

# GMS Flash Alert

## Immigration

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## Hungary – Immigration System Undergoes Important Reform

On 1 January 2024, “Act XC of 2023 on the General Rules for the Entry and Residence of Third-Country Nationals” entered into force.<sup>1</sup> In connection with this, “Government Decree 35/2024,” which lays down the rules regarding the implementation of the above Act, was also adopted and published on 29 February 2024.<sup>2</sup>

The Act concerns the entry and residence of third-country nationals, specifically non-Hungarian nationals, non-European Economic Area (EEA) nationals, and stateless persons.

Based on the law, short-, long-, and permanent-residence categories can be distinguished.

The rules for **short-term stays** in Hungary – that is any stay which lasts for less than 90 days in any 180 days – have not changed substantially.

**Long-term stays** in Hungary (any stay exceeding 90 days within 180 days) are still only possible with a residence permit. In the case of work permits, the law establishes categories by qualification – namely, the category of “guest workers” and “highly-skilled workers” – for which different rules apply.

### WHY THIS MATTERS

In some cases, the changes in Hungary’s immigration laws and procedures in respect of third-country nationals will introduce new limitations, including where family reunifications are concerned. There will be new steps to follow in terms of securing certain permit types.

Immigration counsel and employers seeking to hire third-country nationals in Hungary or bring third-country nationals to work in Hungary should familiarise themselves with the new rules so as not to run afoul of them and run the risk of not being compliant.

## Permits Not Linked to a Qualification — in Other Words, Guest Worker Permits

**A residence permit for guest workers** can be applied for by third-country nationals whose employer is a preferred employer or a qualified work force provider; is a national of a specified country; and whose employment is not excluded by a ministerial notice. Preferred employers include employers with a strategic partnership agreement with the government, employers implementing an investment of major importance for the national economy, and employers with a partnership agreement under the Prioritised Exporter Partnership Program.

**A residence permit for the purpose of employment** can be applied for by guest workers based on an employment relationship. The minister responsible for employment policy may limit the scope of eligibility and may exclude in their notification certain occupations for which no application for this type of permit may be made. However, this notification has not yet been published.

The common feature of the above-mentioned residence permits is that they are valid for a maximum of two years, after which they may be extended for a further year.

In addition, a maximum of 65,000 permits will be issued for these two types of permits each year.

In the event of termination or cessation of employment, it is the employer's responsibility to make sure that the guest worker leaves Hungary or, in the case of a change of employer, to make sure that the change has taken place.

### KPMG INSIGHTS

These types of permits give their holders a limited range of rights in terms of residence compared to the previous ones. Those who hold such permits will not be entitled to family reunification and will not be able to apply for any other type of permit from within the country, either during the permit's validity or after its expiry. A National Residence Card cannot be applied for while holding such a permit.

## For Highly-Qualified Employees Two Permit Types Are the Most Suitable

**The Hungarian Card** is a permit available to employees with qualifications certifying higher education and professional qualifications. This kind of permit can be requested for a maximum of three years and can be extended for a maximum of a further three years each time, indefinitely. Only those who work in the field of performing activities related to certain arts or sports, or those who have the qualifications specified in the announcement of the Minister of Education, are eligible to apply for this permit. The latter group includes, for example, IT, technical, or natural science professional qualifications.

**The EU Blue Card** is a kind of residence permit that entitles its holder to reside in the territory of an EU member state and, at the same time, to engage in work activity that requires a high level of education. This residence permit must be issued for at least two years, with a maximum validity period of four years. This can be extended for a maximum of another four years each time, indefinitely. However, it is important to note that during a period of one year from the date of issuance it only entitles its holder to engage in the employment relationship he or she received the permit for.

For both the Hungarian Card and the EU Blue Card, a residence permit for the purpose of family reunification as well as a National Residence Card can be applied for.

It should be noted that the rules of the residence permit for the purpose of intra-company transfer have not changed significantly.

### Other Significant Permit Types

In case of **employment of a Ukrainian or a Serbian citizen**, it is now possible to **apply for a "National Card,"** which gives its holder a wider range of rights compared to other types of permits.

