry of Manpower (MOM) facilitates and regulates the employment of foreign nationals in Singapore. This is achieved through the administration of three main types of employer-sponsored work passes: Employment Passes, S Passes and Work Permits. In addition to these, there are other passes used only for specific cases.

The Immigration & Checkpoints Authority (ICA) is a government agency under the Ministry of Home Affairs. The ICA is responsible for securing Singapore's borders against the entry of undesirable persons and cargo through Singapore's land, air and sea checkpoints. The ICA also performs other immigration and registration functions, such as issuing travel documents and identity cards to Singapore citizens and various immigration passes and permits to foreign nationals. It also conducts operations against immigration offenders.

Other relevant agencies may include Enterprise Singapore (a governmental board overseeing Singapore's productivity standards and quality) and the Economic Development Board.

Current trends

In line with the government's policy at the start of 2020, employers of foreign employees will continue to face tighter MOM regulations in relation to the number of foreign employees they may employ if their workforce lacks a strong Singaporean core, they are not making a significant contribution to Singapore's economy or they are not seen as considering local candidates fairly. Nevertheless, Singapore is well placed in the region to conduct business. Besides offering ample financial opportunities, the city-state boasts a high standard of living in the essential areas of healthcare, education, accommodation, order and security.

To mobilize their workforce, employers must first familiarize themselves with the immigration laws relevant for global mobility assignments. In this regard, this Singapore chapter offers an introductory insight.

Below are some changes introduced by the MOM to further tighten the foreign workforce.

Letter of Consent

From 1 May 2021, Dependent's Pass holders who would like to work in Singapore will need to apply for a relevant work pass, such as an Employment Pass, S Pass or work permit, instead of a Letter of Consent.

Dependent's Pass holders who are business owners will be eligible to continue running their businesses on Letters of Consent, provided that their business creates local employment. They will need to meet the following criteria:

- The Dependent's Pass holder is a sole proprietor, partner or company director with at least a 30% shareholding in the business.
- The business hires at least one Singaporean/permanent resident (PR) who earns at least the prevailing local qualifying salary (currently SGD 1,400, will be increased to SGD 1,600 from 1 July 2024) and has been receiving Central Provident Fund contributions for at least three months.

If the businesses owned by the Dependent's Pass holders do not meet the criteria, the Dependent's Pass holders are only allowed to run their businesses until the Letter of Consent validity ends. Thereafter, they will need to meet the prevailing criteria to renew their Letter of Consent or obtain an applicable work pass to continue working in Singapore.

Intra-corporate transferee

Foreign employees coming to Singapore as overseas intra-corporate transferees under the World Trade Organization's General Agreement Trade in Services or an applicable free trade agreement are subject to the following conditions:

- Family members of overseas intra-corporate transferees are not eligible for Dependent's Passes or Long-Term Visit Passes, except where they are specifically covered by an applicable free trade agreement and meet the prevailing criteria for consideration.
- An overseas intra-corporate transferee is allowed to temporarily enter Singapore, for a period strictly limited to the provision under the applicable trade agreement. An overseas intra-corporate transferee is also generally not eligible for future employment in Singapore after the expiry/termination of their work pass, or for permanent residency.

Employers should therefore review and consider applying for a regular Employment Pass for their overseas intra-corporate transferee if it better meets their needs.

The tightening of the regulations for Letter of Consent applications and Employment Pass applications via the intra-corporate transferee route further reinforces the MOM's goal of eventually building a Singaporean core among employers.

Tech@SG program

The Tech@SG is a joint program run by the Singapore Economic Development Board and Enterprise Singapore that aims to help fast-growing tech companies hire critical talent to grow and scale their business.

If a company is less than 30% Singapore-owned and meets the prevailing eligibility criteria to qualify for the Tech@SG program, the Singapore Economic Development Board may provide company-level endorsement to the MOM, which will reduce the risk of rejections for the company's Employment Pass applications to the MOM. If a company is eligible, it can expect to receive the following:

- Up to 10 new Employment Passes over two years for foreign employees who will be hired as part of the company's core team in Singapore
- Coverage for the first renewal of each new Employment Pass obtained under the program

After 10 successful Employment Pass applications or two years of support, whichever occurs earlier, the Economic Development Board will notify the company receiving support.

If a company is at least 30% Singapore-owned, it should apply for the Tech@SG program under Enterprise Singapore.

The Economic Development Board has also introduced a new work pass, known as the Tech.Pass, for top-tier foreign professionals and experts looking to start businesses, lead corporate teams or teach in Singapore. The Tech.Pass is an expansion of the Tech@SG program to attract entrepreneurs and leaders to develop Singapore into a tech hub. The Economic Development Board will administer the Tech.Pass, with the MOM's support. The Tech.Pass will be valid for two years and, depending on certain criteria, can be renewed once for another two years.

This is part of Singapore's multipronged approach to develop a strong base of technology companies and talent to ensure Singapore remains globally competitive.

Business travel

Visit pass

Foreign nationals visiting for short business negotiations and discussions may generally enter Singapore on a visit pass. Visit passes are issued on arrival in Singapore, and the permitted period of stay is usually either 30 or 90 days. Extensions are considered on a case-by-case basis.

With the limited exception in some cases of diplomatic and official passport holders, the following foreign nationals will require a valid entry visa prior to arriving in Singapore:

- Foreign nationals holding travel documents issued by the following countries: Afghanistan, Algeria, Armenia, Azerbaijan, Bangladesh, Belarus, Democratic People's Republic of Korea, Egypt, Georgia, India, Iran, Iraq, Jordan, Kazakhstan, Kosovo, Kyrgyzstan, Lebanon, Libya, Mali, Moldova, Morocco, Nigeria, Pakistan, Russia, Somalia, South Sudan, Sudan, Syria, Tajikistan, Tunisia, Turkmenistan, Ukraine, Uzbekistan and Yemen
- Holders of refugee travel documents
- Holders of an alien's passport (stateless persons)
- Holders of a Palestinian Authority passport
- Holders of a temporary passport issued by the United Arab Emirates
- Holders of a Hong Kong SAR identity document
- Holders of a Macau SAR Travel Permit
- Holders of a Mainland China Travel Document

Miscellaneous Work Pass

The Miscellaneous Work Pass is for eligible foreign nationals on short-term work assignments, such as the following:

- A foreign national who is involved in activities directly related to organizing or conducting any seminar, conference, workshop, gathering or talk concerning any religion, race or community, cause, or political end
- A foreign religious worker giving talks relating directly or indirectly to any religion
- A foreign journalist or reporter or accompanying crew member, not supported/sponsored by any Singapore government agency to cover an event or write a story in Singapore

The Miscellaneous Work Pass enables a foreign national to take on assignments of up to 60 days in Singapore.

Work Permit (performing artists)

This is applicable to foreign artists performing at any public entertainment licensed bar, discotheque, lounge, nightclub, pub, hotel, private club or restaurant for a maximum duration of six months.

Work pass exempt activities

A work pass is generally necessary to carry out any work in Singapore. However, for certain activities, the government exempts foreign nationals from this requirement. These exempted activities are divided into various different categories.

Arbitration or mediation services

A work pass is not required if the individual is providing arbitration or mediation services (e.g., as an arbitrator or a mediator) in relation to any case or matter that meets the following criteria:

- Does not relate directly or indirectly to any religious belief or to religion generally
- Does not relate directly or indirectly to any race or community generally
- Is not cause-related or directed toward a political end

Exhibitions

A work pass is not required for participating in any exhibition as an exhibitor. The individual must be registered with the organizer of the exhibition to do the following:

- Provide information on, put on a performance or give a demonstration of anything related to the subject of the exhibition
- Display or sell goods or services that are the subject of the exhibition

These activities can only take place during the exhibition's official opening hours.

This does not include trade fairs, stage shows or any other functions that require a Trade Fair Permit issued under Section 35 of the Environmental Public Health Act, Cap 95 or the activities at any makeshift stalls within these (such as Pasar Malams (street markets)). This also does not include providing peripheral services for the event (e.g., cleaning and catering services) or setting up, maintaining, repairing and dismantling the exhibition sites or booths.

Journalism activities

A work pass is not required for journalism activities (including media coverage for events or media tours) supported by the government or any statutory board constituted by or under any written law for a public purpose.

Judicial or legal duties in the Singapore International Commercial Court (SICC)

A work pass is not required for an international judge of the Supreme Court who is doing the following:

- Sitting in the SICC to hear cases, as specified by the chief justice
- Sitting in the court of appeal in an appeal from any judgment or order of the SICC
- Carrying out any other work or activity (such as consultancy, advisory or promotional work) related to their appointment with the Supreme Court and the SICC

This also applies to registered foreign lawyers with the SICC who have been granted the following:

- Full registration under Section 36P of the Legal Profession Act to represent, plead or provide any form of assistance in any relevant proceedings or subsequent appeals
- Restricted registration under Section 36P of the Legal Profession Act to give advice and prepare documents to make submissions in any relevant proceedings or appeals that are permitted by the relevant courts

Junket activities

A work pass is not required for activities relating directly to organizing, promoting or conducting a junket in a casino and performed by the following:

- Junket representatives employed by a junket promoter who is based overseas: Junket representatives are required to hold a valid junket representative license issued by the Casino Regulatory Authority.
- Self-employed junket promoters who are based overseas: Junket promoters are required to hold a valid junket promoter license issued by the Casino Regulatory Authority.

Location filming and fashion shows

A work pass is not required for activities relating to any location filming leading to a television or movie production or fashion show (including involvement as an actor, model, director, member of the film or technical crew, or photographer), but excludes business-to-individual services such as videography or photography for weddings.

Artists performing at entertainment outlets certified with a public entertainment license (e.g., bars, discotheques, lounges, nightclubs, pubs, hotels, private clubs and restaurants) are required to hold Work Permits for performing artists.

Performances

A work pass is not required for the following:

- Performing as an actor, singer, dancer or musician, or involvement as key support staff in an event supported by the government or any statutory board
- Performing as an actor, singer, dancer or musician, or involvement as key support staff in an event, in a venue to which the public or any class of the public has access (gratuitously or otherwise), including any theater or concert hall

Foreign artists performing at entertainment outlets certified with a public entertainment license (e.g., bars, discotheques, lounges, nightclubs, pubs, hotels, private clubs and restaurants) are required to hold Work Permits for performing artists.

Provision of specialized services related to a new plant/operations/equipment

A work pass is not required for providing expertise or specialized skills, including in the following:

- Commissioning or auditing any new plant and equipment (including any audit to ensure regulatory compliance or compliance with one or more standards)
- Installing, dismantling, transferring, repairing or maintaining any equipment or machine, whether in relation to a scale-up of operations or otherwise
- Transferring knowledge on processes of operations in Singapore

The expertise or specialized skills should be of a kind that is not available in Singapore or is to be provided by the authorized service personnel of the manufacturer or supplier of the equipment.

Seminars and conferences

A work pass is not required for activities relating directly to organizing or conducting any seminar, conference, workshop, gathering or talk that meets the following criteria:

- Does not have the sale or promotion of goods and services as its main purpose
- Does not relate directly or indirectly to any religious belief or to religion generally
- Does not relate directly or indirectly to any race or community generally
- Is not cause-related or directed toward a political end, including involvement as a speaker, moderator, facilitator or trainer

Sports

A work pass is not required for persons involved in any sports competition, event or training (e.g., an athlete, coach, umpire, referee or key support staff) supported by the government or any statutory board constituted by or under any written law for a public purpose, other than being engaged as an athlete of any Singapore sports organization pursuant to a contract of services.

Tour facilitation

A work pass is not required for activities relating directly to facilitating a tour and performed by tour leaders or tour facilitators employed by a foreign company, i.e., a company whose principal place of business is situated outside Singapore or whose principal business activity is conducted outside Singapore.

Tour facilitation refers to providing logistical support to the visiting tour group and ensuring that the activities in the tour itinerary are carried out according to plan, but does not include guiding tourists for remuneration. To facilitate a tour, a valid tourist guide license, issued by the Singapore Tourism Board, must be obtained.

Procedure

Foreign nationals performing work pass exempt activities are required to submit an e-notification to the MOM before engaging in these activities. They can perform these activities for the duration of their short-term visit pass, subject to a maximum of 90 days in a calendar year. Beyond that, they will need to obtain a work pass. Those carrying out work pass exempt activities without notifying the MOM can be prosecuted under the Employment of Foreign Manpower Act.

In addition, the waiver of the work pass requirement does not exempt foreign nationals from having to comply with other specific legal requirements in Singapore.

Employment assignments

Work Permit

A Work Permit may be issued to lesser-skilled or unskilled foreign workers (e.g., foreign factory workers, construction workers, domestic maids). The number of Work Permit holders a company can employ is limited by industry-specific quotas.

Generally, Work Permits are issued for a period of two years depending on the validity of the applicant's passport, the duration of the security bond and the period of employment.

Work permits will be issued to semi-skilled foreign workers with suitable qualifications, as well as unskilled foreign workers.

Foreign workers holding Work Permits are not allowed to bring their immediate family members to live with them in Singapore.

Unless the company has a levy waiver in respect of a foreign worker, companies employing Work Permit holders are required to pay a foreign worker tax, the amount of which varies from industry to industry, and depends on whether the worker is skilled or unskilled, and the number of Work Permit holders already employed by the company.

Similar to the S Pass, employers need to purchase medical insurance coverage of at least SGD 60,000 per year for each Work Permit holder.

Employers also need to purchase a security bond for each non-Malaysian Work Permit holder they want to employ, in the form of a banker's insurance or insurance guarantee to support the security bond.

An application for a Work Permit is submitted online to the MOM and takes approximately one week to process.

In general

All matters pertaining to the employment of foreign nationals in Singapore come under the MOM's review.

The MOM adopts a graduated approach toward foreign talent, offering the most attractive terms to those who can contribute the most to the economy to help draw them to Singapore.

Top talent, including professionals, entrepreneurs, investors and talented specialists, such as world-class artists and musicians, are allowed to come to Singapore with their spouses, children and parents. This privilege, however, is not extended to all workers.

Employment Pass

Employment Passes are issued to foreign nationals who work in managerial, executive or specialized roles, earn the qualifying salary applicable to their age and industry, and have acceptable qualifications, usually consisting of a reputable university degree, professional qualifications or specialist skills. In addition, Employment Pass applicants must pass the MOM's points-based Complementarity Assessment Framework.

The spouse and children under 21 years of age of Employment Pass holders who earn at least SGD 6,000 are eligible for Dependent's Passes to stay in Singapore. In addition, those earning SGD 12,000 or more may also bring their parents on long-term visit passes.

To apply and hire Employment Pass holders, a company is required to advertise the relevant job position on the MyCareersFuture.sg portal (formerly known as the Jobs Bank), a free job portal established by the Singapore government, and consider all applicants fairly. This is in line with the Fair Consideration Framework (FCF) introduced by the MOM. Certain exceptions apply to small companies, high-level or short-term employees, and intra-corporate transferees.

The FCF requires companies to do the following:

- Advertise on the MyCareersFuture.sg portal before submitting Employment Pass applications
- Provide accurate job descriptions so that suitable local applicants may apply
- Hire based on merit

Singaporean employers should not discriminate on characteristics that are not related to the job, such as age, gender, nationality or race. The MOM has increased enforcement efforts to ensure that employers cease engaging in any discriminatory hiring practices and that Singaporeans are considered fairly for the vacancies.

S Pass

The S Pass is meant for employers to hire skilled workers who may not meet the requirements for an Employment Pass. Employers need to pay a monthly levy and also purchase medical insurance coverage of at least SGD 60,000 per year for each S Pass worker. The MOM currently places a quota on the number of S Pass holders a company may employ, being a percentage of the company's total workforce depending on the industry sector (such as service, construction or manufacturing).

Before applying for an S Pass, employers must first advertise the job on the MyCareersFuture.sg portal, unless they meet any of the following grounds for exemption:

- The company has fewer than 10 employees.
- The fixed monthly salary for the vacancy is SGD 22,500 or above.
- The vacancy is short term, i.e., no more than one month.
- The role is to be filled by a local transferee, i.e., an existing employee from a company in Singapore transferring to another related branch, subsidiary or affiliate in Singapore.

The advertisement must be open for at least 14 consecutive days before employers submit an S Pass application.

Similar to Employment Pass holders, an S Pass holder must earn a fixed monthly salary of at least SGD 6,000 to be eligible for Dependent's Passes for their spouse and children under 21 years of age.

Additional information

Applications for Employment Passes and S Passes can be made for a duration of up to two years. These work passes can be renewed six months before their expiry date. The duration granted in the first instance and for renewals is at the MOM's discretion. The maximum duration has been extended to three years for renewals.

The Singapore government aims to reduce Singapore's dependence on foreign labor in various sectors. In line with this, it announced reductions to the quota of S Pass and Work Permit holders that companies may hire.

Work Pass Account Registration

Work Pass Account Registration is a portal for business employers to register for various work pass online accounts, including EP eService and WP Online, and also to declare their business activity.

An administrative user must be appointed. As an account for SingPass (the Singapore government's online portal) is required to log in, this person should be either a Singapore citizen, Singapore PR or work pass holder.

It takes about five working days for the EP eService accounts selected to be set up. Once this has been processed, the account holder will be able to perform the various transactions immediately.

EP eService

This is a one-stop portal for companies and organizations to perform transactions, such as the following:

- Submit new applications for Dependent's Passes, long-term visit passes, Letters of Consent and Training Employment Passes (not applicable to employment agencies)
- Renew applications for Employment Passes (excluding the sponsorship scheme), S Passes, Dependent's Passes, long-term visit passes and Letters of Consent
- Upload relevant supporting documents for work passes/related pass applications
- Appeal rejected applications
- Check applications and renewal statuses
- View the reasons for rejection for most of the unsuccessful applications
- Access and print application outcome letters and notification letters
- Check an organization's S Pass quota and tier information

Overseas Networks & Expertise Pass

The Overseas Networks & Expertise Pass is a personalized pass for top talent in all sectors, such as business, arts and culture, sports, academia, and research. Applicants must meet at least one of the criteria below:

- Earned a fixed monthly salary of at least SGD 30,000 or its equivalent in foreign currency for the last 12 consecutive months (Overseas candidates must also show that they have been working for an established company overseas for at least one year.)
- Will earn a fixed monthly salary of at least SGD 30,000 under an established company that is based in Singapore

For a company to be considered established, it must have at least one of the following:

- Market capitalization or valuation of at least USD 500 million
- Annual revenue of at least USD 200 million

Combined amounts from the entire global office can also be considered and will be assessed on a case-by-case basis.

To be eligible for renewal, the pass holder must meet one of the following:

- Earned a fixed monthly salary of at least SGD 30,000 on average over the past five years in Singapore
- Started and is operating a Singapore-based company that employs at least five locals, each earning a fixed monthly salary of at least SGD 5,000 (pegged to the EP minimum qualifying salary)

Pass holders may bring their spouse, children under 21 years of age and parents into Singapore.

EntrePass

The EntrePass is an employment pass for foreign entrepreneurs who would like to start a new business in Singapore. Applications must be made online. The MOM will issue EntrePasses for successful applicants.

The EntrePass holder must be actively involved in the operations of the Singapore company or business. When submitting the EntrePass application, the applicant must not have registered the business with the Accounting and Corporate Regulatory Authority for longer than six months.

Applicants must also fulfill at least one of the following requirements:

- The applicant received funding or investment from a recognized third-party venture capitalist or business angel who is accredited by a Singapore government agency.
- The applicant holds intellectual property that is registered with an approved national IP institution.
- The applicant has an ongoing research collaboration with a research institution recognized by the Agency for Science, Technology and Research or institutes of higher learning in Singapore.
- The applicant is an incubatee at an incubator supported by the Singapore government.
- The applicant has significant business experience or networks and a promising entrepreneurial track record of starting highly scalable businesses and wants to establish, develop and manage a new or existing business in Singapore.
- The applicant has exceptional technical or domain expertise in an area related to the proposed business.
- The applicant has an outstanding track record of investing in businesses and wants to grow new or existing businesses in Singapore.

Renewal of the EntrePass should be taken into consideration at the outset. For each year that the applicant holds an EntrePass, both the number of local jobs they need to create and the required minimum total business spending by the business venture increases.

The proposed business venture must not be engaged in illegal activities. In addition, businesses not of an entrepreneurial nature (e.g., coffee shops, hawker centers, food courts, foot reflexology, massage parlors, karaoke lounges, money changing/remitting services, newspaper vending, geomancy, tuition services and employment agencies) will not be considered for an EntrePass.

Personalized Employment Pass

The Personalized Employment Pass (PEP) is a premium work pass for top-tier foreign talent. The difference between the PEP and a normal Employment Pass is that the normal Employment Pass is linked to a specific employer and any change in employer requires a fresh application for a new Employment Pass. As such, unless an Employment Pass holder is able to find employment with a new company, they may be required to leave Singapore if they do not hold any other relevant entry permits, such as a visit pass. In contrast, the PEP is linked to the individual and will be granted based on the strength of an individual's merits. The processing time for a PEP application is estimated to be about eight weeks. Only applications submitted electronically will be processed.

