

Tax Newsflash

New rules for highly-skilled foreign workers and work permits

Generally, employers who apply for work permits in Romania must observe several conditions. Firstly, the immigration legislation sets out a set of *general* conditions related to the employer and its activity in Romania, and secondly the legislation refers to *specific* conditions depending on the type of worker for whom the work permit is requested.

With effect from 8 March 2024, the conditions for requesting work permits and the rules applicable to highly-skilled workers have been significantly amended.

Specifically, **Law no. 28/2024**, published in the Official Journal of Romania (no. 176 of 5 March 2024) makes important changes to the legislation applicable to foreign citizens in Romania, previously set out in Government Emergency Ordinance no. 194/2002 concerning the regime of foreigners in Romania and Government Ordinance no. 25/2014 concerning the employment and posting of foreigners in Romania. Law no. 28/2024 also sets out details on the implementation of EU Directive 2021/1883.

We refer below to the most important changes to the immigration requirements:

- **New amendments and changes for the highly skilled worker category**
 - A new concept of **short-term mobility** has been introduced
 - Exceptions from the work permit:
 - A new category of workers, called **mobile highly-skilled workers** has been introduced. Specifically, third-country nationals who are holders of a valid EU Blue Card issued by another EU/EEA member state may enter Romania and carry out economic activities for up to 90 days within any 180 days, without a work permit.
 - Third-country nationals who are holders of a valid EU Blue Card issued by another EU member state and who have resided in another member state for at least 12 months, or who have resided in more than one member state and have resided for at least 6 months in the last country of residence, may be able to enter Romania and work in the country, under exceptional rules, without a work permit or specific work visa. These categories may apply for an EU Blue Card in Romania within one month of entering the country. Their family dependents will be exempted from the family reunification procedure and may apply directly for a residence permit.
 - The definition of a **highly skilled worker** has been modified.
 - The **minimum length of an employment contract** has been modified; it can be concluded for a definite or indefinite term of **at least six months** (as compared to at least 1 year previously).
 - The **minimum monthly salary** for highly-skilled workers **has been reduced to at least the level of the average gross salary** (as compared to 2 average gross salaries previously).
 - A **new condition** has been introduced to the application process **for a work permit** for highly-skilled workers; the employer should prove that it has carried out the necessary verification to ensure that the vacant position could not be held by a Romanian citizen, by a citizen of another EU/EEA member state, by a citizen of the Swiss Confederation or by a foreigner with the right of long-term residence in Romania (i.e. proof of selection and AJOFM certificate). The **AJOFM certificate** must be issued no later than **90 days** before the submission of the application for the work permit, instead of 60 days, as previously.

- **New conditions for qualifications and professional experience have been introduced** (previously, there was no professional experience requirement for highly-skilled workers) – higher education, as well as at least 5 years of professional experience in the same area as the education.
Furthermore, third-country nationals who apply for a highly-skilled worker's permit and who will occupy positions as leaders in information and communication technology services, or as specialists in information and communication technology, will be required to demonstrate at least three years of relevant professional experience in the seven years prior to the application for the work permit.
- **Family reunification** applications for family dependents of a highly-skilled worker may now be submitted **simultaneously** with the application for the principal's EU Blue Card.
- **Changes related to work permit applications**
 - The general conditions to obtain a work permit have changed, as the work permit will only be granted if, among other things, the employer proves that it **actually** carries out in Romania activities compatible with the position for which a work permit is applied for and the employer's activity was not established or is not carried out for the purpose mainly of facilitating the entry of foreigners into Romania.
 - The employer needs to prove payment of all obligations to the state budget, not just those for the last quarter, as previously.
 - The new law specifies that in order to verify the above aspects, the General Inspectorate for Immigration can carry out checks at the headquarters of employers.
 - The validity of the certificate issued by the Unemployment Agency (required for the work permit file) has increased from 60 to 90 days from the issue date.
 - Foreigners holding the right of temporary residence for study purposes can be employed in Romania without a work permit only with a part-time individual work contract, for a maximum of 6 hours per day (as compared to 4 hours per day previously).
- **Other amendments**
 - The validity of the regular residence permit for permanent workers will be for the period of the validity of the employment contract, but for no longer than two years (compared to one year previously).
 - The validity of the EU Blue Card (the residence permit granted to highly-skilled workers) will be for the period of the validity of the employment contract, but for no longer than 3 years (compared to two years previously).
 - A work permit for secondment will be valid for up to 180 days (as compared to 60 days previously).
 - The processing period for long-term visa applications has now been increased to within 20 days from the date of application (compared to 10 days previously).
- **Changes in notification requirements**
 - Foreigners are required to notify any change in their personal situation 10 days from the occurrence of the change (compared to 30 days previously), especially the following: a change of name, citizenship, domicile or residence; the conclusion, dissolution or annulment of a marriage; the birth of a child; the death of a family member in Romania; any change made in connection with their employment; the extension or change of a passport.
 - If the legal relationship with the foreigner is terminated or suspended, the host entity is required to inform the immigration authorities within 10 days of the date of the occurrence of the event.

KPMG in Romania will continue to monitor these developments and the approach taken by the immigration authorities in practice.

If you have any questions, we will be pleased to discuss them with you.



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