With regard to the erstwhile **"Residence permit for the purpose of gainful activity,"** the law allows residence under the title of a "Guest Self-Employed" to carry out such activity. A significant change is that, with this type of permit, no other type of permit may be applied for from within the country, and the possibility of family reunification is only feasible after one year from the issuance of the Guest-Self-Employed residence permit.

**A residence permit for the purpose of family reunification** can be obtained by a third-country national whose family member resides in Hungary based on a legal title defined by law. This can no longer be requested for family members of those who have certain permits.

Third-country nationals who obtained a residence permit for the purpose of family reunification before 31 August 2024, and who still held said valid permit on 1 January 2024, will continue to have the same rights and obligations as in the previous regulations, and their stay under this title can be extended even if the current law would no longer allow it. Generally speaking, its validity period is a maximum of three years (in some cases it can be four, five, or a maximum of ten years), and may be extended, but it cannot exceed the validity period of the residence permit of the person whose residence provided the basis for the family reunification.

The previously known **"Residence permit for other purpose"** can no longer be applied for under the law. Therefore, the residence of third-country nationals living in a partnership in Hungary is no longer possible under this legal title.<sup>3</sup>

In case of **economic, scientific, cultural, sports, or national policy interests** of Hungary, the Act allows for the application for a so-called **"residence permit based on national interest"** even in the absence of the legal requirements for the submission of such application.

The **category of "Long-Term Stay"** includes permits known under the previous legislation as "Permanent Residence Permit." The former "National Permanent Permit" is now called "National Residence Card" and the former "EC Permanent Permit" is now called "EU Residence Card."

In general, the regulations concerning long-term residency have not significantly changed. The National Residence Card can be applied for after three years and the EU Residence Card after five years of legal and uninterrupted stay in Hungary.

### Some Changes Have Been Introduced in Case of Long-Term Stays

For certain types of residence permits (e.g., Guest Self-Employed or for Purpose of Employment), the law excludes the possibility to apply for a National Residence Card.

As a prerequisite for both the National Residence Card and the EU Residence Card, the applicant must be able to prove in advance that he/she fulfills the conditions for social co-existence, which must be proven by

means of a written “Cultural Knowledge” test, in Hungarian. This provision will only apply to applications submitted after 1 January 2025; therefore, those submitting their applications in 2024 can apply for the residence card of their choice without having to fulfill this additional requirement.

## **Rules that Apply for Permits About to Expire or Already Have Expired and for Their Renewal**

- The validity of permits expiring on 29 February 2024, has been automatically extended until 30 April 2024.
- Applications for the renewal of permits expiring between 1 March and 1 April 2024, shall be submitted no later than on the date of expiry.
- In the case of permits expiring after 1 April 2024, the application for renewal can be submitted between the 45th and the 30th day before the expiry date of such permits.

As a further administrative change, the procedural fees of new applications increased.

### **KPMG INSIGHTS**

These changes aim to advance the government’s goal of placing more rigour and controls around immigration flows into Hungary and to bring clarity to the rules employers must follow to hire/bring third-country nationals in/to Hungary.

However, employers will need to think holistically and strategically around their talent recruitment and retention policies to help ensure they can secure and retain the talent they need, whilst “future proofing” their workforce against increasingly restrictive eligibility criteria underpinning the various permit routes.

The rules are in flux and third-country national individuals seeking employment in Hungary and employers seeking to hire third-country nationals may have questions about how the new rules impact them; such questions should be addressed with their qualified immigration/employment law counsel or a member of the KPMG Immigration team in Hungary (see the Contacts section).

## FOOTNOTES:

1 2023. évi XC. törvény a harmadik országbeli állampolgárok beutazására és tartózkodására vonatkozó általános szabályokról.

2 2024. február 29. 35/2024. (II. 29.) Korm. rendelet.

3 "Partnership" as used here means legally-not-married couples. In case of a same-sex couple, if they are a registered civil law partnership, they have a similar status to opposite-sex couples that are married under Hungarian law.

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## RELATED RESOURCE

This article is excerpted with permission from [Tax Alert](#) (2024-03-06), an online publication of the KPMG International member firm in Hungary.

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