The PEP will allow holders to remain unemployed in Singapore for up to six continuous months to search for employment opportunities, after which the PEP will expire. PEP holders can generally take on employment in any sector, with the exception of some jobs that may require prior permission.

Foreign nationals earning a fixed monthly salary of at least SGD 22,500 are eligible for the PEP.

If approved, the PEP will be valid for three years and is nonrenewable. PEP holders must earn a minimum annual salary of at least SGD 270,000 during this period. A PEP applicant may bring their spouse, children under 21 years of age and parents. PEP holders and their employers will need to keep the MOM informed of any changes in the PEP holders' employment status and contact details and will have to agree to reveal their annual basic salary to the MOM.

Work Holiday Pass

Work Holiday Program (WHP)

The Work Holiday Pass issued under the WHP is for university undergraduates and graduates who would like to work and holiday in Singapore. Applicants must be studying or have graduated from recognized universities in selected countries, such as Australia, France, Germany and Hong Kong SAR, among others. Undergraduates who would like to apply must have been a resident and full-time student of the university for at least three months before the time of application. The WHP is valid for six months and is not renewable. The WHP has a capacity of 2,000 applicants at any one time.

Work and Holiday Visa Program (WHVP)

The Work Holiday Pass issued under the WHVP is a similar pass catering to Australian citizens who are studying at or have graduated from university. Applicants need to hold a university degree or have completed the equivalent of two years of full-time university study at any university. The WHVP is valid for up to 12 months and is not renewable. There are some limitations for holders of this pass, such as being unable to take up freelance employment. The WHVP has a capacity of 500 applicants at any one time.

Training

Training Employment Pass

The Training Employment Pass is intended to cater to corporate trainees from overseas undergoing practical training in Singapore for professional, managerial, executive or specialist jobs for their eventual work back in their own country. The Training Employment Pass also applies to foreign undergraduates or graduates who would like to gain internship experience for professional or specialist jobs.

This pass is available to foreign students and trainees from foreign offices or subsidiaries who earn a fixed monthly salary of at least SGD 3,000, and the graduate or trainee must be sponsored by a well-

established Singapore-registered company. For foreign students, the training element must also be part of their degree program, and they must be studying at an acceptable university.

The Training Employment Pass is valid for up to three months and is not renewable.

Training Work Permit

The Training Work Permit is for unskilled/semi-skilled foreign nationals undergoing training in Singapore and also for foreign students studying in Singapore. The Training Work Permit is valid for up to six months and is not renewable. The foreign national cannot get another Training Work Permit until six months after the expiry or cancellation of the last Training Work Permit.

Other comments

Today, global mobility has wider connotations than merely working abroad. The phrase also encapsulates the idea of taking up permanent residence in another country and, ultimately, citizenship.

Non-Singaporeans who fall under one of the following categories may be eligible to apply to become Singapore PRs:

- The spouse with/without an unmarried child (below 21 years old) of a Singapore citizen or PR
- Aged parents of a Singapore citizen
- Employment Pass/S Pass holders (applying under the Professionals/Technical Personnel and Skilled Workers Scheme)
- Foreign students studying in Singapore (that are residing for more than two years, have passed at least one national exam or are in the Integrated Program)
- Investors (under the Global Investor Program)

Whether to grant PR status is at the sole discretion of the Singapore authorities, and no reasons or explanation will be given if an application is not approved.

To maintain PR status, all PRs who intend to travel outside of Singapore must first obtain a Re-Entry Permit (REP) and must return to Singapore within the permit's validity period. A Singapore PR will risk losing their PR status if they remain outside of Singapore without a valid REP.

A REP is usually valid for multiple journeys for a period of five years and may not be issued or renewed if the PR does not continue to be gainfully employed in Singapore or does not maintain sufficient connections with Singapore.

Singapore citizenship may be acquired by birth, descent, registration or naturalization. Applicants must be of good character, be financially able to support themselves and their dependents, and intend to reside permanently in Singapore. The evaluation criteria takes into consideration how the rest of the applicant's family (e.g., the applicant's spouse and children) can integrate into Singaporean society, the applicant's demonstrated educational qualifications and their immediate economic contributions. The decision to confer citizenship is discretionary and will be decided based on the merits of each case. Dual citizenship is not permitted; therefore, applicants must be prepared to renounce citizenship for all other countries.

All male PRs and citizens in Singapore, aged 16 to 40 years (or 50 years for officers and members of certain skilled professions) are subject to the Enlistment Act 1970. Male ex-Singapore citizens and ex-Singapore PRs who are granted Singapore PR status are liable to be called upon for national service.

A first-generation male PR is automatically exempt from National Service if he applied under the Professionals/Technical Personnel and Skilled Workers Scheme or the Investor Scheme. However, he will be required to register himself with the Central Manpower Base if he is below 40 years old.

Spain

Introduction

The Law for Entrepreneurs (Law 14/2013, dated 27 September) was approved by the government to attract foreign investment and talent to Spain and to facilitate the movement of personnel within multinational companies. The Law for Entrepreneurs runs in parallel with the general Spanish Immigration Act and its rules of implementation (general immigration law), which continue to be valid and apply to what is not established under the Law for Entrepreneurs, while not causing contradiction.

Due to the Law for Entrepreneurs, Spanish immigration procedures for highly skilled professionals, or for intracompany transfers or even international remote workers are more flexible and better adapted to business needs than the general immigration law, which should not be considered as an option in the case of intracompany transfers or work permits for highly skilled professionals, unless the legal conditions are not met. In this chapter, two legal options will be addressed: (i) work permits under the Law for Entrepreneurs and (ii) work permits under the general immigration law that may be of interest to multinational companies. Given the benefits introduced by the Law for Entrepreneurs, only a few options under the general immigration law will be referenced.

The Law for Entrepreneurs has provided a new perspective on immigration procedures in Spain, in a clear effort to better adapt to multinational companies' needs on the immigration front. However, this law is still evolving, even though it has been in force for more than 10 years now (since 2013).

Key government agencies

Under both the Law for Entrepreneurs and the general immigration law, several public institutions are involved in processing visas and work and residence authorizations. The Ministry of External Affairs, Directorate of Consular Affairs is responsible for visa processing at Spanish consular posts abroad. Spanish consulates abroad have the authority to directly grant temporary visas for business visitors, students and tourists. In general terms, the referred visas do not grant resident or immigrant status to the foreign national. Spanish consulates also have the capacity to process and evaluate certain types of national visas/permits (that grant resident status to the applicant), for example, investor visas, or non-lucrative residence permits.

All residence (national) visas or labor-related visas first require the approval of the Large Companies Unit in the case of the Law for Entrepreneurs, while the approval of the applicable government delegation, sub-delegation or autonomous community authority located in the province where the foreign national will live in Spain is required for permits under the general immigration law.

Current trends

Border protection activity and the enforcement of immigration-related laws that impact employers and foreign nationals are always on the frontline in Spain and Europe. Sanctions for the general immigration law and the Law for Entrepreneurs are set out both in the general immigration law and in Spanish labor legislation (the Law for Breaches and Sanctions in the Social Order in Spain). Employers of foreign nationals unauthorized for employment are becoming increasingly subjected to administrative and criminal penalties. Entries and departures are now electronically controlled throughout the Schengen territory and the EU, which is a more accurate system. Concerns about foreign workers' impact on the Spanish labor market, given the high unemployment rate in Spain and the lack of personnel to handle immigration procedures, are reasons that are frequently stated to justify longer processing times and the increase in refusals of petitions under the general immigration law. Employers should evaluate the immigration alternatives prior to hiring foreign nationals.

Employers involved in mergers, acquisitions or reorganizations must also bear in mind the status of foreign employees and the impact on foreign nationals' employment eligibility when structuring transactions. Due diligence, including reviewing potential immigration-related liabilities associated with an acquisition, is becoming increasingly important as fines are high and enforcement activity is increasing.

However, in Spain, there have been several recent modifications to immigration legislation and regulations to benefit family members of Spanish nationals or students of higher-level degrees that would like to remain in Spain once they have finished their studies. There is a clear general interest in attracting talent and highly skilled professionals to Spain and adapting to new forms of work to draw international remote workers and ICT (intercompany transferee) professionals to the country. In addition, there have been legal changes conducive to eliminating bureaucracy by increasing the validity period of initial and renewed permits. More changes to immigration regulations are expected in the coming years.

Business travel

Visa waiver

The normal requirement of first applying at a Spanish consular post for the short-term stay visa (Schengen visa) is waived for foreign nationals of certain countries. The permitted scope of activity is the same as for short-term stay visas or multiple short-term stay visas. The length of stay is up to 90 days within a 180-day period. In general, visitors cannot extend their stay in Spain but they should change their status. Only under exceptional circumstances, at the immigration authority's discretion, are extensions to the allowed period of stay possible.

The list of non-EU/EEA countries that are presently qualified under the visa waiver program can be found here.

Business travel

Foreign nationals that cannot benefit from the visa waiver program coming to Spain on short-term business trips may use short-term or multiple short-term stay visas (Schengen visas), the details of which are set out below. In both cases, the purpose of the foreign national's stay in Spain must be either business or tourism-related, but under no circumstance should it be for work. Spanish legislation establishes that, if the purpose of the visit to Spain is work, a work permit is required. It does not clearly establish what activities fall under the jurisdiction of "business" as opposed to "work," although the line between one and the other may be determined based on indicators (e.g., the duration of the foreign national's stay in the country or if the activity that will take place in Spain forms part of the responsibilities inherent to the individual's day-to-day job). In general terms, a business

visitor may carry out commercial and professional activities in Spain, such as business meetings, conferences, negotiations and general administration activities. The interpretation should be rigid. Employment and work-related activities in Spain are prohibited for business visitors in general.

Short-term stay visas are valid for a maximum of 90 days within a 180-day period in Spain. They may be issued for single, double or multiple entries.

Multiple short-term stay visas authorize the foreign national for multiple entries into Spain, but these stays may not exceed 90 days (continuous or cumulative) within a 180-day period. The visa is normally valid for a year but may, in exceptional cases, be issued for a longer or shorter period.

The visitor may extend the stay in Spain but only if the Schengen visa or the duration of the stay does not exceed 90 days. Unless the foreign national qualifies as a student or other categories that do not grant immigrant status (authorizations to remain in Spain) for stays over 90 days within the 180-day period, the foreign national must obtain a residence permit.

Under the Trade and Commerce Agreement between the UK and the EU, UK nationals and/or family members accompanying them to Spain as visitors must check if they will require work permits in Spain for services rendered pursuant to contracts or services as independent professionals.

Employment assignments

Introduction

Normally, under the general immigration law and its implementation rules, a labor market test must be completed before a work permit may be granted. Permits processed under the Law for Entrepreneurs do not require the labor market test. This is the reason it is important to first assess if there is a permit category under this Law for Entrepreneurs that could be a good fit for the given case.

Intracompany transfer

The intracompany transfer visa is available to employees transferring temporarily to Spain from a related company outside of the EU.

This type of permit applies to both company employees and independent contractors. It can be granted for a maximum duration of three years (as long as the duration of the assignment in Spain is also equal to that time period) and may be extended for two years. However, in practice, social security treaties between Spain and other countries will establish the maximum time period the employee may remain in Spain under this type of permit (e.g., the agreement on social security between Spain and the US establishes a maximum five-year period). In situations where countries do not have a treaty on social security with Spain, the current limitation as to the full duration of the permit is three years. The following conditions, among others, must be met:

- The employee's length of service in a company of the multinational group must be at least three months prior to the assignment to Spain, and they must have a university degree or, alternatively, at least three years general work experience in the same field of activity.
- During the employee's temporary transfer/assignment, their employment or service agreement relationship (payroll and social security payments) must be maintained in the transferring country, if possible.

The intracompany transfer work permit may be processed while the employee is in Spain in a legal capacity (as a business visitor or tourist). Although, until the work permit is approved, they would not be authorized to work.

Local hire highly skilled professional work permits

There are two different types of work and residence authorizations for highly qualified professionals:

- EU Blue Card
- National work and residence authorization for highly qualified professionals

In both cases, the initial permit is valid for up to three years and can be extended for two years each time. After five years of legal residence, the employee may be eligible to apply for permanent residence.

To qualify for a highly skilled professional work permit, minimum salary requirements must be met.

For an EU Blue Card, the level of education required is equivalent to a bachelor's degree (higher education of at least three years duration) or five years of professional, relevant experience (three years within the last seven for the IT sector).

For a national work and residence authorization for highly qualified professionals, the level of education required is a higher education diploma or a higher-level professional degree, or three years of relevant professional experience.

EU Blue Card holders may also move among EU member states.

Family members can join as dependents with these types of permits.

Entry based on international agreements

EU/EEA or Swiss (jointly referred to as EU citizens) citizens have the right to freedom of movement throughout EU member states, such as Spain. Under certain circumstances, this right to work is extensive to their non-EU national spouse, partner or family members. Those who would like to work or reside in Spain for more than 90 days must register as residents in the Central Registry of Foreign Nationals, for which it will be required to prove the availability of sufficient financial means to support the applicant and accompanying family members, as well as health assistance insurance covering all risks in Spain.

The EEA agreement also allows nationals of Iceland, Liechtenstein and Norway to enjoy the same treatment and rights provided by the general immigration law applicable to EU citizens.

Finally, the international treaty existing between Switzerland and the EU also allows Swiss nationals to enjoy the same immigration rights as EU citizens in Spain.

The process for the non-EU national family members of these EU citizens varies depending on circumstances.

General immigration law

Long-term (permanent) resident permits are a viable option for those who have held legal resident or immigrant status for more than five years. As a rule, absences from Spanish territory should not exceed 10 or 12 months, depending on specific circumstances, in the five-year period immediately preceding the long-term resident permit application.

In Spain, there are two types of long-term resident permits:

- The ordinary long-term resident permit that does not provide mobility benefits within the EU
- The EU long-term resident permit that does provide these benefits

The EU long-term resident permit may be processed by those who have been legal residents for five years (either in Spain or other EU countries under an EU Blue Card) of which the last two years should have been in Spain. There are also income requirements, which include that the employee must have a salary of at least 150% of the IPREM (the Public Indicator of Multiple Effects Income, approved yearly by the government, which is listed as EUR 8,400 gross yearly for 2024). The IPREM amount increases by 50% for each additional family member. The employee should also prove that they have medical coverage in Spain. As previously mentioned, the EU long-term resident permit provides mobility benefits to its holder in the sense that long-term resident status may be acquired in other EU countries following a very simplified procedure. In addition, the holder of an EU long-term resident permit issued in another EU country may acquire long-term resident status in Spain if the conditions are met. A labor market test for those who intend to work as employees in Spain is **not** required.

Family members

Family members (spouses, de facto couples, children under 18 years of age or other dependents, where justified reasons for residing in Spain can be provided) may obtain a residence permit that authorizes those of legal age to work in Spain in the following circumstances:

- Via the Law for Entrepreneurs: The spouse or partner (ideally, registered as such), and children under 18 years old (or over that age who are financially dependent and have not formed a family unit of their own) may apply for a residence permit simultaneously or successively to the work permit application.
- Via family reunion: The foreign employee who has applied to renew the residence permit may apply for the family's residence authorizations at the government delegation or sub-delegation with jurisdiction over the residence in Spain. If the residence authorizations are approved, family members will have 30 days to submit their residence visa applications at the Spanish Consulate located in their country of origin or country of legal residence. Once the visas have been issued on the applicants' passports, they may travel to Spain and apply for their foreigners' ID cards.
- Via ordinary non-lucrative residence authorizations: Family members of top management employees may submit their visa applications at the same time as the employee. However, their residence visas will be approved one to two months after the employee's permit is approved. The estimated timescale for processing this type of residence permit application has recently improved due to the current electronic processing. This option is hardly used as top management employees would normally use a category under the Law for Entrepreneurs.

Of all three cases, only if the family members obtain their residence permits via the Law for Entrepreneurs or via family reunion would they be able to work in Spain directly without having to additionally obtain a work permit. However, family members that are not authorized to work may process work permits at a later stage if they are offered a position by a company established in Spain. Depending on the circumstances, a labor market test may be required.

Training

If the purpose of the foreign national's stay in Spain is to study, to carry out either scientific or medical investigations or training-related activities that are not professionally remunerated, it is appropriate to obtain a student visa at the Spanish Consulate in the country of origin or country of legal residence abroad. However, in specific cases, the application can be submitted directly in Spain.

The student visa applicant must provide proof of enrollment in official studies or investigation centers, both private and public, with an approved attendance schedule and studies/training or investigation

plan. The foreign national qualifying as a student must show proof of having sufficient funds to support themselves during the studies or investigation activities (scholarships or personal funds).

Certain categories of students are authorized to work part time. Those student categories that are not authorized to work may apply for a student work authorization to work on a part-time basis. In any case, the ability to work will depend on the validity of the student card.

The student visa can be modified into a residence and work authorization, provided that the student has successfully finished their studies and an employer enters into an employment agreement with the student. Family members of students who meet the above requirements to convert their student cards into work and residence permits may also convert their family members' visas into non-lucrative residence permits.

In addition to the student visa, a residence permit for training is available for foreign citizens who have graduated in the two years prior to submitting the application or who are enrolled in studies that lead to a university degree in Spain or abroad. This residence permit may allow these citizens to participate in a non-employment training program under a company-university agreement or to work under a training employment contract exempt from a labor market test.

In addition, a residence permit for job-searching purposes is available for holders of student cards who have obtained a university degree and submitted the application within the 60-day period before the expiration of the student card or within the 90-day period following said expiration. The permit allows the student to remain in Spain for a maximum period of 12 months to search for a job appropriate to the level of studies completed. Once the student cardholder has found a job, the appropriate work permit must be applied for.

Other comments

Electronic proceedings

The electronic filing of applications is currently fully implemented for immigration procedures in Spain. Therefore, nowadays, no appointments are required to file the applications, resulting in shorter processing times.

Post-entry procedures

Individuals holding a residence permit or visa for a duration exceeding six months must follow a police procedure to obtain a residence card. An additional registration procedure must be followed with the municipality.

International remote work

International remote work is not allowed in Spain unless the worker holds the appropriate type of residence permit. The international telework residence permit category authorizes third-country nationals who are highly qualified employees to work or carry out a professional activity remotely for companies located outside of Spain. In certain cases, the professional may also work for a company located in Spain, provided that the percentage of this work does not exceed 20% of the employee's total activity.

Capital investors

Capital investors' visas and residence permits also allow the holder to reside and work in Spain without any restrictions, while they do not require an effective residency.

UK nationals and family members

As a result of the UK's exit from the EU, UK nationals that enter Spain after 1 January 2021 are considered third-country nationals and have to analyze immigration options as any other non-EU national that does not fall under the EU regulations for immigration purposes. Nevertheless, there are specific business activities provided in the Trade and Commerce Agreement in force between the EU and UK that are exempt from obtaining a work visa provided that its duration does not exceed six months.

Other authorizations

The audiovisual sector has a very beneficial treatment from an immigration standpoint in Spain, such that, depending on the duration of the given shoot, the cast and crew members may work in Spain without having to obtain a work permit or visa.

There are additional authorizations that may apply to specific cases, such as work permit exceptions and residence authorizations that apply to directors or professors of foreign/local universities or to entrepreneurs. Spanish immigration regulations also establish a way to obtain a work and residence authorization based on the years that a foreign national has remained in Spain for and on their integration into Spanish society. In effect, work and residence authorizations based on exceptional circumstances (arraigo social) may be obtained if a foreign national has remained in Spain for more than three years and has been offered full-time employment for at least a year.

Naturalization

Immigrants to Spain are often interested in becoming Spanish citizens. Naturalization to citizenship requires, generally, 10 years of legal, continuous and effective residence after immigrating. However, this general period is shorter for nationals of certain countries (e.g., Morocco or the Philippines (five years), nationals of all South and Central American countries (two years), and spouses of Spanish nationals or the children or grandchildren of Spanish nationals (one year)).

Switzerland

Introduction

The rate of immigration in Switzerland is among the highest in Europe. With more than one-fifth of the total population consisting of non-citizens, Switzerland has one of the largest resident foreign populations in the world.

The federal government has been gradually adapting its policy on foreign nationals and immigration to a more modern standard, taking into account international developments. Its policy is embodied in the Federal Act on Foreign Nationals (FNA), in force since January 2008, and in the Bilateral Agreement on the Free Movement of Persons concluded with the EU, which came into force on 1 June 2002.

Key government agencies

The State Secretariat for Migration (Staatssekretariat für Migration/Secrétariat d'Etat aux migrations/Segretariat di Stato della migrazione) is responsible for all concerns related to aliens and asylum in Switzerland.

The cantonal migration authorities are responsible for extending visas and granting residence permits.

Swiss foreign consulates abroad issue different immigration visas, including entry permits for restricted nationalities.

Current trends

Under the FNA, which took effect on 1 January 2008, large restrictions remain on the employment of foreign nationals from non-EU/European Free Trade Association (EFTA) member states for activities other than those pertaining to specialists, management and qualified personnel. Regulations on salaries, working conditions and limits on visas for foreign national citizens must be observed.

