

Information from the sphere of law, taxes and economics in Slovakia

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Changes in labour law regarding the employment of foreigners

Juraj Köllner
Rödl & Partner

In reaction to the continuously increasing amount of job vacancies and the demand of employers for foreign labour, the government of the Slovak Republic has adopted a package of measures intended to simplify the filling of job vacancies with foreigners. The package of measures in the sphere of labour law labelled „Strategy of foreign labour mobility in the Slovak Republic“ introduces many changes intended to make job vacancies accessible to foreigners, but also to improve their work conditions in Slovakia. The first measures came into effect in the year 2018, the second package of measures has come into effect on January 1, 2019 and the third package of measures is planned for the year 2020. In the text below we will try to explain to you the accepted changes regarding the employment of foreigners.

Even though the Act on Employment Services does not directly include the definition of the term „foreigner“, it means the citizen of a country not being a member state of the European Union (third state citizen). For the purposes of our further text, a foreigner shall mean a third state citizen.

The first changes in the Act No. 5/2004 Coll. on Employment Services intended to simplify the employment of foreigners took place already within the scope of the first package of measures during the previous year. The main changes include the following:

- Shortening of the period for the publication of a job vacancy. The employer wishing to fill a job vacancy by means of employing a foreigner with granted temporary residence is obliged to inform in writing the respective Labour Office of job vacancies, their amount and characteristics at least 20 working days prior to the application for the granting of temporary residence for the purpose of employment. The period was shortened from the original 30 to 20 working days in this case.
- Creation of a list of so-called professions in short demand, in which it will be possible to employ foreigners in a simplified employment mode. The list is kept by the Central Office of

Labour, Social Affairs and Family separately for each Region of the Slovak Republic and is updated each quarter. The simplified mode means that in case the job vacancy to be filled in by a foreigner is included in the list of professions in short demand and the given District has an unemployment rate of less than five percent, the employer is not obliged to inform the Labour Office of the job vacancy in writing in advance.

- The amendment of the act introduces also certain limits. The amount of foreigners employed in the simplified mode must not exceed 30 % of the total amount of employees employed by a given employer.
- The possibility to obtain a permission to employ a foreigner who would be employed by an employer with registered offices outside of the territory of the Slovak Republic delegating the employee on basis of a contract concluded with a natural or legal person to perform work in the territory of the Slovak Republic does not exist anymore after May 1, 2018. In case the Labour Office has granted such permission before May 1, 2018, such permission remains valid after the effect of the amendment as well.
- A new condition to be met by the employer if wanting to employ foreigners is the demonstration that the employer has not committed a breach of the ban on illegal employment during a period of two years prior to the submission of the application for a temporary residence of a foreigner for the purpose of employment in the territory of the Slovak Republic.

Duties of the employer have been extended in cases an employee whose employer has its registered offices in a member state of the European Union, Switzerland, Norway, Island or Liechtenstein has been delegated to a Slovak employer. The employer with registered offices in the territory of the Slovak Republic employing an EU citizen or an employer established in the territory of another member state and delegating its employee to perform work in the territory of the Slovak Republic is obliged to inform the respective Labour Office of the creation of a labour relation by means of an information card presented to the Labour Office in

two copies within seven working days as of the employment of such an employee at the latest. The employer is obliged to accompany the information card by the following documents:

- document proving the securing of accommodation for the given employee or employees,
- copy of the certificate on applicable legal regulations – form A1 documenting the social insurance of a foreigner in the EU member state, from the territory of which the foreigner has been delegated to perform work in the territory of the Slovak Republic,
- copy of the document on the residence in the territory of the EU member state, in which the foreigner usually works, in case the residence permit is required in terms of legal regulations of the state, from which the foreigner is being delegated to the territory of the Slovak Republic.

The following changes took place within the scope of the second package of measures as of January 1, 2019:

- Each employer is obliged to inform the Labour Office of all job vacancies, their characteristics and the territorial district, in which these job vacancies are located. This information can be submitted to the Labour Office in person, by phone, e-mail or by means of the form „Notification of job vacancies“, which can be downloaded for free from the web page www.upsvr.gov.sk, or directly from the site www.istp.sk (internet guide through the labour market), subsequently publishing available job vacancies.
- The amendment of the act has in most cases abolished the duty to prove the highest level of education achieved when applying for the issuance of a confirmation on the possibility to fill a job vacancy by a foreigner. This duty remains in place only in case of certain regulated professions, e.g. medical staff, pedagogic staff, lawyers etc.