Business travel

Visa waiver

Depending on the foreign national's citizenship, the normal requirement of an entry visa may be waived. The list of countries qualifying for these benefits is subject to change. Current information can be found on the State Secretariat for Migration's website.

Business travel

Foreign nationals who provide cross-border services or carry out gainful activity in Switzerland on the instruction of a foreign employer for more than eight days per calendar year must hold a work permit. Foreign nationals who are subject to an entry visa and who are not taking up any form of employment

in Switzerland may remain in the country without a residence or work permit for as long as three months. After three months, foreign nationals are required to leave the country for at least one month. Foreign nationals are not authorized to stay in Switzerland for more than six months during a 12-month period. Individuals who require a visa can stay for the duration specified on their visa.

Online registration

Employees of a company located in an EU/EFTA member state can deliver services in Switzerland for up to 90 days per calendar year provided that they have completed an online registration at least eight days before coming to Switzerland. Those 90 days are allocated to the entity sending one or several of its employees to provide a service in Switzerland. This means that, if several employees are providing their services in Switzerland on the same day, this will only count as one day of the foreign employer's credit.

Employment assignments

Introduction

Switzerland introduced a dual system of recruiting foreign labor in 2002. Under this system, nationals from EU and EFTA member states, regardless of their qualifications, who have signed an employment agreement with a Swiss-based employer are granted access to the Swiss labor market. Nationals from all other states (third-country nationals) are admitted in limited numbers, provided that certain conditions are met.

Priority

Third-country nationals may only be admitted if a candidate cannot be recruited from the labor market of Switzerland or another EU/EFTA member state. Swiss citizens, third-country nationals with either a long-term residence permit or residence permit allowing employment, and all citizens from those countries with which Switzerland has concluded the Bilateral Agreement on the Free Movement of Persons (i.e., EU and EFTA member states) are granted priority. Employers must prove that they have not been able to recruit a suitable employee from these priority countries despite intensive efforts.

Vacant positions must be registered with regional employment offices together with a request to register the vacancy in the European Employment System. Once a potential employee has been put in contact with the employer and subsequently turned down, the employer generally receives a questionnaire in which it can state the reasons the potential employee was not hired.

In addition, the employer must explain to the authorities why the search for a suitable candidate by means of the recruitment channels typically used in the specific industry (e.g., specialist journals, employment agencies, online job listings or corporate websites) was not successful. Suitable proof includes job advertisements in newspapers, written confirmation from employment agencies or other kinds of documentation. Often it is helpful for authorities if the employer submits a brief overview of all candidates, including a short explanation of which qualifications for a particular job were lacking. In special cases, the authorities can request that an employer intensify recruitment efforts.

Salary/terms and conditions of employment customary in the region and in the business

The salary, social benefits and terms of employment for foreign workers must be in accordance with conditions customary to the region and the particular sector. Some sectors and businesses express these conditions in a collective labor agreement that is legally binding either on a national or cantonal level. When applications are submitted from businesses that do not have a collective labor agreement, the Swiss authorities usually request information directly from the employers' and

employees' associations on the terms customary in a particular sector. By examining the salary rates and terms of employment beforehand, the authorities can ensure that foreign workers are not exploited and that Swiss workers are protected against social dumping.

When submitting an application, the employer must enclose an employment agreement that has been signed by both the employer and the employee and that contains a note reading "contract only valid on condition that the authorities grant a work permit." This provides both contracting parties with legal certainty.

With the exception of seconded employees who remain employed by their foreign employers, Swiss employers are obliged to register all employees with the statutory social security institutions.

Third-country nationals who do not have a long-term residence permit are subject to tax at source and must, therefore, be registered with the tax authorities. It is then the employer's responsibility to deduct the amount of tax each month from the employee's wage and pay the sum to the tax authorities.

The new Federal Act on Illegal Employment facilitates the payment of social security contributions for smaller employed jobs, while also containing new measures and more severe penalties to prevent and combat illegal employment. One provision that remains unchanged for both the employer and foreign employee is that everyone (whether in paid or unpaid employment) requires a permit.

Noncompliance with the minimum salary requirements and other terms of employment customary to a particular region or sector of industry is investigated mainly by the cantonal immigration authorities or, in some sectors, by offices established mainly for this purpose. Employers found not to comply with the legal requirements may be fined or blacklisted and may not receive any further work permits for foreign workers for a period of up to five years.

Personal qualifications

Executives, specialists and other qualified employees will be admitted if no suitable candidate is found in the local market. Qualified employee mainly means a person with a degree from a university or higher education institution and several years of professional experience. Depending on the profession or field of specialization, other people with special training and several years of professional work experience may also be admitted if this is in the economic interest of the region.

Besides professional qualifications, the applicant is also required to fulfill certain other criteria, which would facilitate long-term professional and social integration. These include professional and social adaptability, knowledge of a national language, and age.

The Swiss authorities examine the applicant's qualifications based on their resume, education certificates and references. Applicants must submit copies of original documents, including a translation if the original documents are not in German, French, Italian, English or Spanish.

If an applicant comes from a nation whose education system or system of professional training greatly differs from that of Switzerland, it is useful for the immigration authorities if the documents are submitted containing additional information on the institution and the length and content of the education or training course. Documents that may be helpful include a resume and education certificates showing which exams were taken and the results of these.

Exceptions to the admittance requirements

Exceptions to the admittance requirements may be granted in specific situations. The following is a partial list of the most frequent exceptions:

- Employment pursuant to cooperation agreements/projects, i.e., joint ventures
- Service and guarantee work for products from the country of origin

- Temporary duties as part of large projects for companies with their headquarters in Switzerland (international assignments)
- Pursuit of special mandated practical training and further education with professional associations and international business enterprises
- Transfer of executives or specialists within a multinational company or pursuant to reciprocity agreements
- Employment in certain professions where it is difficult to recruit in the labor market
- Highly qualified scientists with a degree obtained in Switzerland in areas or sectors in which there is a lack of potential labor
- Certain employment following the conclusion of a person's studies

Family members of Swiss nationals and persons with a long-term residence permit do not require authorization for self-employment. However, family members of other third-country nationals staying in Switzerland require a permit.

Third-country nationals may only be admitted for employment if they have suitable accommodation and health insurance covering them in accordance with statutory requirements.

Nationals of the EU and EFTA member states employed in Switzerland

A work and residence permit is issued if an employment contract or a written confirmation of employment has been submitted that is valid throughout Switzerland. The permit is not bound to a canton, an employer or any particular activity. Permit holders enjoy full geographical and professional mobility. Permission is not needed to change jobs, and it is only necessary to register with the communal authorities when moving to a new address. The validity of these permits is determined by the duration of the employment contract.

Training

Introduction

Trainees are eligible for a short-term residence permit. These permits are granted for a maximum period of 18 months.

Trainees are persons aged 18 to 35 who have completed their occupational training and want to undergo some advanced occupational or linguistic training in the context of gainful employment in Switzerland. Trainees are subject to rules that have been laid down in special treaties; therefore, they are subject to special quotas. The legal provisions concerning issues of national priority do not apply to them.

Trainee permits are granted based on a written employment agreement with an integrated training program.

Trainees should receive salaries comparable to those of host-country nationals in the same job and with similar qualifications, and should, in any case, be able to cover their living expenses.

Employers are free to look for candidates in their own subsidiary companies abroad or through business connections. However, if preferred, they may ask the government officials responsible for the scheme to help them find suitable trainees for any positions available.

Nationals from EU/EFTA member states in Switzerland

With the exception of Croatia, nationals from EU/EFTA member states have the right to reside and work in Switzerland.

Protocol III, extending the Agreement on the Free Movement of Persons to Croatia, came into force on 1 January 2017.

According to this protocol, nationals from Croatia were subject to transitional restrictions regarding access to the Swiss labor market until 31 December 2023. The delivery of work permits was subject to the following conditions:

- Economic needs test: A permit is only granted if no equivalent candidate is already available in the Swiss labor market.
- Control of wage and working conditions: A permit is only granted if local wage levels and working conditions are respected.
- Quota: A permit is only granted if the respective quota for the L or B permit has not yet been met. Cross-border work permits and permits with a validity of less than four months are not subject to a quota.

These restrictions only applied to first admission. Once admitted to the labor market, nationals of Croatia benefit from full professional and geographical mobility. Apart from the specific restrictions above, nationals of Croatia have the same rights and obligations as all other EU/EFTA nationals.

Between 1 January 2017 and 31 December 2026, Switzerland will still be entitled to set quotas for nationals of Croatia, provided immigration from this country exceeds a certain threshold.

Provision of services for less than three months per calendar year

No permit is required. The employer can simply announce the foreign national's presence using the Federal Office for Migration's online registration procedure.

Employment contracts between three months and 364 days

A short-term L EC/EFTA permit will be issued for the duration of the contract. Upon presenting a new contract, it can be prolonged to a maximum duration of 364 days or renewed.

Employment contracts of one year or more (including open-ended contracts)

A B EC/EFTA residence permit is issued with an initial validity of five years.

Cross-border workers

Workers living in an EU/EFTA member state and employed in Switzerland based on a Swiss employment agreement can receive a G EU/EFTA frontier worker permit, provided that they return home at least once a week. As the employee stays in Switzerland during the week, they must register where they are staying with the communal authorities.

Settlement permit (C-EU/EFTA)

The settlement permit is not regulated by the Agreement on the Free Movement of Persons. It is currently granted to pre-2004 EU and EFTA nationals after five years of residence in Switzerland, based on settlement agreements or considerations of reciprocity. Currently, as no such agreements exist for the new EU member states, their citizens receive the C permit after the regular residence

period of 10 years. The C permit has to be renewed every five years. It is not subject to restrictions with regard to the labor market, and its holders are essentially placed on the same level as Swiss nationals (holders can invoke the freedom of trade and industry), with the exception of the right to vote and elect.

Nationals of all EU/EFTA countries planning to start a business in Switzerland

The rules for independent entrepreneurs are the same for nationals of all EU and EFTA member states.

Nationals of EU/EFTA member states who would like to start a business in Switzerland can apply for a five-year B EU/EFTA permit with the respective cantonal authorities. This permit will be granted if there is proof of an effective independent activity. The cantonal immigration authorities determine what documents must be presented. As a general rule, these include some or all of the following: a business plan, proof of capital for starting the business, proof of specific preparations for launching the business (such as a rental agreement for real estate) and a registration with the register of commerce.

Foreign nationals in Switzerland

Permit B: residence permit

Resident foreign nationals are foreign nationals who are resident in Switzerland for a longer period of time for a certain purpose with or without gainful employment.

As a rule, the validity period of residence permits for foreign nationals is limited to one year when the permit is granted for the first time. First-time permits for gainful employment may only be issued within the limits of the ceilings and in compliance with the FNA. Once a permit has been granted, it is normally renewed every year unless there are reasons against a renewal, such as criminal offenses, dependence on social security or labor market conditions. A legal entitlement to the renewal of an annual permit only exists in certain cases. In practice, an annual permit is normally renewed as long as its holder is able to draw a daily allowance from the unemployment insurance. In these cases, however, the holder is not actually entitled to a renewal of the permit.

Permit C: settlement permit

Settled foreign nationals are foreign nationals who have been granted a settlement permit after five or 10 years' residence in Switzerland. The right to settle in Switzerland is not subject to any restrictions and must not be tied to any conditions. The Federal Office of Migration fixes the earliest date from which the competent national authorities may grant settlement permits.

As a rule, foreign nationals can be granted a settlement permit after 10 years of regular and uninterrupted residence in Switzerland. US, Canadian and UK nationals can be granted a settlement permit after five years of residence. However, foreign nationals have no legal entitlement to settlement permits. Aside from the provisions of settlement treaties, such a claim can only be derived from the FNA. Persons who hold a settlement permit are no longer subject to the Limitation Regulation, are free to choose their employers and are no longer taxed at source.

Permit Ci: residence permit with gainful employment

The residence permit with gainful employment is intended for family members of persons working for intergovernmental organizations or foreign representations. This concerns spouses and children up to 25 years of age. The validity of the permit is limited to the duration of the main holder's function.

Permit G: cross-border commuter permit

Cross-border commuters are foreign nationals who are resident in a foreign border zone and are gainfully employed within the neighboring border zone of Switzerland. They are entitled to permit G after six months of residence in the border zone. The term "border zone" describes the regions that have been fixed in cross-border commuter treaties concluded between Switzerland and its neighboring countries. Cross-border commuters must return to their main place of residence abroad at least once a week.

Permit L: short-term residence permit

Short-term residents are foreign nationals who are resident in Switzerland for a limited period of time (usually less than a year) for a certain purpose with or without gainful employment.

Foreign nationals can be granted a short-term residence permit for a stay of up to one year, provided the quota of the number of foreign nationals staying in Switzerland has not been met. The Federal Council fixes this annually. The validity period of the permit is identical to the term of the employment contract. In exceptional cases, this permit can be extended to an overall duration of no more than 24 months if the holder works for the same employer throughout this time. Time spent in Switzerland for a basic or advanced traineeship is also considered short-term residence. Permits issued to foreign nationals who are gainfully employed for a total of no more than four months within one calendar year are not subject to the quota regulation.

Permit F: provisionally admitted foreign nationals

Provisionally admitted foreign nationals are persons who have been ordered to return from Switzerland to their native countries, but in cases where the enforcement of this order has proved inadmissible (e.g., violation of international law), unreasonable (e.g., concrete endangerment of the foreign national) or impossible for technical reasons of enforcement. Thus, their provisional admission constitutes a substitute measure. Provisional admission may be ordered for a duration of 12 months and can be extended by the canton of residence for a further 12 months at a time. The cantonal authorities may grant provisionally admitted foreign nationals work permits for gainful employment, irrespective of the situation of the labor market and in the economy generally. A residence permit granted at a later date is subject to the provisions of the LEtr.

Permit S: protection status

Under protection status S, the persons concerned receive a Permit S. This is limited to a maximum of one year, but can be extended. After five years, persons in need of protection may receive a B residence permit, which is valid until the temporary protection has been lifted.

Persons who are granted protection status S may travel abroad and return to Switzerland without a travel permit. They may engage in gainful employment (including self-employment) immediately.

Persons with protection status S are assigned to a canton after registration. What applies in which canton?

There is **no quota** for protection status S.

The following persons are eligible for protection status S:

- Ukrainian citizens seeking protection and their family members (partners, minor children and other close relatives who were fully or partially supported at the time of flight) who were residents in Ukraine before 24 February 2022

- Persons of other nationalities and stateless persons seeking protection, and their family members as defined in paragraph a) above, who held international or national protection status in Ukraine before 24 February 2022
- Persons of other nationalities and stateless persons seeking protection, and their family members as defined in paragraph a) above, who can prove by means of a valid short-term residence permit or residence permit that they have a valid right of residence in Ukraine and cannot return to their home country safely and permanently

People under protection status S are allowed to work/be employed.

Protection status S is valid until the Federal Council withdraws it and depends on the continued existence of serious general danger in Ukraine.

Other comments

Holders of an EU/EFTA permit are entitled to family reunification, regardless of their family members' nationality. Qualifying family members may include the spouse, the registered partner in same-sex couples and children aged under 21. Parents and children over the age of 21 also qualify, provided they financially depend on the main permit holder. If family members of EU/EFTA nationals do not have EU/EFTA nationality, they may be subject to visa requirements when entering Switzerland before having received their family reunion permits.

Third-country national holders of a B permit are also entitled to family reunification. The main permit holder's spouse and children benefit from that right.

Taiwan

Introduction

Taiwan has a three-tier immigration protocol that differentiates between foreign nationals, nationals of Mainland China and citizens of Hong Kong SAR and Macau SAR. To better reflect the evolving needs of its globalized economy, the government of Taiwan has taken steps to streamline many of its entry and immigration requirements. Examples of streamlining include simplifying the qualifications that non-Taiwanese citizens must meet to obtain a work permit and relaxing the entry rules for Mainland China nationals and citizens of Hong Kong SAR and Macau SAR. In this chapter, the term foreign nationals refer to non-Taiwanese nationals, apart from nationals of Mainland China, Hong Kong SAR or Macau SAR.

Most foreign national business travelers can obtain short-term visitor visas through a Taipei Economic and Cultural Office or a Taiwan Embassy or Consulate, unless they are from countries that participate in Taiwan's visa exemption program. Foreign nationals who intend to work in Taiwan must meet certain requirements to obtain a work permit. Nationals of Mainland China and citizens of Hong Kong SAR and Macau SAR may travel to and work in Taiwan, if they meet the special immigration and entry requirements.

Key government agencies

The Ministry of Foreign Affairs is responsible for Taiwan visas, whether processed through Taiwan embassies and consulates, Taipei Economic and Cultural Offices or overseas representative offices.

The National Immigration Agency of the Ministry of the Interior is responsible for immigration and naturalization services for foreign nationals, Mainland China nationals and citizens of Hong Kong SAR and Macau SAR.

The Workforce Development Agency (WDA) of the Ministry of Labor of the Executive Yuan is responsible for processing and issuing work permits.

Current trends

The governments of Taiwan and Mainland China executed the Economic Cooperation Framework Agreement on 29 June 2010. Due to the current restrictions in place because of the political issues between Mainland China and Taiwan, the movement of employees across the Taiwan Strait in many fields has been temporarily suspended.

Business travel

Visitor visa

Foreign nationals who intend to travel to Taiwan for business visits should apply for a visitor visa at an overseas Taiwan Embassy, Consulate or trade office, unless they are from countries that participate in Taiwan's visa exemption program.

Passport holders from certain countries are eligible for a visa waiver for visits not exceeding 30 days. The visa exemption program currently includes Belize, Dominican Republic, Malaysia, Nauru, St. Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines and Singapore.

In addition, passport holders from certain countries are eligible for a visa waiver for visits not exceeding 90 days. The visa exemption program currently includes Andorra, Australia, Austria, Belgium, Bulgaria, Canada, Chile, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Eswatini, Finland, France, Germany, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Marshall Islands, Monaco, Netherlands, New Zealand, Nicaragua, North Macedonia (effective until 31 March 2025), Norway, Palau, Paraguay, Poland, Portugal, Romania, San Marino, Slovakia, Slovenia, Spain, Sweden, Switzerland, Tuvalu, the UK, the US and Vatican City State.

In addition, nationals of Thailand, Brunei and the Philippines, except those holding diplomatic or official/service passports, are eligible for the visa exemption program, with a duration of stay of up to 14 days (effective until 31 July 2024).

Travelers entering Taiwan on a visa exemption entry permit must hold return or onward air tickets. Emergency or temporary passport holders of visa-exempt countries who wish to stay for up to 30 days and whose emergency or temporary passport is valid for at least six months, may apply for landing visas upon arrival.

Employment assignments

Skilled workers

Both foreign nationals who wish to work in Taiwan and their employers in Taiwan must meet the qualifications criteria before the foreign nationals will be granted work permits. The WDA serves as the country's one-stop shop for work permits for foreign professionals. The WDA aims to reduce the confusion that existed when different government organizations were separately responsible for processing and issuing foreign work permits for professionals in industries under their purview. The WDA processes work permits in the following areas:

- Architecture and civil engineering
- Transportation
- Taxation and financial services
- Real estate agencies
- Immigration services
- Attorneys-at-law (legal services)
- Technicians
- Medical and healthcare

- Environmental protection
- Cultural, sports and recreation services
- Academic research
- Veterinarians
- Manufacturing
- Wholesaling
- Other jobs designated by the central governing authorities and central competent authorities as determined after a joint consultation between the authorities

Intracompany transfer

Foreign nationals' intracompany transfers must comply with the same criteria and standards applicable to skilled workers (white-collar workers), except for short-term (not exceeding 30 days) contract performance. If the scheduled period of contract performance is between 31 days and 90 days, the foreign national still has to apply for a valid work permit within a period of 30 days after entering Taiwan. If the scheduled period of contract performance exceeds 90 days, the foreign national's work permit application must comply with the same criteria and standards applicable to skilled workers. The Taiwanese legal entity to which the foreign national will be transferred must take the role of an application agent in the foreign national's work permit application.

Employer qualifications

An employer seeking to engage foreign technical and professional personnel to work in Taiwan must serve as any one of the following:

- A local company established for less than one year with operating capital of at least TWD 5 million or turnover of at least TWD 10 million or with average import/export transactions of at least USD 1 million or average agent commissions of at least USD 400,000
- A company established for more than one year with annual revenue of TWD 10 million for the most recent year or average annual revenue of TWD 10 million for the past three years
- A company established for more than one year with average import/export transactions of at least USD 1 million or average agent commissions of at least USD 400,000
- A foreign branch office established in Taiwan for less than one year with an operating capital of more than TWD 5 million or turnover of at least TWD 10 million or with average import/export transactions of at least USD 1 million or average agent commissions of at least USD 400,000
- A foreign branch office established for more than one year with annual revenue of at least TWD 10 million for the most recent year or average revenue of TWD 10 million for the past three years, or with average import/export transactions of at least USD 1 million or average agent commissions of at least USD 400,000
- A representative office of foreign companies that has been approved by the competent authorities at the central government level and has an actual performance record in Taiwan
- A research and development center and business operations headquarters that has applied to establish its business and has been approved by the relevant competent authorities concerned at the central government level

- An employer that has made a substantial contribution to domestic economic development (Alternatively, the employer has a circumstance that is treated as a special case by the central governing authorities and the central competent authorities, and, after the joint consultation between the authorities, the authorities have approved the circumstance.)

Employment quotas

There are no established quotas for foreign workers in Taiwan. The Ministry of Labor, along with specific industry authorities, will decide on the number of work permits that it will grant each year based on an evaluation of the employment market, the employers' industries and the social and economic development of the country.

The Ministry of Labor instituted a new points-based scoring system for foreign students, overseas compatriot students and other overseas students of Chinese descent if they have graduated and obtained a bachelor's degree from a public or private university in Taiwan. This operates despite the fact that these students would not normally qualify for a work permit, as most lack a minimum of two years of work experience in the related field. However, the new system will calculate an applicant's scores by considering a range of factors, including the following:

- Whether the foreign national is adequately fluent in Chinese, English or any other language
- Whether the foreign national has lived in another country for more than six years or whether they have any creative talents that qualify them under the government authorities' industrial development policy
- Whether the foreign national meets the minimum monthly salary requirement for a white-collar work permit application (the minimum monthly salary requirement is TWD 47,971 or approximately USD 1,600)

If the foreign national's final scores reach 70 points or greater, they will qualify for work permit approval. The employment quota for the scoring system in the 2024 calendar year is 7,000.

Foreign national employee qualifications

Foreign nationals, other than a company's managerial representative, must meet certain education and experience requirements before being granted a permit to work in Taiwan. As applicable, these requirements are as follows:

- To acquire a certificate, license or operational qualifications through the procedures specified in the examinations required for specific professionals and technical specialties
- To earn a master's degree or above in a relevant field
- To earn a bachelor's degree in a relevant field and possess more than two years of working experience in a specific field
- To have been employed with a multinational company for more than one year and assigned by that company to work in Taiwan
- To be a professionally trained or self-taught specialist with more than five years of work experience in their specialization and who has demonstrated creative and outstanding performance

The above-mentioned qualifications are not required for a foreign national employed as a registered executive or managerial officer (e.g., general manager or branch manager) of a foreign company in Taiwan.

Act for the Recruitment and Employment of Foreign Professionals

The Taiwanese government began enforcing the Act for the Recruitment and Employment of Foreign Professionals ("**Act**") on 8 February 2018, with its purpose to attract more foreign professionals to work in Taiwan. In this regard, the government authorities have initiated measures including a tax incentive program and retirement benefits for those foreign nationals who meet any one of the criteria for the listed professional/technical fields. There is a total of 10 special professional/technical fields, as follows:

- Science and technology
- Economics
- Education
- Culture and arts
- Sports
- Finance
- Legal
- Architecture
- National defense
- Digital

The Act contains many benefits under certain terms and conditions, as follows:

- Applicability: The Act will apply to foreign professionals, foreign special professionals and foreign senior professionals, as defined under the Act, the Employment Services Act and relevant laws and regulations.
- Extended employment term and Employment Gold Card: For foreign special professionals, the maximum employment period has been extended to five years under the Act, which is applicable to their dependents as well. The government authorities' new innovation, the Employment Gold Card, enables foreign nationals to file an application as a one-stop service through the government authority's online system. Also available to foreign special professionals is an Employment Gold Card combining their work permit, resident visa, alien resident certificate (ARC) and multiple reentry permit. However, this Employment Gold Card must be renewed after a maximum period of three years.
- A foreign national may initiate the Employment Gold Card application without a local employer's sponsorship. This means an applicant may themselves directly apply for the Employment Gold Card if they meet the relevant criteria. Furthermore, an Employment Gold Card holder, during the valid period, may freely change their job or engage in other work in the same special professional field without having to file another application separately.
- Employment-seeking visa: Foreign professionals looking for jobs in Taiwan are eligible to apply for an employment-seeking visa so that they can search for a job in Taiwan. The visa is a multiple-entry visa that is valid for up to six months from issuance.
- Minimum stay for permanent residency: Previously, a foreign national who resided in Taiwan for less than the 183 days per year minimum of stay requirement would have had their Alien Permanent Resident Certificate (APRC) revoked. Under the Act, this requirement has now

been substantially relaxed so that the government will only revoke an APRC after the foreign national has been away from Taiwan for more than five years.

- Easing of provisions regarding stay or residence of parents, spouses and children: The requirements for dependents of foreign professionals with permanent residence have been relaxed. The dependents of any age must only continually and lawfully reside in Taiwan for a period of five years and for more than 183 days in each of those years. There is no longer a requirement to produce proof of assets.
- Tax, insurance and retirement benefits: Foreign professionals who are employed and approved for the APRC may now subscribe to the pension system under the Labor Pension Act. This is applicable to employees who have obtained employment after the enactment of the Act, whereas employees who obtained employment prior to the enactment of the Act will have six months to notify their employers if they want to continue to remain in the pension system under the Labor Standards Act. The requirement for a six-month minimum stay to enable dependents of foreign nationals to become eligible as beneficiaries under the National Health Insurance Act has now been removed. Foreign special professionals in Taiwan who earn an annual salary over TWD 3 million will be eligible for a tax break on half of any amount that exceeds TWD 3 million. For example, a multinational software company hires an APAC regional director with an annual salary package of TWD 5 million. In accordance with this generous tax break, the new hire would be taxed only on TWD 4 million, with TWD 1 million determined to be tax-free. However, to be considered eligible, foreign special professionals will first be required to reside in Taiwan for more than 183 days in a calendar year.

Training

Under the current policy, the Taiwanese government only permits Taiwanese companies/factories engaged in the businesses of outbound investment and whole plant output to provide training to foreign nationals on behalf of a foreign company. The permitted foreign nationals may obtain a visitor visa to undertake training courses in Taiwan. If a foreign company wishes to send its employee for a short-term training course in Taiwan, the foreign employee can only use a visa exemption program or visitor visa for business purposes. The duration of stay allowed under a visitor visa is 14 to 90 days at the discretion of the visa official in an overseas Taiwan Embassy, Consulate or trade office.

Employee training assignments not exceeding three months

Resident visa and ARC

Resident visas may be granted to foreign nationals who intend to stay in Taiwan for more than six months to join family, pursue studies, accept employment, make investments, carry out missionary work or engage in other activities. A resident visa is valid for three months, covers a single entry or multiple entries and allows a stay in Taiwan for a period of more than six months.

Applicants coming to Taiwan for employment or investment purposes are required to submit relevant documents to the competent authorities of the central or local government for approval. Resident visa holders for various purposes must apply for an ARC within 15 days of their arrival in Taiwan. A multiple reentry permit will be automatically included in the ARC, so that ARC holders may leave and reenter the country as many times as they require. The length of residence will depend on the validity date of the ARC.

A foreign national who holds a visitor visa that allows a stay in Taiwan for more than 60 days (which is not otherwise annotated by the issuing authority to prohibit extensions) can apply directly to the National Immigration Agency for an ARC, if at least one of the following requirements is satisfied:

- The individual is married to a Taiwanese who resides in Taiwan and has a valid household registration or is allowed to reside in Taiwan.
- The individual is under 20 years old and has immediate relatives who are Taiwan citizens who have valid household registrations or are allowed to reside in Taiwan.
- The individual has obtained employment/work permit approvals issued by the WDA or other relevant competent authorities and the remainder of the approved employment/work permit period is more than six months from the ARC application date.
- The individual is permitted by the Ministry of Foreign Affairs for diplomatic reasons.

Other comments

Foreign nationals may apply for an APRC after a period of at least five years of legal and continuous residence, during which period the foreign national must have resided in Taiwan for more than 183 days each year. A waiver of many of the requirements of the APRC may be granted to foreign nationals who have made special contributions to Taiwan or have acquired high technical knowledge, as well as to qualified investors. Citizenship through naturalization is possible.

Entry and exit permit

To qualify for a multiple entry and exit permit, an applicant must meet the following conditions:

- Have visited Taiwan before
- Been a Hong Kong SAR or Macau SAR permanent resident who holds a passport that is valid for more than six months
- Submit one passport-sized photo, a self-addressed return envelope and both an original copy and photocopy of Hong Kong SAR or Macau SAR permanent identity card

The processing time at the Taipei Economic and Cultural Office (Hong Kong) in Hong Kong SAR is approximately two weeks. A Taiwan entry and exit permit that is valid for six months is usually granted for an initial period of stay of three months. Thereafter, renewals are granted for various periods.

Hong Kong SAR and Macau SAR citizens

The Taiwanese government does not treat Hong Kong SAR and Macau SAR citizens as Mainland China nationals or foreign nationals. This special category includes persons who hold permanent identity certificates and passports issued by the governments of Hong Kong SAR or Macau SAR, British National (Overseas) passports proven to have been acquired before 1997 or Portuguese passports proven to have been acquired before 1999. Citizens of Hong Kong SAR or Macau SAR who visit Taiwan or seek to become residents of Taiwan must apply for entry and exit permits. In Hong Kong SAR, applications can be made at the Taipei Economic and Cultural Office (Hong Kong) and in Macau SAR, applications can be made at the Taipei Economic and Cultural Office (Macau).

Citizens of Hong Kong SAR or Macau SAR who were born locally, hold valid entry and exit permits or have previously been admitted to Taiwan, may apply for a 30-day temporary entry and stay certificate upon arrival. This certificate may be extended under certain circumstances.

Since 2005, expedited 30-day temporary entry and stay certificates have been available online through the website of the National Immigration Agency. Approved applications will automatically generate reference numbers that enable applicants to pick up their temporary entry and stay certificates from the Taipei Economic and Cultural Office (Hong Kong) or the Taipei Economic and Cultural Office (Macau) in person. The certificate covers a single entry within three months from the date of issue and with a duration of stay of 30 days starting from the next day of arrival. Note that this

online application is not applicable to holders of foreign passports, except Hong Kong SAR residents with British National (Overseas) passports proven to have been acquired before 1997 or Macau SAR residents with Portuguese passports proven to have been acquired before 1999.

Ukraine

Introduction

Ukrainian immigration law requirements applicable to foreign nationals entering Ukraine for business and employment purposes are nonrestrictive in comparison to many other developed or post-Soviet states.

However, in view of the possible harsh consequences of any immigration law violation, up to and including deportation of the foreign national and heavy fines for the inviting party, business travelers and their corporate hosts should not rely on past lenient attitudes and enforcement practices of Ukrainian authorities.

Key government agencies

The State Migration Service is a standalone state agency subordinate to the Cabinet of Ministers through the Minister of Interior Affairs of Ukraine. In addition to its central headquarters, it also has local immigration offices in major cities, regions and administrative districts. It is the key authority in relation to immigration, including combating illegal immigration and issues connected with citizenship and residency permits.

The employment centers in cities and administrative districts, which are responsible for issuing work permits to Ukrainian legal entities, are subordinated to the Ministry of Economy. This Ministry is also the authority responsible for the registration of representative offices of foreign companies in Ukraine and issuing service cards (i.e., a substitute for work permits) to foreign nationals employed in representative offices in Ukraine.

The consulates of the Ministry of Foreign Affairs are responsible for the issuance of visas outside of Ukraine.

The State Border Guard Service is the authority that admits foreign nationals into Ukraine at the point of entry.

The registration authority within the territory of the administrative-territorial unit is responsible for the registration of the place of residence of Ukrainian citizens, foreign nationals and stateless persons.

Current trends

Since October 2022, the procedure for obtaining work permits has been simplified. In addition to an in-person submission, the work permit application may now be submitted by post, through the administrative centers, or online, including through the employer's electronic office, other state electronic systems or the unified state web portal of electronic services.

The work permit may be canceled by the employment center if the employer does not pay, for a certain amount of time, the social contributions for the benefit of the foreign employee for whom the work permit has been obtained. If the work permit is canceled on this ground, the employer will not be able to re-issue the work permit within one year from the date of the relevant decision.

Additionally, the minimum salary requirements for foreign employees have been abolished. The minimum salary level for foreign employees is now equal to the statutory minimum salary for Ukrainian citizens.

The issuance and extension of work permits for citizens of the states recognized in Ukraine as posing a threat to the national interests of Ukraine require prior approval from the security service of Ukraine.

During martial law, which is effective in Ukraine, border guards may require foreign nationals to have health insurance when crossing the Ukrainian border to enter Ukraine.

In addition, the mobility of Ukrainian employees abroad is limited due to martial law (i.e., Ukrainian males aged 18 to 60 are prohibited from leaving Ukraine unless certain exceptions apply).

Business travel

Unless a visa waiver is available, foreign business travelers require a visa to enter Ukraine. Ukrainian legislation provides for three types of visa, as follows:

- A transit B visa for a stay of up to five days
- A short-term stay C visa for a stay of up to 90 days (within a 180-day period)
- A long-term entry D visa, valid for up to 90 days

The D visa is a pre-requisite for applying for a Ukrainian temporary residence permit. It is issued to foreign nationals who are eligible to apply for a temporary residence permit (e.g., students, holders of Ukrainian work permits, their spouses, etc.) and is valid for up to 90 days, within which period the temporary residence permit must be applied for and received. Such visas are available from any consulate of Ukraine abroad. However, the original work permit issued to the Ukrainian corporate host is necessary as part of the visa application package.

For foreign nationals who will be employed in a Ukrainian representative office (branch) of a foreign entity, instead of the certified copy of the work permit, the employment agreement between the relevant foreign national and the Ukrainian employing entity should be submitted as part of the visa application package. Although it is not expressly required by law, the consulate may also request a certified copy of the service card. The service card is issued by the Ministry of Economy of Ukraine and serves as a substitute for a work permit.

Generally, foreign nationals who need a visa to enter Ukraine may stay in Ukraine for the term of their visa validity. Citizens of states that are signatories to agreements on visa-free travel with Ukraine may enter and stay in Ukraine for up to 90 days within a 180-day period. This period is calculated retrospectively from the date of the latest entry into Ukraine. These limitations do not apply to holders of temporary residence permits (or permanent residence permits). A temporary residence permit enables the holder to enter and leave Ukraine as desired, and stay in Ukraine for the entire term of the validity of the temporary residence permit (subject to the completion of certain registration formalities required by law).

Visa waiver/Visa exemptions

Citizens of states that are members of the European Union, the Swiss Confederation, the Principality of Liechtenstein, the US, the UK, Canada, Japan, Israel and some other states may enter Ukraine

without a visa or any invitation letter for business and may remain for up 90 days within a 180-day period.

Visa-free entry for private purposes or tourism is also allowed for citizens of the above-mentioned states, which makes it possible for business travelers to take their spouses, children and other family members with them. However, this waiver of visa requirement is not intended for foreign nationals coming to Ukraine for employment purposes.

In addition, foreign nationals need to present evidence that they have sufficient means to sustain themselves for the entire period of their visit to Ukraine (e.g., have money in cash, bank cards, bank account statements, a valid hotel reservation, return tickets with fixed dates, a letter of commitment of the inviting party). If such evidence is not provided, the person may be denied entry into Ukraine and their visa may be canceled.

Employment assignments

Ukrainian immigration regulations previously contained gaps and were unclear regarding the procedures and documents necessary to receive certain permits or registrations. This led some foreign nationals to ignore the legislation and enter Ukraine for employment purposes, either based on a short-term stay C visa or the no-visa entry regime. Such loopholes and inconsistencies have been remedied in the existing law.

Skilled workers

Generally, all foreign employees are entitled to work in Ukraine upon receipt of a work permit by the relevant Ukrainian employing entity.

Before 27 September 2017, the application for the work permit would be successful if the employer could prove that there were no skilled workers in Ukraine (or in the relevant region) who were able to perform the necessary work. This requirement has now been abolished. This allows all foreign nationals to compete for work in Ukraine on equal terms with Ukrainian citizens unless certain limited exceptions apply.

Intracompany transfer

Intracompany transferees and seconded employees are entitled to work in Ukraine upon receipt of a work permit by the relevant Ukrainian employer. The procedure for obtaining a work permit is very similar to that described below for other foreign nationals.

Among others, as part of the work permit application, the Ukrainian employer must submit a copy of the decision of the foreign company regarding the transfer of the foreign national to work in Ukraine. In addition, a copy of the employment agreement (contract) between the foreign national and the relevant Ukrainian employing entity must be submitted.

As part of the application for a work permit for a seconded foreign employee, the Ukrainian employer must submit a copy of the foreign economic agreement (or contract) between the Ukrainian entity and the foreign entity providing for the use of foreign labor in Ukraine. In addition, a copy of the document confirming the employment of the foreign employee at the foreign (sending) entity must be submitted.

Work permits for both intracompany transferees and seconded foreign employees may be obtained for no more than three years, and then extended as provided by law.

Obtaining a work visa

After the work permit/service card has been obtained, the foreign employee must obtain a long-term entry D visa issued by a diplomatic mission or a consulate of Ukraine abroad to be eligible to apply for a Ukrainian temporary residence permit.

Generally, it should take a few days to obtain the visa after all the documents are submitted. However, the relevant consulate of Ukraine has up to 10 business days to approve its issuance. This term may be extended by up to 30 business days if further examination of the application is required.

Since March 2017, an expedited procedure for issuing visas is available, according to which a visa should be issued within five business days from the day of submission of the visa application documents.

Obtaining work permits

Unlike many other jurisdictions, Ukraine has not introduced any quotas for foreign labor, either by type or worker categories, or by citizenship. Generally, all foreign nationals working for a Ukrainian legal entity, including subsidiaries of foreign companies, must have work permits before they start performing their job duties.

Entering into employment relations with a foreign national prior to the company obtaining a work permit for such foreign national may result in significant fines for the company.

The application for a work permit, among other documents, must include a certified copy of the draft employment agreement (contract) that will be concluded with the foreign national upon obtaining the work permit. Additionally, filing of additional documents may be required depending on the category of the foreign employee for which the work permit is obtained.

Additionally, the employer must attach to the application a document confirming payment of the state fee for issuance of the work permit. The state fee is calculated based on the subsistence level established for a working person by law as of 1 January of the calendar year in which the work permit application is submitted, and it depends on the term for which the work permit is issued by the employment center.

Two or more Ukrainian legal entities can obtain work permits for the same foreign national (e.g., if such foreign national occupies the position of managing director (COO) for several Ukrainian legal entities).

The relevant employment center should make its decision within seven business days from the filing date of the application. Its decision should be mailed to the applicant via email, as well as posted on the website of the relevant employment center within two business days.

The Ukrainian employing entity must conclude a written employment agreement (or contract) with the foreign national no later than within 90 calendar days after the work permit is obtained, and submit its certified copy to the relevant employment center within 10 calendar days after its conclusion. The company's failure to submit a certified copy of the signed employment agreement (or contract) is a ground for cancelation of the work permit.

The term for which the work permit is issued depends on the category of foreign national for which the employer obtains the work permit, particularly as follows:

- For seconded foreign employees, work permits are issued for the term of the foreign economic agreement (or contract) concluded between a Ukrainian entity and the foreign entity providing for the use of foreign labor in Ukraine, but for no more than three years.

- For intracompany transferees, work permits are issued for the period of validity of the decision of the foreign company regarding the transfer of the foreign national to work in Ukraine and the employment agreement (or contract) between the foreign national and the relevant Ukrainian employing entity, but for no more than three years.
- For other categories of foreign nationals, work permits are issued for the period for which the employment agreement (or contract) or gig contract is concluded, but for not more than two years.

This term may be prolonged for the same period an unlimited number of times by filing an application that includes all required documents with the relevant employment center, no later than 20 calendar days (but no earlier than 50 calendar days) prior to the expiration of the current work permit.

Obtaining service cards

Foreign nationals employed in Ukrainian branches of foreign companies (i.e., representative offices) are not eligible for Ukrainian work permits. However, they are entitled to work in Ukraine as they are eligible for service cards. They are also eligible for Ukrainian temporary residence permits, which allow foreign nationals to reside in, and travel into and out of Ukraine.

Service cards are obtained from the Ministry of Economy of Ukraine before the foreign nationals start performing their functions in Ukraine. The procedure for obtaining service cards is not burdensome. The representative office must only submit an application, a copy of the document certifying the registration of the representative office in Ukraine, and a list of the foreign employees of the representative office, indicating their period of stay in Ukraine signed by the head of the representative office, together with two photos of each relevant foreign national.

Service cards are issued for a period of up to three years within 15 business days following the submission of all relevant documents.

Post-entry procedures

Upon obtaining the D visa, the foreign national must enter Ukraine on its basis and obtain a stamp on the visa when crossing the border into Ukraine. The D visa is issued as a multiple-entry visa that is valid for 90 days.

As soon as the foreign national enters Ukraine, they must apply for a Ukrainian temporary residence permit. Children under 16 years old are also required to obtain a separate temporary residence permit. A temporary residence permit can be obtained within 15 days after the relevant application is submitted to the relevant local migration service.

Within 30 days from receipt of the temporary residence permit, the foreign national must register at their place of residence in Ukraine (which must be a house or an apartment, not a hotel).

After all of these steps are completed, the foreign national may travel in and out of Ukraine on the basis of their temporary residence permit at any time and as many times as necessary during the term of validity of the work permit (and of the temporary residence permit).