- In addition to changes in the Act on Employment Services, changes in the Act on the Residence of Foreigners directly regarding the employment of foreigners in Slovak companies took place as well. When applying for the granting of temporary residence, a third state citizen will be obliged to submit also a confirmation (the act uses the term „consent“) of the municipality that the accommodation in the real estate, in which the foreigner will be staying during the residence, meets the conditions set by the Ministry of Health. This condition does not apply in case the foreigner is employed in the sphere of international mass transport.
- The continuity of the process of filling job vacancies by foreigners shall be supported also by the shortening of periods in proceeding for the granting of temporary residence to foreigners in regions with a lower rate of unemployment. Since the effect of the amendment, the Units of Foreign Police of the Police Force have a period of seven days to request in writing from the Labour Office a confirmation on the possibility to fill a job vacancy for the purpose of deciding on the application for granting a temporary residence to a foreigner. The period set for the decision making was shortened from the original 90 days to 30 days as of the delivery of the confirmation on the possibility to fill a job vacancy, however, only in case the foreigner will be employed in a position listed as an „employment with a shortage of labour“ in a District, in which the registered average rate of unemployment for the calendar quarter was lower than five percent.

CONTACT DATA FOR MORE INFORMATION



Juraj Köllner
T +421 2 5720 0444
juraj.kollner@roedl.com

→ ECONOMICS

Changes in IFRS 9 – Financial Instruments as of January 1, 2019

Michal Mitruška
Rödl & Partner

IFRS 9 Financial Instruments replacing IAS 39 include requirements regarding the classification and valuation of financial assets and financial liabilities. The original IFRS 9 came into effect on January 1, 2018. However, certain changes or amendments took place after one year of its usage.

The European Union has adopted changes of IFRS 9 Financial Instruments by publishing the Commission Regulation (EU) No. 2018/498 of March 22, 2018. The aim of the changes was to clarify the classification of certain prepayable financial assets when applying IFRS 9.

The International Accounting Standards Board (IASB) has set January 1, 2019 as the effective date for the IFRS 9 changes, whereby a sooner application is permitted. The changes shall be used retroactively for the financial period beginning on January 1, 2019 or later, i.e. one year after the first application of IFRS 9 in the present wording. In case the accounting entity applies these changes to an earlier period, it shall disclose this fact.

CHANGES REGARDING PREPAYMENT

In terms of the present requirements of IFRS 9, the condition is not met that contractual cash flows represent only payments of principal amount and interest if the creditor must perform a settlement (designated also as profit in case of prepayment) in case of a contract termination by the debtor.

If a financial asset contains a contractual term that could change the timing or amount of contractual cash flows, the accounting entity must determine whether the contractual cash flows that could arise over the life of the instruments due to that contractual term are solely prepayments of principal and interest on the principal amount outstanding. To make this determination, the accounting entity must assess the contractual cash flows that could arise both before, and after the change in contractual cash flows. The accounting entity may also need to assess the nature of any contingent event that would change the timing or amount of the contractual cash flow. Contractual cash flows that are solely prepayments of

principal and interest on the principal amount outstanding are generally the result of these contractual terms:

- a. a variable interest rate that consists of consideration for the time value of money, the credit risk associated with the principal amount outstanding during a particular period of time (the consideration for credit risk may be determined at initial recognition only, and so may be fixed) and other basic lending risks and costs, as well as a profit margin,
- b. a contractual term that permits the issuer (i.e. the debtor) to prepay a debt instrument or permits the holder (i.e. the creditor) to put a debt instrument back to the issuer before maturity and the prepayment amount substantially represents unpaid amounts of principal and interest on the principal amount outstanding, which may include reasonable compensation for the early termination of the contract,
- c. a contractual term that permits the issuer or the holder to extend the contractual term of a debt instrument (i.e. an extension option) and the terms of the extension option result in contractual cash flows during the extension period that are solely payments of principal and interest on the principal amount outstanding, which may include reasonable additional compensation for the extension of the contract.