Other obligations of the employer

A foreign employee must also receive a Ukrainian Tax ID before the company can make salary or any other payments to them. The company acts as the tax withholding agent regarding the withholding and remittance into the Ukrainian budget of the foreign employee's taxes and social contributions related to the salary. The employee, if they are a tax resident in Ukraine, is responsible for filing annual tax returns on the employee's worldwide income with the Ukrainian authorities.

The employer is also obliged to file an application for amending the work permit to the relevant employment center to reflect the following:

- Changes in the employer's name, its reorganization or spin-off
- Receipt of a new passport or change of name by the foreign employee
- Changes in the employee's position and/or transfer to another position

This application must be submitted no later than 30 days from the occurrence of any of the circumstances mentioned above.

If the employer terminates the employment early, the employer must notify the relevant employment center of the termination, which in turn will cancel the work permit.

Extension of stay

If a traveler needs to remain in Ukraine beyond the allowed term of stay, they need to file an application for an extension of stay with the relevant local migration service, no later than three business days before the expiry of the allowed term of stay. Extensions are normally granted if the following is applicable:

- There are valid reasons to extend the validity of the stay, including illness precluding travel, very important family events, unexpected business needs, forced stop in Ukraine due to emergency, presence of grounds to apply for a permanent or temporary residence permit, etc., and all documents are valid and submitted in a timely manner

Extensions are granted to foreign nationals who arrived on the basis of a visa (including a transit visa), or from a state with which Ukraine has an agreement on visa-free travel, and if the local host supports the application.

It is important to remember that the extension is solely related to the permission to remain in Ukraine. Therefore, even if granted for the next several months, it will expire the moment the foreign national leaves Ukraine. As a result, the foreign national (i.e., those from a state with which Ukraine has an agreement on visa-free travel) should be aware that when next entering Ukraine, the relevant State Border Guard Service of Ukraine at the port of entry will review the foreign national's activities in the preceding 180-day period. If, within this 180-day period, such foreign national was present in Ukraine for 90 days, they will be denied entry into Ukraine.

Training

Unpaid trainees can enter Ukraine either without a visa or on the basis of a visa. This is described in further detail in the "Business Travel" section above.

A trainee who receives any remuneration from the Ukrainian corporate host and whose functions are akin to those of an employee of the Ukrainian host requires a work permit and a D visa together with a temporary residence permit, regardless of the duration of the training.

Other comments

Specific considerations apply to the appointment of a foreign national to the position of CEO of a newly established Ukrainian company.

Although there is no express prohibition established by law, in practice, a foreign national may not be the first director of a newly created Ukrainian legal entity. This is because the foreign national may not sign any documents on behalf of the newly established company until the company has obtained a Ukrainian work permit for such foreign national. In addition, many papers must be signed by the

director in the process of establishing a new company, including the work permit applications. Therefore, a Ukrainian citizen should be appointed to temporarily act as the director of the subsidiary at least until a work permit is obtained for the foreign national appointed to that position.

Additionally, as a prerequisite for registering the director as an authorized signatory to operate the bank accounts of a company, some Ukrainian banks require a copy of the work permit and the temporary residence permit for the director evidencing their registration at the place of their residence in Ukraine. The absence of such registration normally occurs only if the director does not physically reside in Ukraine but manages the company remotely or through short visits and, as such, does not have any accommodation or a registered address in Ukraine. For that reason, it is recommended not to appoint a foreign national to the position of director who will not actually reside in Ukraine, or consider some alternatives allowing a smooth operation of the newly established company without the constant presence in Ukraine of the foreign national appointed as the director.

Planned legislative change

On 26 June 2023, the draft law on the regulation of certain issues of foreign nationals and stateless persons crossing the state border into Ukraine under martial law was registered. If adopted, to cross the state border during martial law and two years afterwards, foreign nationals, among other things, will be required to have an insurance policy, unless certain exceptions apply. This insurance should cover medical expenses and indemnification of risks related to explosive objects and of war-related risks during martial law.

United Kingdom

Introduction

The UK completely overhauled its immigration system for employment-related visa applications in 2008. The introduction of a points-based system, sponsorship licenses and compulsory identification cards for foreign nationals was part of the biggest shake-up to immigration and border security in 45 years. There have been further alterations to the points-based system since December 2020, with more changes due from April 2024.

Key government agencies

The UK Border Agency (UKBA), which was formed in 2008, was abolished in early 2013 and split into two new organizations, the Border Force and UK Visas and Immigration.

UK Visas and Immigration is responsible for processing applications for permission to enter and stay in the country. Officials are located in the UK and at British embassies, designated application centers and consular posts abroad to process visa applications. The Border Force is responsible for enforcing and securing the UK border by carrying out immigration and customs controls.

Current trends

In December 2020, an "Australian-style points-based system" came into force, which made it significantly easier for UK companies to recruit migrant workers and transfer existing employees from various countries to the UK. As a result of Brexit, this new points-based system also applies to nationals from the European Economic Area (EEA) and Switzerland, as well as those from outside the bloc. Under this system, prospective migrants still need to pass a points-based assessment before being given permission to enter or remain in the UK, and the number of points required and the way they are awarded depends on the type of long-term visa category under which they are applying. However, the new system has led to the highest net migration figures seen to date. This means that, from 2023/24, the government is now looking at ways to reduce legal migration, and we can expect to see a tightening of the rules.

Business travel

Standard Visitor visa (Business Visitor category)

In April 2015, the visitor visa categories were consolidated into four categories to increase the visitor route's flexibility. Foreign nationals coming to the UK under the business visitor route should normally be granted permission to stay for a maximum period of 180 days. As previously mentioned, nationals from certain designated visa national countries must apply for a visa before traveling to the UK as visitors.

Persons entering under this category must be based abroad and must not be receiving a salary from a UK source. Foreign nationals will only be allowed to undertake certain permissible activities under this category, for example, transacting business (e.g., attending meetings and briefings, fact-finding, negotiating or making contracts with UK businesses to buy or sell goods or services). Business visitors must not intend to provide goods or services within the UK, including selling goods or services directly to members of the public.

Permitted paid engagements

In 2012, the UKBA introduced a list of permitted paid engagements that could be undertaken by visitors, including examiners, lecturers, lawyers, arts entertainers and sporting professionals. This was further expanded under the rules in place in April 2015 and again in 2023.

Those entering under the visitor category are not otherwise authorized to do paid or unpaid work in the UK.

Employment assignments

The general rule is that any person who is subject to immigration control cannot take up employment in the UK without a valid work permit or another form of work authorization.

Commonwealth citizens with UK ancestry

Upon proving that one grandparent, paternal or maternal, was born in the UK (including the Channel Islands and the Isle of Man), a Commonwealth citizen who wants to take up or seek employment will be granted entry clearance for that purpose and does not require a work permit. Individuals entering under this category will be admitted for an initial period of five years and should be eligible to apply to remain permanently after residing in the UK for five years.

Investor, business development and talent visas

The above visa categories are intended for high-value migrants. The visas are not job-specific and do not require sponsorship from an employer (there are exceptions). The main subcategories are as follows:

Investor

This route was deleted following Russia's invasion of Ukraine in February 2022.

Tier 1 (Entrepreneur)

Business owners (or prospective owners) can no longer apply for a Tier 1 (Entrepreneur) visa. Applying for an Innovator Founder visa might be more appropriate for those intending to set up run a business in the UK.

Innovator Founder visa

The applicant can apply for an Innovator Founder visa if they meet the following criteria:

- They want to set up and run an innovative business in the UK — it must be something different from anything else on the market.
- The business or business idea has been endorsed by an approved body, also known as an endorsing body.
- They meet the other eligibility requirements.

Eligibility

The applicant must be able to show that the business idea is as follows:

- New (They cannot join a business that is already trading.)
- Innovative (There must be an original business idea, which is different from anything else on the market.)
- Viable, with potential for growth
- Scalable (Evidence of planning, which includes creating jobs and growing into national and international markets, must be provided.)

An endorsing body must assess that the business idea meets the route's requirements.

Knowledge of English

Applicants must be able to speak, read, write and understand English. They must prove their knowledge of English (by taking a prescribed test or holding a degree taught in English) when applying.

The applicant must meet with the endorsing body after 12 months and 24 months to show that progress is being made with the business. Visas could be cut short if the endorsing body withdraws the endorsement, in which case the applicant would have to reapply with a new endorsement before the current visa expires.

The applicant can do the following:

- Set up a business or several businesses
- Work for the business (This includes being employed as a director, or self-employed as a member of a business partnership.)
- Do work outside the business, but only "skilled work" — for example, a job on the Skilled Worker eligible occupations list or a job needing a level 3 qualification
- Bring dependents

Extensions are for a further three years when the visa is due to expire. There is no limit on the number of times an applicant can extend.

Applicants are eligible to apply for permanent residence once they have been in the UK for three years.

Global Talent visa

A Global Talent visa to work in the UK is for applicants who are leaders or potential leaders in one of the following fields:

- Academia or research
- Arts and culture
- Digital technology

A Global Talent visa applicant must usually have received an endorsement to prove that they are a leader or potential leader.

Applications for the visa are accepted without an endorsement if the applicant has won an eligible award from published lists (in architecture, arts and culture, digital technology, fashion, film and television, science, engineering, humanities, social sciences, and medicine).

Visas are granted for up to five years at a time.

- There's no limit to the stay in the UK in total, but the visa must be renewed before it expires. Each extension can last from one to five years — applicants choose how long they want the extension to be.
- Indefinite leave to remain can be obtained after three or five years, depending on the field of work and method of application.

Sponsor license

Employers are required to have a license to employ nationals from outside the EEA. This requirement was extended to EEA nationals from January 2021. The so-called licensed sponsor is then authorized to use the sponsor management system. This online platform allows companies to sponsor migrants to work in the UK.

Once an employer is registered as a licensed sponsor, it will be ready to sponsor employees from overseas to work in the UK under the sponsored work categories. Under this system, it is up to the employer to assess whether an individual meets the published criteria for a certificate of sponsorship (a work permit) to be issued. The company will then be able to issue a certificate and send it to the employee to apply for a visa.

To apply for a license, each employer will need to appoint an individual to the following prescribed roles:

- Authorizing officer (AO)
- Key contact
- Level 1 user
- Level 2 user (not essential)

All four roles can be filled by the same person, by four different people or by a combination of the two. The AO role must be undertaken by a permanent member of staff who is based in the UK, and at least one level 1 user must be an employee of the company and a settled UK-based member of staff.

Background checks and checks on the Police National Computer will be undertaken on key personnel. Each of these roles carries some degree of responsibility for the functioning of the new system.

The AO is the most senior role within the sponsor management system and is responsible for assigning other key personnel and supervising their conduct (including both employees and any appointed representatives). However, the AO does not have to be involved in the day-to-day operation of the sponsor management system and does not have automatic access to this system. However, they could also be a level 1 or level 2 user, which would give them access, as the AO is only required to carry out regular checks on the sponsor's certificate of sponsorship usage on a monthly basis.

The key contact acts as the main point of contact with UK Visas and Immigration. UK Visas and Immigration may contact this individual for any queries with applications (e.g., requests for documents or payment enquiries). The key contact does not have automatic access to the sponsor management system, but can be a level 1 or level 2 user as well, which would provide them with access.

The level 1 user deals with the day-to-day administrative activities of the sponsor management system (e.g., assigning certificates of sponsorship to employees/prospective employees and reporting changes of circumstances). The level 1 user can also create and remove users from the sponsor management system.

Level 2 users undertake the same type of administrative tasks as the level 1 user, but cannot create and remove users. Any number of level 2 users can be appointed.

In return for being granted a license and the ability to issue certificates of sponsorship, the employer must agree to undertake a number of duties (e.g., recording certain information, reporting certain facts to UK Visas and Immigration, complying with relevant legislation and cooperating with UK Visas and Immigration).

As part of the licensing process, UK Visas and Immigration will make an on-site visit to the employer's business premises to check that it has the systems in place to meet the new obligations that arise from being granted a license. Therefore, any employer considering applying for a license should undertake a compliance audit before filing a license application.

Licensed employers are required to assess whether an employee meets the minimum points threshold for a certificate to be obtained. Points are allocated for two criteria, "attributes" and "maintenance," with an additional criterion for "English language" where relevant.

Although the company is responsible for issuing certificates of sponsorship under the system, UK Visas and Immigration can undertake a review of any decisions made after a certain number of certificates have been issued. If the company is found to have incorrectly issued the certificates or not to have complied with any of the obligations, it could have its license downgraded from an "A" rating, or even withdrawn. If its license is withdrawn, any existing employees working under a certificate could be required to leave the UK within 60 days. Therefore, it is important for any company using the system to ensure that it fully complies with the requirements.

Expansion Worker visa

In April 2022, UK Visas and Immigration amended the sponsorship process for companies that are not yet trading in the UK or do not have the required personnel available to apply for a sponsor license. This route replaced the deleted Representatives of Overseas Business category.

This route allows an employee to come to the UK to set up a branch of an overseas business that has not started trading in the UK. The applicant must already work for the overseas business as either a senior manager or a specialist employee. Unless an exception* applies, all businesses applying under UK Expansion Worker must submit evidence of the following:

1. **A UK footprint**, such as proof of having registered a UK branch (or owning or leasing a UK premises)
2. **An overseas trading presence** for at least 12 months before the date of the application (unless an exception applies)
3. **Planned expansion** — one document listed under (a) and two listed under (b) below
    (a) Evidence of capability to fund planned expansion — as listed in the guidance
    (b) Evidence of expansion plans — as listed in the guidance
4. **Other documents** — as listed in the guidance (unless an exception applies)

Once the sponsor license is in place, the employee can apply for the Expansion Worker visa to enter the UK to start the business. The employee would be granted an initial two-year visa, but the license

would need to be "upgraded" to a full sponsor license to enable the sponsorship of further workers. The employee's visa must also be upgraded into the Skilled Worker route to allow the employee to be in a visa route that leads to permanent residence in the UK after five years.

***Exceptions:**

(a) The overseas business is listed on the London Stock Exchange on either the Main or AIM Market.

(b) The overseas business is listed on an international stock exchange that the Financial Conduct Authority considers to have an equivalent level of regulation to UK markets.

Long-term work visas

Long-term work visas enable employers in the UK to recruit migrants where a British worker cannot fill a particular job. Employers that would like to employ migrant workers must have a sponsorship license, which enables them to issue certificates of sponsorship (work permits) to employees.

The employer leads the long-term work permit application process, and the employer/sponsoring company is responsible for applying on behalf of the applicant.

Skilled Worker

The Skilled Worker visa allows a migrant to come to or stay in the UK to do an eligible job with an employer that holds a sponsor license.

Employers can transfer existing employees of an overseas entity under a Skilled Worker visa even if they meet the requirements for the Global Business Mobility (Intracompany Transfer) route, which is a more favorable option as it leads to permanent residence.

The Skilled Worker visa replaced the Tier 2 (General) work visa on 1 December 2020, and those with existing permission can apply to extend or for permanent residence under the Skilled Worker criteria.

Applicants must score a minimum number of points, including for maintenance and English language.

Criminal record certificate

On 6 April 2017, the government introduced a requirement for Tier 2 (General) applicants to provide a criminal record certificate as part of their visa application if they are to be involved in education, healthcare, therapy or social services.

Global Business Mobility

This category allows multinational companies to transfer employees from their overseas organizations into a UK branch or subsidiary to undertake a skilled job. Applicants must score a minimum number of points; however, applicants do not have to satisfy the English language requirement.

The Global Business Mobility category is split into five subcategories.

- Senior or Specialist Worker (replaces the Intracompany Transfer category)
- Graduate Trainee
- UK Expansion Worker
- Service Supplier
- Secondment Worker

Senior or Specialist Worker — for overseas workers undertaking temporary work assignments in the UK. The worker should be a senior manager or specialist employee that is assigned to a UK business linked to their employer overseas.

Graduate Trainee — for overseas workers undertaking temporary work assignments in the UK. The employee must be on a graduate training course leading to a senior management or specialist position and must be required for a placement in the UK.

UK Expansion Worker — for overseas workers undertaking temporary work assignments in the UK. The worker must be a senior manager or specialist employee and be assigned to the UK to undertake work related to a business' expansion to the UK.

Service Supplier — for overseas workers undertaking temporary work assignments in the UK. The worker must be either a contractual service supplier employed by an overseas service provider or a self-employed independent professional based overseas who needs to carry out an assignment in the UK to provide services covered by one of the UK's international trade agreements.

Secondment Worker — for overseas workers undertaking temporary work assignments in the UK. This is where the worker is seconded to the UK as part of a high-value contract or investment by their employer overseas.

Dependent partners and children can apply under these routes.

The Global Business Mobility routes do not lead to settlement (indefinite leave to remain), and time spent in the UK under these routes cannot count toward the qualifying period of stay required for indefinite leave to remain in the UK.

Short-term work visa

Under the short-term work visa, an applicant can enter the UK for a limited period if, where applicable, they have a job offer from a licensed sponsor and they meet the eligibility requirements. There are six subcategories under this route.

Youth Mobility Scheme

The Youth Mobility Scheme allows 18-30 (in some cases, 18-35) year olds from participating countries to experience life in the UK. The category is quota-based, and visa applications from the below-listed countries will be accepted until their country's annual allocation has been reached. However, there is no quota for those who have certain types of British nationality.

Currently, only the following countries are participating in the scheme:

- Australia — 35,000 places
- Canada — 8,000 places
- Hong Kong SAR — 1,000 places
- Iceland — 1,000 places
- India — 3,000 places
- Japan — 1,500 places
- Monaco — 1,000 places
- New Zealand — 13,000 places
- Republic of Korea — 1,000 places

- San Marino — 1,000 places
- Taiwan — 1,000 places

The visa is granted for two years, and applicants can undertake any work in the UK except self-employment (subject to certain exceptions), working as a professional sportsperson or working as a doctor in training.

Self-employment/setting up a company is permitted as long as premises are rented, the equipment does not exceed GBP 5,000 and there are no employees.

Temporary Worker — Creative

This category is for creative artists and entertainers coming to fulfill short-term contracts/engagements in the UK.

Temporary Worker — Government Authorized Exchange

This category offers migrants a route to enable a short-term exchange of knowledge and best practice through employment while experiencing the wider social and cultural setting of the UK.

Temporary Worker — International Agreement

This category authorizes migrants who are legally entitled under international law to come to work in the UK for a limited period of time.

Temporary Worker — Charity Worker

This category authorizes migrants to do unpaid voluntary work for a charity.

Temporary Worker — Religious Worker

This category authorizes migrants to do religious work, e.g., preaching or working in a religious order.

Temporary Worker — Seasonal Worker

This category is for migrants coming to the UK as seasonal workers in the horticulture sector or the poultry production sector through an approved scheme operator.

Post-entry procedures — biometric residence permit

Since 18 March 2015, biometric residence permits (BRPs) for entry clearance applicants have been issued. Previously, applicants applying for a visa were only issued a vignette, which was placed into their passport and confirmed the full period of leave they had been granted. This has been replaced with a 90-day short-term travel vignette to allow employees to enter the UK if they are applying for visas for longer than six months. Once these employees have arrived in the UK and before the 90-day period elapses, they must collect a credit card-sized BRP from a designated post office (or representative), which will confirm their full period of leave and which they will need to keep with their passports.

Migrant workers coming (i.e., under the Skilled Worker or Global Business Mobility routes) can only start working in the UK after presenting their valid short-term travel vignette to their employer. They must then obtain their new BRP before the vignette expires or within 10 days of arriving in the UK, whichever is later. The BRP can be used to access a share code, which must be presented to the employer, who can then check and record the right to work online before work commences.

For some types of applications, EU nationals only receive digital status for the full period of leave instead of a vignette and BRP. From 31 December 2024, all UK BRPs will expire, and the holders' visa status will become virtual.

Post-entry procedures — immigration health surcharge

On 6 April 2015, the government introduced an annual immigration health surcharge. Unless exempt, all visa applicants are required to pay this surcharge. The surcharge is in addition to the visa application fee, and the total payable surcharge is based on the length of visa requested.

Post-entry procedures — immigration skills charge

On 6 April 2017, the government introduced an annual immigration skills charge. The skills charge applies to a worker assigned a certificate of sponsorship of six months or more on or after 6 April 2017 in the Skilled Worker or Global Business Mobility routes. The charge does not apply to PhD-level jobs and students switching from student visas.

The amount of the skills charge payable depends on the size of the organization and the length of employment stated on the employee's certificate of sponsorship. The skills charge is GBP 1,000 per person, per year. If the individual has charitable status or is subject to the small companies' regime, they are eligible to pay the small charge of GBP 364 per person, per year.

The charge is payable at the same time that they pay to assign a certificate of sponsorship to sponsor someone to carry out a skilled job in the UK. In addition to a certificate of sponsorship of less than six months, there are other limited exemptions to the skills charge.

The immigration skills charge must not be passed on to the employee.

Graduate route

The Graduate visa has been available to international students who have completed a degree in the UK since the summer of 2021. This enables international students to remain in the UK and work at any skill level for two years after they have completed their studies. It is an unsponsored route.

International students who complete a PhD from summer 2021 can stay in the UK to live and work for three years after they have completed their studies.

This route has made it easier for international graduates to secure skilled jobs in the UK under the sponsored routes.

Training

The visitor category permits foreign nationals to undertake some limited training in techniques and work practices used in the UK. There are strict limits on the scope of training that can be provided under this category, which must normally be restricted to watching demonstrations and classroom instruction. On-the-job training in a productive work environment is not permitted, and visitor visa holders cannot be paid from any UK source, although they can receive reimbursement for certain expenses.

As of 24 April 2015, overseas employees may receive training from UK-based entities on work practices and techniques required for their employment overseas. Additionally, overseas trainers can deliver a short series of training sessions to UK employees of an international corporate group when a global training contract exists.

Other comments

Spouses, civil partners or unmarried partners of entrants under all of the categories reviewed in this article (except the visitor and some Temporary Worker and Student categories) must satisfy the following conditions to enter as dependents:

- Be married, have entered into a civil partnership or be the unmarried partner of the entrant
- Intend to live with each other during their stay
- Obtain entry clearance to enter as a dependent spouse, civil partner or unmarried partner (Dependent children under the age of 18 are also eligible.)

In addition, non-UK/Irish immigrants coming to the UK to join their spouses who are British citizens or who have been granted indefinite leave to remain (permanent residence) are required to pass an English language test and must also meet a financial requirement.

Anyone entering the UK in one of the employment-related categories or as a spouse, civil partner or unmarried partner, with some exceptions, will qualify, along with their dependents, to apply for permanent residence after completing five years of residence in the UK. Upon being granted permanent residence, they will be free to live and work in the UK without any restrictions.

Overview

British citizens, Commonwealth citizens with the right of abode in the UK and Irish citizens are not subject to immigration control and do not require permission to enter or remain in the UK. Their passports will not be stamped on entry, and they are free to return to the UK after however long they stay outside.

Nationals of EEA countries, i.e., Austria, Belgium, Bulgaria, Croatia, Czech Republic, Cyprus, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden, plus nationals of Iceland, Liechtenstein and Norway, entering the UK after 1 January 2021 come under the UK Immigration Rules (i.e., the UK points-based system). During the transition period, EEA nationals who had entered the UK by then were able to apply for a document under the EU Settlement Scheme by the end of June 2021. Applications under this scheme are still being accepted exceptionally where good reasons for the delay are provided.

Aliens, Commonwealth citizens without the right of abode in the UK and UK passport holders who are not British citizens (i.e., British overseas citizens) are subject to immigration control and must obtain permission to enter or remain in the country. Their passports will normally be stamped to indicate how long they can remain and what conditions are attached to such permission.

Citizens of certain countries are termed "visa nationals" and require mandatory entry clearance before traveling to the UK for any purpose, even as visitors. Other nationals only require entry clearance if they want to travel to the UK for a particular purpose. Entry clearance is the process by which a person applies to a British diplomatic post in their country of residence for prior permission to enter the UK.

A foreign national who takes up employment in the UK without authorization is liable to removal and, under provisions introduced on 29 February 2008, could be barred from reentering the UK for a period of up to 10 years.

Right to work

Since January 1997, UK employers have faced sanctions (under the Asylum and Immigration Act 1996 ("**1996 Act**")) for employing people who did not have the right to work. The 1996 Act provided a defense for UK employers that made an offer of employment conditional upon the production of one of a list of specified documents. The list included an EEA passport or other passport containing an appropriate endorsement that evidenced the foreign national's right to work in the UK. Provided that such a document was produced and appeared to be genuine, the UK employer would be protected from prosecution if a copy of that document had been made and retained in the foreign national's personnel file.

The right to work requirements were replaced by sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006. Under Section 15, an employer may be liable for a civil penalty of up to GBP 20,000 per illegal worker. These provisions also introduced a criminal penalty for knowingly employing an illegal worker, which includes an unlimited fine and/or imprisonment of up to five years.

Planned legislative change — the future of the UK's immigration system

There was a significant relaxation of the employment-related work routes from December 2020, and possibly as a result of these changes, UK net migration was unusually high in the succeeding years. The Office for National Statistics (ONS) estimated that net migration to the UK was 745,000 in 2022, up from 184,000 in 2019 before the pandemic (ONS, November 2023).

As a result, in 2023, the government announced its intention to rein back on the relaxed rules to curb net migration.

The following changes are expected from 4 April 2024:

- The earning threshold will be increased for overseas workers under the sponsor license routes from GBP 26,200 to GBP 38,700, with the aim of bringing salaries in line with the average full-time salary for these types of jobs.
- The existing shortage occupations list, under which sponsors can pay reduced fees, will be replaced with a new immigration salary list. This will retain a general threshold discount, although the details are not yet known, and the number of occupations on the list will be reviewed and reduced.
- The Migration Advisory Committee will review the Graduate visa route to try to ensure that steps are being taken to prevent abuse.
- The government will prevent overseas care workers from bringing their dependents to the UK. Care providers in England will now only be able to sponsor migrant workers if they are undertaking activities regulated by the Care Quality Commission.
- The government will also increase the minimum income required for British citizens and those settled in the UK who want their family members to join them.

The above followed an announcement last year to reduce the number of student visas being issued. This included removing the right for international students to bring dependents to the UK unless they are on specific courses and removing the ability for international students to switch into work routes before their studies are completed. These measures are in place for courses starting in January 2024. Large increases to UK Visas and Immigration fees continue to be introduced.

Electronic Travel Authorisation (ETA) scheme

ETAs are being introduced for visitors who do not need a visa for short stays in the UK, or who do not already have UK immigration status prior to traveling.

The ETA scheme first opened to Qatari nationals in autumn 2023, and Qatari nationals now require an ETA to travel to the UK.

An ETA costs GBP 10 and permits multiple journeys. It is valid for two years or until the holder's passport expires — whichever is sooner.

From 1 February 2024, the scheme will be introduced for nationals of Bahrain, Kuwait, Oman, United Arab Emirates, Saudi Arabia and Jordan.

In the future, the scheme will be implemented worldwide for visitors to the UK who do not currently need a visa for short stays, including European citizens.

Recent changes

In December 2020, the UK government introduced a new immigration system modeled on an Australian-style points-based system, where the points can be traded in limited circumstances.

This system has applied equally to EU and non-EU citizens since 1 January 2021.

The changes are in line with the earlier recommendations made by the Migration Advisory Committee in its report on the points-based system and salary thresholds, which was released on 28 January 2020.

Key points to note

Lower salary threshold

The salary threshold for the Skilled Workers category (setting the minimum salary that must be paid) was lowered from GBP 30,000 to GBP 25,600, although applicants still need to be paid the applicable salary threshold for their occupation if higher. As noted above, this is due to change again on 4 April 2024.

The requirement for new entrants is 30% lower than for experienced workers, but only the base salary will be used to determine whether the salary threshold has been met.

There are no regional salary thresholds or different arrangements for other parts of the UK.

Lower skills threshold

The skills threshold for the Skilled Workers category was reduced from Regulated Qualifications Framework (RQF) Level 6 or degree level to RQF Level 3 or "A" level, which should allow a substantial number of less-skilled roles to qualify.

The cap on the number of people coming from overseas under the Skilled Worker (Tier 2 General) route was suspended.

The Resident Labour Market Test (requiring the role to be advertised in two places for a 28-day period) was removed.

Revised points for skilled workers

EU and non-EU citizens who want to live and work in the UK need to gain 70 points to qualify for a visa.

Applicants need to have the following:

- A job offer from an approved sponsor (20 points)
- An offer for a role at the required skill level (20 points)

- The ability to speak English at the required level (10 points)

In addition to these key requirements, other points are awarded for a salary between GBP 23,040 to GBP 25,999 (10 points) or GBP 25,600 and above (20 points), a PhD in certain subjects (20 points) or a role in a shortage occupation (20 points).

The absolute minimum salary under the scheme is GBP 20,480 (substantially below the previous level of GBP 30,000) provided this is at or above the going rate for the role. At this level, however, no points would be awarded for their salary. To qualify, the applicant would need to have a job offer in a shortage occupation or a PhD role.

Applicants can trade characteristics, such as their job offer and qualifications, against a salary lower than the minimum salary or the going rate in their field. These are also due for review in 2024.

Highly skilled workers

The Global Talent route for the most highly skilled is available to EU nationals, allowing those with the required level of points to enter the UK without a job offer, provided they are endorsed or sponsored by a relevant and competent body.

Legislative changes — Brexit

The UK legally left the EU on 31 January 2020. However, EU citizens who were lawfully residing in the UK, or who started residing in the UK during the transition period (31 December 2020), were allowed to remain in the UK on a long-term basis and, after living here for five years, would qualify for settled status. The same rules applied to UK citizens living in the EU. The right to settled status is only lost if the individual leaves their country of residence for five years or more.

The UK government implemented these provisions through the EU Settlement Scheme. EU citizens can apply for settled status if they have been here for five years or longer. If they have been here for less than five years, they can apply for pre-settled status to take them up to the point when they can apply for settled status. All EU nationals in the UK (except Irish nationals) were told that they would have to apply for their status before the end of the transition period, even if they have existing documentation.

From September 2023, people with pre-settled status under the EU Settlement Scheme will have their status extended automatically by two years before it expires if they have not obtained settled status.

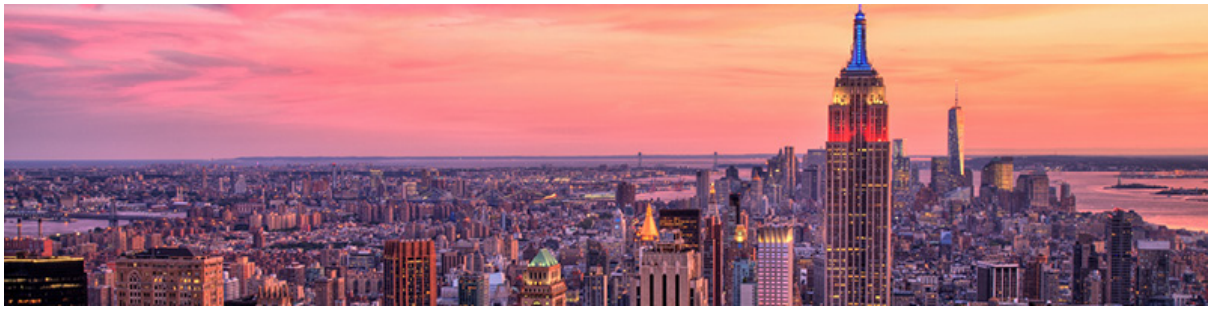
The process is automated by the Home Office and reflected in the person's digital status. They are notified of the extension directly. The idea is to ensure that no one loses their immigration status if they do not apply to switch from pre-settled to settled status.

The Home Office also intends to convert as many pre-settled status holders as possible to settled status automatically once they are eligible for it, without them needing to apply. In 2024, automated checks of pre-settled status will establish ongoing continuous residence in the UK.

Frontier workers

A **frontier worker** is someone from the EU who is employed or self-employed in the UK, but lives elsewhere. Anyone frontier working in the UK by 31 December 2020 was able to keep their status, but they needed to apply for a permit. Irish citizens frontier working in the UK did not need to apply for a permit (unless desired).

United States



Introduction

US law provides many solutions to help companies employ foreign nationals. These range from temporary, nonimmigrant visas to permanent, immigrant visas. Often, more than one solution is worth consideration. Requirements, processing times, employment eligibility and benefits for accompanying family members vary by visa classification.

Key government agencies

US immigration laws and policies are implemented and enforced by three key federal agencies: the Department of Homeland Security, the Department of State and the Department of Labor. The Department of Homeland Security includes US Citizenship and Immigration Services (USCIS), US Immigration and Customs Enforcement (ICE) and US Customs and Border Protection (CBP). The USCIS is responsible for adjudicating immigration benefits, such as petitions for work authorization and applications for permanent resident status or US citizenship. ICE is responsible for investigating immigration violations, including those made by US employers, and enforcing the removal of foreign nationals who are unlawfully present in the US. CBP is responsible for inspecting and admitting all persons and goods arriving through US ports of entry.

The Department of State is responsible for processing visas at US embassies and consulates outside of the US.

The Department of Labor is responsible for protecting the US workforce by ensuring that US employers do the following (when required by US immigration law):

- Offer certain foreign workers the same wages and working conditions as US workers
- Conduct a fair test of the labor market before sponsoring certain types of foreign workers for permanent resident status

The US Department of Justice (DOJ) is also involved in enforcing the antidiscrimination provisions of the Immigration and Nationality Act.

Current trends

The employment-sponsored US immigration landscape continues to shift with policy and procedural changes designed to (i) broaden work authorization options available to foreign nationals in areas prioritized by the United States (e.g., AI and cybersecurity), (ii) streamline and modernize the US immigration process, and (iii) alleviate perceived roadblocks to legal immigration while still ensuring compliance with and enforcement of US immigration law. While many agree that comprehensive immigration reform may be long overdue, full-scale proposals are unlikely to gain much traction given

the current geopolitical environment and differing priorities in immigration policy largely drawn along party lines.

The outcome of the 2024 presidential election will likely have a direct impact on employment-based immigration policies over the next four years. While the future remains uncertain until the election is decided, the Biden administration has worked to unwind many of the more restrictive immigration policies enacted under the Trump administration, and employers have seen other positive developments. For example, US employers enrolled in E-Verify may utilize a remote document examination process, permitted as a temporary measure during the pandemic, to complete Form I-9 or the Employment Eligibility Form. Also, H-1B visa lottery selections have been revamped for the 2025 fiscal year to a "beneficiary-centric" process. While the mechanics of H-1B cap registration will remain the same, it is expected that a lower number of overall registrations will be submitted — and, as a result, a higher selection rate than fiscal year 2024. However, not all changes have been favorable to employers. Government filing fees will significantly increase, placing additional financial pressure on employers seeking to attract and retain foreign national talent. Finally, the DOJ's Immigrant and Employee Rights division has increased its focus on how employers conduct labor market tests as part of the permanent-residence sponsorship process, making compliance more important than ever.

Business travel

The US has a Visa Waiver Program that allows foreign nationals from certain countries to visit the US for legitimate business purposes without a B-1 visa. To use the Visa Waiver Program, qualifying foreign nationals must have an e-Passport containing the following symbol:  . Qualifying foreign nationals must also apply for an electronic travel authorization from the Electronic System for Travel Authorization (ESTA) website before traveling to the US. The ESTA authorization is valid for two years or until the foreign national's passport expires, whichever is first. An entry under the ESTA program is valid for up to 90 days.

If ESTA authorization is not granted, the foreign national must obtain a nonimmigrant visa from a US Embassy or Consulate before traveling to the US. ESTA authorization will not be granted to foreign nationals from Visa Waiver Program countries who meet the following criteria:

- They have traveled to or been present in Iran, Iraq, Libya, Somalia, Sudan, Syria or Yemen on or after 1 March 2011 (with limited exceptions).
- They are also dual nationals of Cuba, Democratic People's Republic of Korea, Iran, Iraq, Sudan or Syria.
- They have traveled to or been present in Cuba on or after 12 January 2021.

The permitted scope of activity is the same as under the B-1 visa. The length of stay is up to 90 days only, without the possibility of an extension or status change. Foreign nationals who overstay the 90-day period will be permanently barred from using the Visa Waiver Program. In limited circumstances, the US government may permit a 30-day satisfactory departure period if requested upon completion of the 90-day period.

The following countries are presently qualified under this program: Andorra, Australia, Austria, Belgium, Brunei, Chile, Croatia, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Monaco, the Netherlands, New Zealand, Norway, Portugal, San Marino, Singapore, Slovakia, Slovenia, South Korea, Spain, Sweden, Switzerland, Taiwan and the United Kingdom.

B-1 business visitor visa

Foreign nationals coming to the US on short-term business trips may use the B-1 business visitor visa. The B-1 authorizes a broad range of commercial and professional activity, including consultations, negotiations, business meetings, conferences and taking orders for goods made abroad. Employment is not authorized. This means the following:

- The services provided while in the US must be on behalf of a non-US employer.
- Any profits resulting from those services must accrue to the non-US employer.
- Any compensation received for those services must also be paid directly or indirectly by the non-US employer.

B-1 visa applications are processed at US consular posts abroad. When applying for a B-1 visa, the foreign national must establish that they have a residence in a foreign country that they do not intend to abandon, and that they intend to enter the US for a specific and limited period of time.

The foreign national must also have a letter from the non-US employer confirming the following:

- The activities to be performed in the US
- The direct benefit of those activities to the non-US employer

The continuation of the individual's direct and indirect compensation by the non-US employer is also typically required.

B-1 visas are valid for a fixed amount of time (generally 10 years) and may be valid for multiple or a specified number of entries. The CBP officer at the port of entry determines whether to admit the foreign national and for how long.

B-1 visa holders are normally admitted for up to six months and may be able to extend their stay for an additional six months or change to another visa status. An accompanying spouse and unmarried, minor children under 21 can be admitted under the B-2 tourist visa.

Employment assignments

Overview

Foreign nationals who are not lawful permanent residents of the US (i.e., Green Card holders) must have authorization to work in the US before commencing employment. Typically, the US employer must request approval for a particular type of work authorization based on the job offered to the foreign national and the foreign national's credentials. In most cases, the request is made in the form of a petition that is filed with the USCIS and, in other cases, the request is made in the form of an application that is filed directly with the US Embassy or Consulate. For some types of work authorization, the Department of Labor must also grant its approval for the employer to sponsor the foreign worker. In those cases, the Department of Labor's approval is needed before the USCIS (or the US Embassy or Consulate) will process the sponsoring employer's petition or application. The complexity of the preliminary approval process, and the time required for the US employer to receive the approval, can vary greatly depending on the particular type of nonimmigrant or immigrant status sought and the quota-based restrictions imposed on certain types of visa classifications.

In general, the approval process for a nonimmigrant status that includes work authorization takes at least three months.

Once the employer's request for work authorization has been approved, most foreign nationals must also obtain a visa at a US Embassy or Consulate. Under the US immigration system, visas are travel

documents that allow a foreign national to seek admission to the US with a particular status. The issuance of a visa does not guarantee admission to the US, and it does not function as the foreign national's work or residence permit after entering the US. Rather, the documents issued by CBP at the port of entry or by the USCIS after entering the US serve as the work and residence permit.

Intracompany transfer

L-1 visa

Multinational companies seeking to temporarily transfer foreign employees for assignment to US operations most often rely on the L-1. This visa is initially valid for assignments of up to three years and can be extended in two-year increments for a total period of five or seven years, depending on the nature of the US job duties. Executive- and managerial-level employees can hold L-1A status for up to seven years, whereas employees working in a capacity involving specialized knowledge have a maximum stay of five years under L-1B status.

The spouse and unmarried children under the age of 21 of an L-1 visa holder may be issued L-2 status for the same period. The L-2 spouse (but not the L-2 children) is authorized to work in the United States after arrival in L-2 status and may, but is not required to, apply for an employment authorization document.

Qualified foreign nationals must have been outside the US for at least 12 months during the three years immediately preceding the L-1 visa request and, during that period, employed by the US petitioning employer or a company with a qualifying intracompany relationship. There are a number of relationships that qualify, but all generally rely on common majority control (e.g., parent-subsidiary, subsidiaries of a common parent, branch or representative office). The qualifying corporate relationship does not need to have existed throughout the period of required employment.

Executive- and managerial-level employment is generally shown through the management of subordinate employees or through the management of an essential function within the organization. Employment in a specialized knowledge capacity requires proof that the employee holds knowledge of the organization's products, services, research, equipment, techniques and management, or an advanced level of expertise in the organization's processes and procedures.

Additional rules apply to companies during the first year of business operations in the US and to those who intend to place the foreign employee at a site not controlled by the sponsoring employer (e.g., placement at a client's site).

Large multinational companies may take advantage of special blanket L-1 rules for faster government processing if they meet the specific criteria relating to revenue or number of US employees and international business operations.

Post-entry procedures

Individuals who are admitted to the US with a nonimmigrant visa will be issued a Form I-94, arrival/departure record, at the port of entry. The Form I-94 is issued and maintained electronically. Foreign nationals are advised to print their Form I-94 from the CBP website after each entry to the US.

The Form I-94 is the official record of the foreign national's nonimmigrant status and the period of stay granted. As such, the printed Form I-94 serves as the individual's temporary work and residence permit.

Individuals who are admitted to the US under a nonimmigrant visa are not required to register their residence with local police authorities. However, they are required to notify the USCIS in writing within

10 days of any change in address after entering the US. Failure to do so can result in removal from the US.

Specialty occupation (H-1B visa)

US employers of foreign professionals have long relied on the H-1B visa. H-1B status is initially valid for up to three years, with extensions in three-year increments available for up to six years' total stay. Extensions beyond the six-year limit may be granted to foreign professionals for whom employment-based permanent residence applications are pending. The spouse and unmarried children under the age of 21 of an H-1B visa holder may be issued the H-4 visa for the same period.

Certain H-4 dependent spouses can obtain work authorization if the principal is the beneficiary of an approved immigrant petition or has been granted H-1B status under sections 106(a) and (b) of the American Competitiveness in the Twenty-First Century Act.