Changes in IFRS 9 adjust existing requirements in IFRS 9 regarding the rights to terminate a contract in order to enable the valuation at accumulated value (or, depending on the business model, at fair value stated in other total profit/loss) also in case of payments with a negative compensation. The timing of the prepayment amount is not relevant in terms of the amendments, i.e. depending on the interest rate valid at the time of the contract termination, the payment can be transferred to the party performing the prepayment as well. The calculation of this payment must be identical in cases of a fine or profit from prepayment.

CLARIFICATION REGARDING A CHANGE IN FINANCIAL LIABILITIES

The amendments include a clarification regarding the booking of alterations or changes of a financial liability measured at accumulated value not leading to a disposal of the financial liability from the accounting books.

With regard to designating a financial asset or financial liability as measured at fair value through profit or loss, the accounting entity:

- a. shall revoke its previous designation of a financial asset as measured at fair value through profit or loss as a result of the application of these amendments,
- b. may designate a financial asset as measured at fair value through profit or loss as a result of the application of these amendments,
- c. shall revoke its previous designation of a financial liability as measured at fair value through profit or loss as a result of the application of these amendments,
- d. may designate a financial liability as measured at fair value through profit or loss as a result of the application of these amendments.

The International Accounting Standards Board clarifies that an accounting entity reports any adjustments of the accumulated value of a financial liability resulting from the adjustment or change of profit or loss as of the date of such alteration or change. It can be therefore necessary to perform a retroactive change of the accounting record, in case the effective interest rate, not the above mentioned accumulated values have been adjusted in the past.

At the date of the initial application of the amendments of IFRS 9, the accounting entity shall disclose the following information for each class of financial assets and financial liabilities that were affected by these amendments:

- the previous measurement category and carrying amount determined immediately before applying these amendments,
- the new measurement category and carrying amount determined after applying these amendments,

- the carrying amount of any financial assets and financial liabilities in the statement of financial position that were previously designated as measured at fair value through profit or loss but are no longer so designated,
- the reasons for any designation or de-designation of financial assets or financial liabilities as measured at fair value through profit or loss.

CONTACT DATA FOR MORE INFORMATION



Michal Mitruška
T +421 2 5720 0411
michal.mitruska@roedl.com

→ ECONOMICS

Changes in premiums for weekend and night work

Ján Beleš
Rödl & Partner

As indicated already in the previous year, adjustments in premiums for night and weekend work have been performed on basis of a resolution of the Parliament of the Slovak Republic. The first phase has been performed till May 1, 2018 and the second phase of the increase of the mentioned premiums begins as of May 1, 2019.

PREMIUM FOR SATURDAY WORK

Till now: 25 % of the minimum wage per hour = 0.75 EUR per hour
From May 1, 2019: 50 % of the minimum wage per hour = **1.49 EUR per hour**

PREMIUM FOR SUNDAY WORK

Till now: 50 % of the minimum wage per hour = 1.49 EUR per hour
From May 1, 2019: 100 % of the minimum wage per hour = **2.99 EUR per hour**

PREMIUM FOR NIGHT WORK – NON-HAZARDOUS EMPLOYMENT

Till now: 30 % of the minimum wage per hour = 0.90 EUR per hour
From May 1, 2019: 40 % of the minimum wage per hour = **1.20 EUR per hour**

PREMIUM FOR NIGHT WORK – HAZARDOUS EMPLOYMENT

Till now: 35 % of the minimum wage per hour = 1.05 EUR per hour
From May 1, 2019: 50 % of the minimum wage per hour = **1.49 EUR per hour**

CONTACT DATA FOR MORE INFORMATION



Ján Beleš
T +421 2 5720 0411
jan.beles@roedl.com

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Issued by:
Rödl & Partner Bratislava
Lazaretská 8, 811 08 Bratislava
Tel.: + 421 2 57 200 411
www.roedl.com/sk

Persons responsible for the contents:

Law area:
JUDr. Maroš Tóth, MBA
maros.toth@roedl.com

Tax area:
Ing. Peter Alföldi
peter.alfoldi@roedl.com

Area Economics:
RSDr. Ján Beleš
jan.beles@roedl.com

Layout:
Miriama Zendeková
miriama.zendekova@roedl.com

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