The job offered must be in a specialty occupation, which are roles that normally require at least a bachelor's degree in a specific field. The foreign national must hold the required degree from an American university or the equivalent. A foreign degree, employment experience or a combination of the two may be considered equivalent.

Employers must attest that they will provide H-1B professionals with wages, working conditions and benefits equal to or greater than those normally offered to similarly employed workers in the US. A strike or labor dispute at the place of employment may impact eligibility. Employers of H-1B visa holders must comply with detailed recordkeeping requirements, and government agencies often conduct worksite inspections to ensure compliance.

Only a limited number of new H-1B visa petitions can be granted each fiscal year. Generally, this quota applies to first-time H-1B visa holders, with some exceptions for those offered employment by qualified educational institutions, affiliated research organizations, nonprofits and government research organizations.

Employers must electronically register prospective H-1B visa beneficiaries during a specified period and then the USCIS conducts a random, computer-generated lottery to select H-1B registrations. Only individuals with valid selected registrations may file H-1B cap petitions. The H-1B lottery system first counts all petitions toward the quota, including Master's Cap petitions, and subsequently selects petitions toward the advanced degree exemption.

Entry based on international agreements

H-1B1 Free Trade Agreement visa

Prospective employers of foreign professionals who are citizens of Singapore and Chile may take advantage of additional quota allocations and more streamlined processing rules. Although limited in number, the supply of these visas is consistently greater than demand, making them more readily available. The scope of authorized work is essentially the same as the H-1B. The spouse and unmarried children under the age of 21 of an H-1B1 visa holder may be issued the H-4 for the same period. This visa requires proof of the foreign national's nonimmigrant intention to leave the US.

E-3 Free Trade Agreement visa

Prospective employers of foreign professionals who are citizens of Australia can take advantage of similar free trade agreement benefits using the E-3 visa. While subject to an annual quota of 10,500 visas, this quota has never been met, and E-3 visas are commonly available. The scope of authorized work is similar to the H-1B, but status is granted for up to 24 months, with available extensions in increments of up to 24 months. The spouse and unmarried children under the age of 21 of an E-3 visa holder may be issued the E-3 for the same period. The E-3 spouse is authorized to work in the United

States after arrival in E-3 status and may, but is not required to, apply for an employment authorization document. This visa requires proof of the foreign national's nonimmigrant intention to leave the country.

TN North American Free Trade Agreement visa

Employers of foreign professionals who are citizens of Canada and Mexico can take advantage of different free trade agreement benefits using the TN visa. There are no numerical limits, so these visas are always available. The job offered must be in one of the professions covered by the US-Mexico-Canada Agreement (formerly known as North American Free Trade Agreement (NAFTA)), each of which has its own education or experience requirements. TN status is granted for up to three years, with a potentially unlimited number of three-year extensions available. The spouse and unmarried children under the age of 21 of a TN visa holder may be issued a TD visa for the same period. This visa requires proof of the foreign national's nonimmigrant intention to leave the US.

Some of the more commonly used professions covered by the TN include computer systems analyst, engineer (all types), economist, lawyer, management consultant, biologist, chemist, industrial designer, accountant and scientific technician. A complete list of NAFTA professions can be found here.

E-1 and E-2 Treaty Trader and Investor visas

Foreign-owned companies doing business in the US may temporarily employ qualified foreign workers to facilitate international trade or investment activities. E visa status is granted for up to five years, with a potentially unlimited number of extensions in five-year increments. The spouse and unmarried children under the age of 21 of an E-1 or E-2 visa holder may be issued the E visa for the same period. The spouse may apply for employment authorization after arrival.

The list of countries with E-1 trade and E-2 investment treaties changes often, and the government's regularly updated list can be found here. Qualifying companies must be at least 50% owned by citizens of the same treaty country. E visa status is only available to citizens of that same country. Not all countries hold treaties or agreements for both E-1 trade and E-2 investment visa status, and many countries hold neither, as can be seen in the following table:

Countries with E-1 Treaty Trader visa eligibility				
Argentina	Australia	Austria	Belgium	Bolivia
Bosnia and Herzegovina	Brunei	Canada	Chile	Taiwan
Colombia	Costa Rica	Croatia	Denmark	Estonia
Ethiopia	Finland	France	Germany	Greece
Honduras	Iran	Ireland	Israel	Italy
Japan	Jordan	Korea (South)	Kosovo	Latvia
Liberia	Luxembourg	Macedonia	Mexico	Montenegro
The Netherlands	New Zealand	Norway	Oman	Pakistan
Paraguay	The Philippines	Poland	Serbia	Singapore
Slovenia	Spain	Suriname	Sweden	Switzerland
Thailand	Togo	Türkiye	United Kingdom	Yugoslavia

Country with E-2 Treaty Investor visa eligibility				
Albania	Argentina	Armenia	Australia	Austria
Azerbaijan	Bahrain	Bangladesh	Belgium	Bolivia
Bosnia and Herzegovina	Bulgaria	Cameroon	Canada	Chile
Colombia	Congo (Brazzaville)	Congo (Kinshasa)	Costa Rica	Croatia
Czech Republic	Denmark	Ecuador	Egypt	Estonia
Ethiopia	Finland	France	Georgia	Germany
Grenada	Honduras	Iran	Ireland	Israel
Italy	Jamaica	Japan	Jordan	Kazakhstan
Korea (South)	Kosovo	Kyrgyzstan	Latvia	Liberia
Lithuania	Luxembourg	Macedonia	Mexico	Moldova
Mongolia	Montenegro	Morocco	The Netherlands	New Zealand
Norway	Oman	Pakistan	Panama	Paraguay
The Philippines	Poland	Portugal[1]	Romania	Senegal
Serbia	Singapore	Slovakia	Slovenia	Spain
Sri Lanka	Suriname	Sweden	Switzerland	Taiwan
Thailand	Togo	Trinidad and Tobago	Tunisia	Türkiye
Ukraine	United Kingdom	Yugoslavia		

The E-1 requires proof of substantial trading activity between the US and the treaty country. The level of trade can be measured by its value, frequency and volume. Only trade between the US and treaty country is considered, and that must account for at least 50% of the trade of the sponsoring employer. Items of trade range from goods to services, transportation, communications, data processing and finance.

The E-2 requires proof of substantial capital investment that has either already been made or that is in the process of being made when the visa is requested. No minimum value threshold is set for the investment. The amount is measured in relation to the total cost of the US business. Only funds or the value of the property committed to the capital investments is considered, and not the cost of operating expenses. E visa status is available to individual investors with a majority ownership interest and to employees coming to work in either a supervisory role or a position involving skills essential to the venture.

[1] Pending final implementation from the US Department of State.

Training

J-1 exchange visitor visa

The J-1 exchange visitor visa is used for several different purposes, including business trainees. The purpose is to allow foreign nationals to receive training that will facilitate their career when they return to their home country. A detailed training program is required.

The J-1 program does not require employers to submit an application through the USCIS, as they would for most employment visas. Rather, the prospective trainee requests training authorization directly from a sponsoring organization that has been authorized by the Department of State to administer J-1 training programs. There are many professional associations and third-party organizations authorized as J-1 sponsors. Corporations that routinely use the J-1 visa to accommodate trainees may also register themselves as sponsoring organizations.

The length of stay for such training assignments can be for up to 18 months, including all possible extensions. Compensation for training is permitted. The spouse and minor, unmarried children of a J-1 exchange visitor visa holder may be issued J-2 visas. The J-2 spouse may apply for employment authorization after arrival.

Some, but not all, J-1 and J-2 exchange visitors are subject to the requirement that they return to their home country for at least two years at the end of the J-1 training before becoming eligible to return to the US to work under a different type of visa. The country of residence, field of training and source of any government funding for the training can give rise to this requirement. Waivers of the two-year homestay requirement are available in certain circumstances.

H-3 trainee visa

The H-3 visa is designed for foreign nationals coming to the US for training that is not available in the trainee's home country and that will benefit the trainee's career abroad. H-3 trainees cannot engage in productive employment, unless it is merely incidental and necessary to the training. Additionally, H-3 trainees cannot be placed in a position that is in the normal operation of the business and in which local workers are regularly employed.

In practice, H-3 visa requests are more readily granted for formal, classroom-type training and are more likely to be denied when an on-the-job training element is included, regardless of statements that this work may be incidental and necessary. A detailed training program is required.

The maximum duration of the H-3 visa is two years. The spouse and unmarried children under the age of 21 of an H-3 visa holder may be issued the H-4 dependent visa to accompany the H-3 trainee.

Although the H-3 visa does not impose specific compensation requirements, low salaries are sometimes criticized for the possibility of exploiting foreign labor, while high salaries can be criticized for possibly indicating productive labor.

B-1 visa in lieu of H-3

Foreign nationals may be admitted to the US to participate in H-3-type training programs using the B-1 visa, provided that they have been customarily employed by and will continue to receive a salary from the foreign sending company.

Other comments

There are many additional nonimmigrant visas less frequently used for global mobility assignments that are worth a brief mention. Foreign students with the F-1 visa are often granted authorization for employment related to their studies before and after graduation. Certain F-1 students who receive

science, technology, engineering and mathematics degrees, and who meet other specific requirements, are able to apply for a 24-month extension of work authorization after graduation if their employer is enrolled in E-Verify.

The O-1 visa authorizes the employment of foreign nationals of extraordinary ability. Foreign nationals with skills in short supply in the US may be able to obtain the H-2B visa for temporary, seasonal or peak load type of work.

Immigrant visas generally take longer to obtain, but in some situations compare favorably to nonimmigrant visas. Permanent resident status is often a goal for foreign nationals, and US employers rely on immigrant visas to continue to have access to their work after the nonimmigrant visas' limited duration is exhausted. Selecting a nonimmigrant visa that is consistent with a long-term immigrant visa option can be crucial. US employers are well advised to develop policies and practices that recognize the value of the immigration process to recruit and retain skilled foreign professionals, while ensuring corporate compliance with US law.

In addition to employment-based immigrant visas, immigration to the US is possible through family-based immigrant visas by relatives who are qualified US citizens or permanent residents.

Immigrants are often interested in later becoming US citizens. Naturalization to citizenship generally requires five years of continuous residence after immigrating, for at least half of which the immigrant must be physically in the country. Lengthy travel abroad, therefore, can detrimentally impact eligibility.

Further, immigrant status itself can be lost through lengthy travel abroad. US permanent residents may be reluctant to accept assignments outside the US for this reason. It is often possible to address these concerns. The USCIS can issue reentry permits to help immigrants maintain their status while abroad. Further, immigrants working abroad for US-owned companies or their foreign subsidiaries may qualify to protect their eligibility for citizenship. Both requests are time sensitive and should be made before the assignment abroad begins.

US law generally requires immigrants to continue to file federal income tax returns, even when all their income is earned abroad. Moreover, immigrant status can be impacted if a nonresident tax return is filed or if no US return is filed.

Vietnam

Introduction

Vietnam has agreements with many countries permitting visa exemptions for visitors coming into Vietnam for a short period of time. Vietnam also unilaterally grants visa exemptions for citizens of several countries. Other visitors must secure the proper visa before entering the country.

As regulations change frequently, verifying the following information is highly recommended.

Key government agencies

The Ministry of Public Security (MPS) is responsible for approving the entry visas of most foreign nationals who would like to enter Vietnam. Applications by other individuals, such as state officials and foreign representatives or diplomats, are addressed to the Ministry of Foreign Affairs (MOFA).

Most foreign nationals who would like to work in Vietnam must obtain a work permit or certificate of work permit exemption.

In general, the Provincial-Level Department of Labor, War Invalids and Social Affairs (DOLISA) has the authority to grant work permits or certificates of work permit exemption to foreign nationals.

In addition to the DOLISA, the Ministry of Labor, War Invalids and Social Affairs (MOLISA) has the authority to issue and revoke work permits or certificates of work permit exemption, mainly for foreign nationals who come to Vietnam to work for state authorities, NGOs, international organizations, business associations or regulated businesses in which the sponsoring entity's operating license is granted by a ministry-level agency (such as the banking and insurance sectors).

Current trends

The Law on the Entry, Exit, Transit and Residence of Foreign Nationals in Vietnam came into effect in 2015, and was further amended in 2019 and 2023. The latest Law No. 23/2023/QH15, amending and supplementing several articles of Law No. 47/2014/QH13 on Entry, Exit, Transit and Residence of Foreign Nationals in Vietnam, came into effect on 15 August 2023 ("**Amended Law**") and aimed to further streamline the immigration process and facilitate foreign nationals' entry.

Vietnam has introduced an e-visa, e-work permit and e-residence registration in an effort to set up an e-government.

Business travel

Types of visa

The type of visa is determined by the foreign national's purpose of entry into Vietnam. According to the Amended Law, which took effect on 15 August 2023, types of visa will be amended and supplemented to include the following:

- Diplomatic visas (NG1-NG4) for people working with state authorities, sociopolitical organizations, social organizations and the Vietnam Chamber of Commerce and Industry (LV1-LV2)
- Visas for foreign investors in Vietnam and representatives of foreign organizations that invest in Vietnam, which are classified into four categories based on the capital contribution, industries and areas of the investment, particularly the following:
    - Visa DT1 — capital contribution of VND 100 billion (approximately USD 4,077,000) and over, or investment in industries or areas eligible for investment incentives
    - Visa DT2 — capital contribution from VND 50 billion (approximately USD 2,038,500) up to, but less than, VND 100 billion (approximately USD 4,077,000) or investment in encouraged industries
    - Visa DT3 — capital contribution from VND 3 billion (approximately USD 122,310) up to, but less than, VND 50 billion (approximately USD 2,038,500)
    - Visa DT4 — capital contribution of less than VND 3 billion (approximately USD 122,310)
- Visas for foreign lawyers practicing in Vietnam (LS)
- Visas for foreign nationals who enter to work with companies and other organizations with legal status in accordance with the laws of Vietnam (DN1)
- Visas for foreign nationals who enter to offer services, establish a commercial presence and conduct other activities according to international treaties to which Vietnam is a signatory (DN2)
- Visas for the following:
    - Foreign nationals who are heads of the representative offices or project offices of international organizations or NGOs in Vietnam (NN1)
    - Foreign nationals who are the heads of the representative offices or branches of foreign traders, or the representative offices of economic, cultural or other specialized organizations (NN2)
    - Foreign nationals who come to Vietnam to work with NGOs, the representative offices or branches of foreign traders, or the representative offices of economic, cultural or other specialized organizations (NN3)
- Visas for foreign nationals coming to intern or study (DH)
- Visas for foreign nationals attending seminars and conferences (HN)
- Visas for reporters (PV1-PV2)
- Visas for foreign employees working in Vietnam, which are now classified into two categories:

  - Visas for foreign employees who have a work permit exemption certificate (LD1)
  - Visas for foreign employees who are required to have a work permit (LD2)
- Visas for tourists (DL)
- Visas for foreign nationals who are the spouse or children, under 18 years of age, of foreign nationals issued with LV1, LV2, LS, DT1, DT2, NN1, NN2, DH, PV1, LD1 or LD2, or the parent, spouse or children of Vietnamese citizens (TT)
- Visas for foreign nationals coming to visit relatives or for other purposes (VR)
- Visas for foreign nationals coming for the purpose of a market survey, tourism, visiting family members or medical treatment and falling under specific circumstances, as explained in detail under the "Foreign nationals without sponsorship" section below (SQ)
- Electronic visas (EV)

Foreign nationals may apply for single- or multiple-entry visas. The majority of visas are valid for no more than 12 months, with the exception of SQ (no more than 30 days); HN, DL and EV (no more than 90 days); VR (no more than 180 days); LD1 and LD2 (no more than two years); DT3 (no more than three years); and LS, DT1 and DT2 (no more than five years) visas.

Electronic visas are valid for multiple entries with a maximum stay of 90 days. Applicants can make applications and fee payments online, and the visa will be issued via the website. Citizens of all countries and territories are eligible for electronic visas. All major border gates of Vietnam accept electronic visas and are subject to the government's further guidance from time to time.

To be eligible for a visa, among other criteria, the foreign national must either be sponsored by an agency, organization or individual in Vietnam or, in the absence of such sponsorship, must fall under special categories of entry.

Individuals that come to Vietnam to engage in religious or cultural activities and members of the media must obtain approval from the relevant government authorities for their visit before entry.

Foreign nationals sponsored by non-state agencies or individuals living in Vietnam

Foreign nationals can be sponsored for visas by the following:

- Enterprises established pursuant to Vietnamese laws
- Diplomatic missions and consular agencies
- Representative offices of international organizations affiliated with the United Nations (UN) or intergovernmental organizations in Vietnam
- Representative offices, branches of foreign traders, or representative offices of other foreign economic, cultural and professional organizations in Vietnam
- Other organizations with legal status as prescribed by Vietnamese laws
- Vietnamese citizens residing in Vietnam or foreign nationals who hold temporary or permanent residence cards

The head of the host organization or the host citizen must file a request and all the necessary supporting documentation with the immigration authority under the MPS for the issuance of the entry visa. The immigration authority undertakes to make a decision within five working days of receiving

the request. Upon approving the request, the immigration authority will direct the relevant overseas Vietnamese diplomatic mission to issue the entry visa to the foreign national.

Visa on arrival

Organizations may request that the immigration authority issue an entry visa at an international port of entry, provided that the name of the port of entry and the time of entry are specified in the application. To be eligible for this issuance, the foreign national must fall under one of the following criteria:

- The foreign national departs from a country that does not have any visa-issuing authority of Vietnam.
- The foreign national has to stop by multiple countries before arriving in Vietnam.
- The foreign national comes to Vietnam to take a tour organized by an international tourism company in Vietnam.
- The foreign national is a crew member of a ship anchoring at a Vietnamese port who would like to leave Vietnam through another border checkpoint.
- The foreign national comes to Vietnam to attend their relative's funeral or to visit a gravely ill relative.
- The foreign national comes to Vietnam to participate in dealing with an emergency, rescue, prevention of a natural disaster, or epidemic, or for another purpose at a competent authority of Vietnam's request.

Foreign nationals without sponsorship

Foreign nationals without an invitation letter from a local individual or organization in Vietnam will only be granted visas for the maximum term of 30 days. To be eligible, the foreign national must enter Vietnam for the purpose of a market survey, tourism, visiting family members or medical treatment, and fall under one of the following criteria:

- A foreign national who has a working relationship with an overseas visa-issuing authority of Vietnam, and their spouse and children
- A foreign national who presents a written request from a competent agency of the MOFA of the host country
- A foreign national who presents a diplomatic note of sponsorship from a foreign diplomatic mission or consular office in the host country

Temporary residence cards

Foreign nationals who are members of diplomatic missions, consular offices, representative offices of international organizations of the UN, and intergovernmental organizations in Vietnam, as well as their spouses, children under 18 years of age and domestic staff that accompany them during their term of office, will be issued NG3 temporary residence cards.

Otherwise, holders of LV1, LV2, LS, DT1, DT2, DT3, NN1, NN2, DH, PV1, LD1, LD2 and TT visas are eligible for the corresponding temporary residence cards.

The term of a temporary residence card does not exceed the following:

- Ten years for DT1 cases
- Five years for NG3, LV1, LV2, LS, DT2 and DH cases

- Three years for NN1, NN2, DT3 and TT cases
- Two years for LD1, LD2 and PV1 cases

Upon the expiry of the temporary residence card, foreign nationals can apply for a new temporary residence card. The term of the temporary residence card is at least 30 days shorter than the remaining term of its holder's passport.

A holder of a temporary residence card is exempt from the visa requirements throughout the term of the card.

Permanent residence cards

Under the law and its implementing regulations, permanent residence cards permit foreign nationals to reside in Vietnam for an unlimited amount of time. Only the following cases, in which the foreign nationals have a place of legal residence and stable income to support their lives in Vietnam, may be considered for permanent resident status:

- Foreign nationals who have contributed to the development and protection of Vietnam and have been granted medals or honorary titles by the Vietnamese government
- Foreign nationals who are (i) scientists or experts currently residing temporarily in Vietnam and (ii) proposed by the minister or the head of ministerial agencies or governmental agencies in the corresponding field
- Foreign nationals who (i) are sponsored by parents, spouses or children who are Vietnamese citizens, and currently residing permanently in Vietnam and (ii) have continuously resided in Vietnam for at least three years
- Foreign nationals without nationalities who have continuously resided in Vietnam from 2000 or before

Foreign nationals who would like to apply for permanent residency may do so with the immigration authority under the MPS. Once given permanent resident status, a permanent residence card will be issued to the concerned person. A person holding a permanent residence card will be exempt from any visa requirements.

Employment assignments

Acquiring an entry visa or a temporary residence card only addresses the entry, exit and residence rights of foreign nationals in Vietnam. Any foreign national, including overseas Vietnamese individuals, who want to work in Vietnam must obtain work permits unless they qualify for any of the exemptions mentioned below. The DOLISA or MOLISA is responsible for issuing work permits to foreign nationals who would like to work for enterprises and organizations in Vietnam.

Skilled workers

The government's policy is still to limit the use of foreign nationals in positions/jobs that can be handled by Vietnamese persons. To prevent low-quality foreign labor, the government asks for the recruitment notice of Vietnamese employees for the same position, and the preapproval of a foreign labor usage plan before the official submission of work permit applications. Therefore, the authorities have a chance to refuse the use of foreign nationals in a job/position that a Vietnamese person can handle. Contractors are also required to prioritize Vietnamese employees in their projects in Vietnam. In practice, there have been cases where the relevant authority did not allow companies to recruit foreign nationals for certain positions. However, there are no clear criteria on jobs that can be handled by Vietnamese employees. Recently, with the new requirement on posting jobs for Vietnamese

employees prior to applying for a work permit for a foreign national, MOLISA would expect that, if no local employee applies or is qualified for the position, this would be reasonable justification for the employer to proceed with having a foreign employee fill the position.

In addition, among the various criteria for a work permit, a foreign worker must be a manager, executive, expert or technician.

The work permit application for managers and executives must include documents proving that the foreign nationals are managers or executives. They can be labor contracts, or appointment letters or corporate licenses/certificates showing that they are working in managerial/executive positions.

The term "manager" is defined by the Law on Enterprises as (i) an owner of a sole proprietorship, a partner of a partnership, the chairperson of the board of members, a member of the board of members, the company's president, the chairperson of the board of directors, a member of the board of directors, the director/general director, or a person holding another managerial position according to the company's charter or (ii) the head or deputy head of the agency or organization.

An "executive" means any of the following persons: (i) the head of a branch, representative office or place of business of the enterprise; or (ii) a person leading and directly managing at least one function of an enterprise, who is working under the direct instruction and management of the head of this enterprise.

The application for experts must include documents proving that (i) the foreign national holds the requisite academic qualification and at least three years of suitable work experience for the job position in Vietnam, or (ii) the foreign national has at least five years of experience and a practicing license suitable for the job position they will hold in Vietnam.

For technicians, the application must include documents proving or certifying that (i) they have been trained for a duration of at least one year, as issued by relevant organizations or authorities or foreign companies, and have at least three years of suitable work experience for the job position in Vietnam, or (ii) they have at least five years of experience in a job corresponding to that which they will hold in Vietnam.

Foreign experts and technicians whose work permits have been renewed once that would like to continue to work in the same job positions and titles as provided in these work permits can use the issued work permits as evidence of their eligibility as "experts" or " technicians" in the application for new work permits.

Intracompany transfer

An intracompany transfer from a foreign enterprise to that enterprise's direct commercial presence in Vietnam is possible after the foreign national has worked at the foreign enterprise for at least 12 consecutive months prior to the transfer. The commercial presence exclusively includes the foreign invested economic entity, the representative office, the branch of the foreign trader in Vietnam and the operational office of the foreign investor in a business cooperation contract. Unless the foreign national falls under the categories of a work permit exemption, the foreign enterprise's commercial presence in Vietnam must submit an application dossier (which, aside from the generally required documents, must include documents proving that the foreign national has worked at the foreign enterprise for at least 12 consecutive months) to obtain a work permit for the foreign national.

In this scenario, the foreign national can still maintain the employment relationship with the parent company and does not sign any local employment contract. The advantage of this is that, while it is very difficult for an employer to terminate employees under Vietnamese law, the parent company can transfer the foreign national back to their home country and easily terminate them under the foreign law (assuming that termination at will is allowable in foreign countries). The foreign national can also

maintain their current benefits (such as participation in pension and social security schemes) in their home country.

However, some of the common difficulties in sending a foreign national to Vietnam under an intracompany transfer is that the foreign national is working for an affiliate rather than the parent company of the commercial presence in Vietnam, or the foreign national has not worked for at least 12 consecutive months prior to the date that the application for a work permit was submitted.

The new regulation allows work permits to be granted to foreign nationals who are assigned by a foreign entity to Vietnam to work ("**Assignees**"). Generally, this category does not impose any strict conditions like intracompany transferees, so, in principle, foreign employees from affiliates can receive work permits under this category. The application for this category varies and depends on DOLISA.

Post-entry procedures

At the border gates, the foreign nationals must present visas to the immigration officers, except when the foreign nationals are exempt from visas. The immigration officer will grant a certification of temporary residence, which indicates the allowed time of stay in Vietnam, unless the foreign nationals present temporary or permanent residence cards. Generally, in most cases, the granted term of temporary residence is the same as the visa term.

Any foreign national that temporarily resides in Vietnam must, via the manager of the lodging establishment, declare their temporary residence status at the local police authority.

The manager of the lodging establishment shall complete the declaration form and submit it to the local police authority within 12 hours (or within 24 hours if the administrative division is in a remote area) of the foreign national's arrival at the lodging establishment. Hotels must file temporary residence information through an online account on the website of the provincial-level immigration department ("**Information Portal**") where the foreign national resides. Other lodging establishments may choose to declare the temporary residence via the Information Portal or via the declaration form, as prescribed by the MPS, and submit the same information to the communal-level police. If the foreign national changes their temporary residence address or resides in a place different from that written on their temporary residence card, they must submit a new declaration of temporary residence.

Forms of working in Vietnam

Foreign nationals working in Vietnam in the following forms are subject to the regulation on foreign labor management:

- Working pursuant to a labor contract
- Working in the context of an intracompany transfer
- Performing any of the following types of contracts: economic, commercial, financial, banking, insurance, scientific and technical, cultural, sporting, educational, vocational, or medical contracts
- Providing a service pursuant to a contract
- Offering services
- Working for a foreign nongovernmental organization or an international organization in Vietnam that is permitted to operate pursuant to the laws of Vietnam
- Working as a volunteer

- Establishing a commercial presence in Vietnam
- Working as a manager, executive, expert and technician
- Implementing a tender or project in Vietnam
- Working as an Assignee
- Being permitted to work as relatives of members of foreign diplomatic missions in Vietnam according to international treaties to which Vietnam is a signatory

Work permit application process

If the foreign nationals are subject to work permits, the sponsor (with the exception of foreign bidders for the foreign national's work permit) must do the following:

- Announce the recruitment of Vietnamese workers to the job positions in which foreign workers are expected to work at least 15 days before the expected date for the report explaining the demand for the use of foreign labor
- Notify the DOLISA or MOLISA about the sponsor's foreign labor usage plan at least 15 days prior to the date the sponsor intends to recruit/use the foreign national (The DOLISA or MOLISA must be notified of any change in foreign labor demand at least 15 days prior to the date the sponsor intends to recruit/use the foreign national.)
- Obtain approval of the foreign labor usage plan issued by the DOLISA or MOLISA
- Submit an application for a work permit at least 15 days prior to the date the foreign national intends to start working

By law, the approval of the foreign labor usage plan takes place within 10 working days from the date of receipt of the notification from the sponsor, while the work permit issuance process will only take five working days from the date of submission of a properly completed application dossier.

However, document preparations may take several months. Therefore, companies should prepare the work permit application and apply for the work permit well in advance of the employee's intended date of arrival in Vietnam.

Exemption from submitting the foreign labor usage plan

The sponsor does not need to submit and get approval for a foreign labor usage plan in the following cases:

- Foreign students studying at foreign schools/institutions who enter Vietnam pursuant to an internship contract signed with agencies, organizations or enterprises in Vietnam; foreign students completing an internship or practicing on seagoing ships
- Foreign nationals entering Vietnam to work as a manager, executive director, expert or technician for a period of less than 30 days, provided that the accumulative time of working in Vietnam in a year does not exceed 90 days
- Foreign nationals entering Vietnam for a period of less than three months to offer services
- Foreign nationals staying in Vietnam for less than three months to deal with complicated technical or technological problems that (i) adversely impact or are at risk of having an adverse impact on production and business activities and (ii) cannot be handled by Vietnamese and foreign specialists who currently reside in Vietnam

- Foreign nationals who are chief representatives of a representative office or heads of a project office of an international organization or a nongovernmental organization in Vietnam
- Foreign nationals who are the owner or capital contributors contributing VND 3 billion or more
- Chair of the board of directors, or members of the board of directors contributing VND 3 billion or more
- Foreign nationals coming to Vietnam to establish a commercial presence in Vietnam
- Foreign nationals with public-affair passports coming to Vietnam to work for state authorities, political agencies or sociopolitical organizations
- Foreign nationals coming to Vietnam to implement international agreements signed by the central or provincial state authorities/organizations according to the law
- Foreign nationals who are relatives of members of foreign diplomatic missions in Vietnam who are exempt from work permit requirements according to international treaties to which Vietnam is a signatory
- Foreign lawyers who have been granted a lawyer's practicing certificate in Vietnam in accordance with the Law on Lawyers
- Foreign nationals who get married to a Vietnamese citizen and would like to reside in Vietnam
- Foreign nationals who enter Vietnam to provide professional and engineering consulting services or perform other tasks intended for research, formulation, appraisal, supervision, evaluation, management and execution of programs and projects using official development assistance (ODA) in accordance with the regulations or agreements in international treaties on ODA signed between the competent authorities of Vietnam and foreign countries
- Foreign nationals who are granted a communication and journalism practicing certificate in Vietnam by the MOFA as per the law
- Unpaid foreign nationals who voluntarily work in Vietnam to implement an international treaty to which Vietnam is a signatory with certification of a foreign diplomatic mission or international organization in Vietnam
- Foreign nationals certified by the Ministry of Education and Training as a foreign worker entering Vietnam for (i) teaching or researching, or (ii) acting as a manager, executive, principal or deputy principal of an educational institution, which is established in Vietnam under a proposal of a foreign diplomatic mission or intergovernmental organization

Requirements for a contractor winning a bid

In the case of implementing a bid won by a contractor, certain requirements are to be met:

- Before recruiting foreign employees, the contractor must declare its foreign labor demand to the DOLISA in the province where the project is being implemented, with this declaration certified by the investor (project owner), and request that the DOLISA approve the recruitment of these foreign employees.
- The DOLISA will assign the labor service providers, among others, to find suitable local employees for the contractor.
- The DOLISA will consider allowing the contractor to recruit foreign employees if local employees are not introduced to the contractor within one of the following time frames:

- Two months from the date on which the written request for 500 local employees or more is received
- One month from the date on which the request for 100 to fewer than 500 local employees is received
- Fifteen days from the date on which the request for fewer than 100 employees is received

Conditions for work permit issuance

The conditions for work permits vary according to the categories of foreign nationals, as mentioned above. However, the general conditions required of foreign nationals are as follows:

- They must be at least 18 years old with full civil act capacity in accordance with the law.
- They must be in suitable health certified by a health certificate.
- They must have a clean criminal record according to both Vietnamese law and foreign law.
- They must be managers, executives, experts or technicians meeting certain conditions regarding relevant experience or qualifications, as detailed in the "Skilled workers" section above.
- They must have received written approval from the relevant labor authority regarding foreign labor usage.

Application dossier for a work permit

The application for a work permit must include substantial supporting documents, such as a criminal record, a health certificate, diplomas, certificates regarding the foreign national's skills and a certificate of work experience. Documents that are written or issued in a foreign language must be apostilled, consularized and translated into Vietnamese, and the translation must be notarized for submission.

Other issues on work permits

The industrial zone authorities are no longer in charge of handling work permit applications (and have governing authority over work permit-related matters).

The MOLISA shall grant work permits (and have governing authority over all work permit-related matters) for foreign employees who (i) work for organizations permitted to be established by the government, prime minister, ministries, ministry-level agencies or agencies of the government (such organizations include, for instance, enterprises operating in the banking or insurance sectors) or (ii) work for an employer in a variety of provinces/cities.

An employer whose head office is in a province/city but has representative offices or branches in another province/city is entitled to file the application at the MOLISA.

The DOLISA shall grant work permits (and have governing authority over all work permit-related matters) (i) for foreign employees working for an employer in different locations in the same province/municipality and (ii) in other cases that do not fall under the MOLISA's governing authority.

For locally hired employees, the employer and the foreign employee may only enter into an employment contract after a work permit has been issued by the DOLISA or MOLISA.

The term of the work permit will be set as the term of work in Vietnam but shall be no longer than 24 months. Work permits can only be extended once with the maximum same term, subject to the term of work in Vietnam. Then, a new work permit must be obtained.

Foreign nationals who work in Vietnam without first obtaining a work permit may face expulsion from Vietnam. Furthermore, employers that recruit foreign nationals who are working without proper work permits or who are barred from working in Vietnam may be subject to a monetary fine. With respect to exemptions and required documents, an employer that would like to apply for a work permit for its foreign employee should seek professional assistance with regard to their particular circumstances, as regulations frequently change and authorities may also change their interpretation of existing regulations.

Online work permit application

On 15 August 2017, the MOLISA officially issued a circular detailing online work permit application procedures applicable to foreign nationals working in Vietnam (i.e., approval of requests for utilizing foreign employees, issuance/reissuance of work permits and affirmation of work permit exemptions), which came into force on 2 October 2017. Under this circular, several notable provisions are as follows:

- The online work permit application procedures must be carried out via an account registered by the employer here.
- All written documents must be converted into electronic form — if these written documents are legally invalid, the respective electronic forms are legally invalid.

The online procedures have provided employers with a more cost-effective and time-saving option in comparison with existing paper-based procedures.

Work permit exemption

Certain professions are exempt from obtaining a work permit, including the following:

- Capital-contributing members or owners of limited liability companies with a capital contribution value of at least VND 3 billion
- Members or the chairperson of the management board of joint-stock companies with a capital contribution value of at least VND 3 billion
- Chiefs of representative/project offices of international organizations or nongovernmental organizations in Vietnam
- Foreign nationals staying in Vietnam for under three months to offer services for sale
- Foreign lawyers that have a professional practice license in Vietnam in accordance with the Law on Lawyers
- Foreign nationals staying in Vietnam for less than three months to deal with complicated technical or technological problems that (i) adversely impact or are at risk of having an adverse impact on production and business activities and (ii) cannot be handled by Vietnamese and foreign specialists who currently reside in Vietnam
- Foreign nationals married to Vietnamese citizens and residing in Vietnam
- Other cases in accordance with international treaties to which Vietnam is a signatory
- Foreign nationals that are intra-corporate transferees within enterprises engaged in any of the following service industries in the commitment on services between Vietnam and the World

Trade Organization (WTO): business, information, construction, distribution, education, environment, finance, health, tourism, entertainment and transportation, as described in detail under the "Intracompany transfer" section above

- Foreign nationals who provide professional and technical advisory services or perform other tasks serving the research, construction, appraisal, assessment, management and execution of programs and projects funded by ODA according to the international treaties on ODA between the competent authorities of Vietnam and other countries
- Foreign nationals who are issued with the licenses for practicing communications or journalism in Vietnam by the MOFA
- Foreign nationals who are appointed by foreign agencies or organizations to teach or act as a manager or executive at an educational institution, which is established in Vietnam under a proposal of a foreign diplomatic mission or intergovernmental organization, or establishments or organizations formed in accordance with international treaties to which Vietnam is a signatory
- Foreign volunteers working in Vietnam voluntarily without a salary to implement international treaties to which Vietnam is a signatory and that must be certified by diplomatic missions or international organizations in Vietnam
- Foreign nationals entering Vietnam to work as a manager, executive director, expert or technician for a period of less than 30 days, provided that the number of entries does not exceed three per year
- Foreign nationals entering Vietnam to implement international agreements to which central or provincial state agencies and organizations are signatories
- Foreign students studying at foreign schools/institutions who enter Vietnam pursuant to an internship contract signed with agencies, organizations or enterprises in Vietnam; trainees interning or practicing on Vietnam's seagoing vessels
- Foreign nationals in charge of establishing a commercial presence in Vietnam
- Foreign nationals who are relatives of members of foreign diplomatic missions in Vietnam, who are exempt from work permit requirements according to international treaties to which Vietnam is a signatory
- Foreign nationals holding public-affair passports entering Vietnam to work for state agencies, political organizations and sociopolitical organizations
- Foreign nationals entering Vietnam, as certified by the Ministry of Education and Training, to (i) teach or research, or (ii) act as a manager, executive, principal or deputy principal of an educational institution, which is established in Vietnam under a proposal of a foreign diplomatic mission or intergovernmental organization

Each situation would need to be evaluated to determine if the intended activities in Vietnam could be exempt from the work permit requirement.

In most of the above cases, for those foreign nationals who are exempt from work permit requirements, their employer must request that the DOLISA or MOLISA in the locality of the foreign national's workplace issue the work permit exemption certificate (with a maximum term of two years subject to the foreign national's working term in Vietnam) and provide supporting documentation. In some cases, the requirement to obtain an approved foreign labor usage plan still applies.

However, in the following cases, it is not necessary to obtain a work permit exemption certificate:

- Foreign lawyers who have been granted practicing licenses in Vietnam in accordance with the Law on Lawyers
- Foreign nationals married to Vietnamese citizens and residing in Vietnam
- Foreign nationals entering Vietnam to work as managers, executives, directors, experts or technicians for a period of less than 30 days, provided that the number of entries does not exceed three per year
- Foreign nationals entering Vietnam for a period of less than three months to offer services
- Foreign nationals who are owners or capital contribution members of limited liability companies with a capital contribution value of at least VND 3 billion
- Foreign nationals who are chairpersons or members of the board of directors of joint-stock companies with a capital contribution value of at least VND 3 billion
- Foreign nationals who are relatives of members of foreign diplomatic missions in Vietnam, who are allowed to work in Vietnam according to international treaties to which Vietnam is a signatory

In the above cases, although a work permit exemption certificate is not required, employers must report to the MOLISA or the DOLISA about the foreign employees at least three working days before the tentative date of work commencement.

Entry based on international agreements

APEC Business Travel Card (ABTC) program

By a decision of the prime minister in 2006, Vietnam began participating in the ABTC program for APEC countries. The ABTC is a travel card granted to businesspeople of APEC countries that participate in the program to facilitate their business travel among the APEC countries. Under this program, Vietnam committed to granting a visa waiver for ABTC holders. The ABTC is valid for five years from the date that the card is issued and cannot be extended. When the issued card expires, the card holders may apply for a new card, if necessary.

Visa waiver

Vietnam has a visa waiver program for foreign nationals of many countries, both through unilateral and bilateral commitments. Vietnam has entered into various bilateral visa waiver treaties and agreements with other countries. However, these commitments vary with regard to the length of stay permitted, the type of visa and various other conditions, and so it is advisable to check with your nearest Vietnamese consular office, or visit the consular bureau of the MOFA's website for more detailed and current information.

Other comments

Planned legislative change

Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP)

On 8 March 2018, the CPTPP was signed by 11 countries, including Vietnam. The CPTPP was ratified by Vietnam on 12 November 2018 and went into effect on 14 January 2019. Certain commitments set forth in the CPTPP are expected to have an impact on Vietnam's labor and

immigration laws. Specifically, some provisions of the CPTPP conflict with Vietnam's commitments under the WTO and existing Vietnamese laws, namely the following:

The durations of temporary entry for each natural person are as follows:

- Service sales person — up to six months, if (i) they are not based in Vietnam, (ii) they are not receiving payments from a Vietnamese source and (iii) they are entering Vietnam representing a service provider to negotiate a sale of services (The duration permitted under the CPTPP is much longer than that of the WTO commitment, which is a maximum of 90 days with the same requirement.)
- Intra-corporate transferees — up to three years, with the possibility of extension for manager/executives and experts
- Persons setting up a commercial presence — up to one year, if (i) they hold the position of manager or executive, (ii) they are not making direct sales or supplying services and (iii) the service provider is based in another country that is a party to the CPTPP, with no commercial presence in Vietnam
- Contractual service suppliers — the shorter of the term of the contract or six months, with the possibility of extension if they have (i) a university degree or technical qualification demonstrating knowledge of an equivalent level, (ii) professional qualifications required to work in sectors under the laws of Vietnam or (iii) at least five years of professional experience in the relevant sector
- Other personnel — the shorter of the term of the contract or three years, with the possibility of extension based on the contract, if (i) they hold the position of manager or executive, (ii) they cannot be substituted by a Vietnamese worker and (iii) they are employed outside of Vietnam by an enterprise with a commercial presence in Vietnam

Vietnam-EU Free Trade Agreement (EVFTA)

On 2 December 2015, the minister of industry and trade of Vietnam and the EU trade commissioner declared the official closure of negotiations on the EVFTA. The EVFTA was officially signed on 30 June 2019 in Hanoi, Vietnam.

The new categories of natural persons that have been introduced are as follows:

- Trainee employees are additionally defined among persons of intra-corporate transferees with three requirements, including (i) having been employed by the organization for at least one year, (ii) possessing a university degree and (iii) being temporarily transferred for career development purposes or to obtain training in business techniques or methods.
- Independent professionals are specified as persons satisfying the following criteria: (i) offering a service; (ii) being self-employed; (iii) having concluded a bona fide contract other than through an agency for placement; and (iv) providing services that temporarily require their presence in Vietnam to fulfill the contract.

The durations of entry and temporary stay for each natural person are as follows:

- Intra-corporate transferees and business visitors — up to three years for managers/executives and specialists, one year for trainee employees and 90 days for business visitors for establishment purposes
- Business sellers — up to 90 days

- Contractual service suppliers — a cumulative period of no more than six months per 12 months
- Independent professionals — duration is not provided.

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