



# **Legal Migration Fitness Check**

Evidence base for practical  
implementation

Member State summary

**Slovakia**

*Annex 2 SK*

Written by ICF Consulting Services  
Limited

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## **Table of Contents**

Introduction .....	1
1 Pre-application phase .....	2
1.1 Legal transposition of the EU legal migration acquis .....	3
1.2 Practical application of the EU legal migration acquis.....	3
1.3 Differences between national statuses and the EU legal migration acquis .....	4
2 Preparation phase .....	5
2.1 Legal transposition of the EU legal migration acquis .....	5
2.2 Practical application of the EU legal migration acquis.....	5
2.3 Differences between national statuses and the EU legal migration acquis .....	7
3 Application phase.....	7
3.1 Legal transposition of the EU legal migration acquis .....	7
3.2 Practical application of the EU legal migration acquis.....	7
3.3 Differences between national statuses and the EU legal migration acquis .....	10
4 Entry and travel phase .....	10
4.1 Legal transposition of the EU legal migration acquis .....	10
4.2 Practical application of the EU legal migration acquis.....	10
4.3 Differences between national statuses and the EU legal migration acquis .....	10
5 Post-application phase.....	11
5.1 Legal transposition of the EU legal migration acquis .....	11
5.2 Practical application of the EU legal migration acquis.....	11
5.3 Differences between national statuses and the EU legal migration acquis .....	13
6 Residency phase .....	13
6.1 Legal transposition of the EU legal migration acquis .....	13
6.2 Practical application of the EU legal migration acquis.....	14
6.3 Differences between national statuses and the EU legal migration acquis .....	19
7 Intra-EU mobility phase .....	19
7.1 Legal transposition of the EU legal migration acquis .....	19
7.2 Practical application of the EU legal migration acquis.....	20
7.3 Differences between national statuses and the EU legal migration acquis .....	20
8 End of legal stay / leaving the EU phase .....	20
8.1 Legal transposition of the EU legal migration acquis .....	20
8.2 Practical application of the EU legal migration acquis.....	21
8.3 Differences between national statuses and the EU legal migration acquis .....	22
9 Main findings and conclusions – state of practical implementation of EU legal migration legislation in the Member State.....	22
Annex 1 References.....	24

## Introduction

This document provides an overview of the legal and practical implementation of EU legal migration acquis in **Slovakia**. The legal and practical implementation study is structured according to the eight steps – ‘phases’ of the migration process from the perspective of the migrant<sup>1</sup> for the following Directives and their equivalent national schemes, where such exist, as presented in the table below:

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Research Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
National parallel scheme	Permanent residence permit for five years – trvalý pobyt na 5 rokov					
	Permanent residence for indefinite period of time – trvalý pobyt na neobmedzený čas					
Options implemented			Pupil	Trainee		Volunteer

<sup>1</sup> . See ref document (EU summary) Under each phase, the following aspects are examined : : **Legal transposition of the EU legal migration acquis:** including whether the MS has overall complied with the transposition of the relevant EU acquis in the respective phase and whether these non-compliance issues affect the practical application of the Directive; **Practical application of the EU legal migration acquis:** overview of the main application issues/problems arising in the MS per each of the migration phases; **Differences between national statuses and the EU legal migration acquis:** substantial differences at the level of legislation and practical implementation between the EU legal migration Directives and their national equivalents (where these exist).

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### **Main differences between EU statuses and the respective national parallel schemes**

In Slovakia have been identified two national statutes additional to statuses based on Family Reunification Directive:

Article 43 of the Act no. 404/2011 Coll. on the Stay of the Foreigners (Zákon č. 404/2011 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov / Act No. 404/2011 Coll. on Residence of Aliens and Amendment and Supplementation of Certain Acts, as amended) - permanent residence for five years

Article 46 (1) of the Act no. 404/2011 Coll. on the Stay of the Foreigners – permanent residence for indefinite time

A) In Slovakia, permanent residence for five years can be granted to the following categories of family members of third-country nationals:

a) Unmarried child under 18 years of age entrusted to the custody of a third-country national with permanent residence in Slovakia who is the spouse of a Slovak national;

b) Unmarried child under 18 years of age of a third-country national with permanent residence for five years, or a child under 18 years of age entrusted to the custody of a third-country national with permanent residence for five years;

c) Dependent child over 18 years of age who cannot provide for himself/herself due to a long-term adverse health condition of a third-country national with permanent residence.

B) Permanent residence for an indefinite period of time can be granted to a child under 18 years of age of a third country national with permanent residence for an indefinite period of time or to a child under 18 years of age entrusted to the custody of a third-country national with permanent residence for an indefinite period of time.

These statuses concern specific cases of family reunification of children (unmarried under 18 years of age or dependent and over 18y) of TCN who is holder of permanent residency in Slovakia **and** spouse of Slovak national.

In other cases, TCNs eligible under Family Reunification Directive are granted temporary residence permit for the purposes of family reunification, which is the main difference in respect of these statuses.

## **1 Pre-application phase**

Please highlight in an analytical and evaluative manner the main issues identified in your Member State under this phase, under the following sub-headings. When discussing the Directives, please always mention them in chronological order and use the following acronyms:

- FRD (Family Reunification Directive)
- LTR (Long Term Residency Directive)
- SD (2004 Students Directive)
- RD (2005 Researchers Directive)
- BCD (Blue Card Directive)

- SWD (Seasonal Workers Directive)
- ICT (ICT Directive)
- SPD (Single Permit Directive)
- S&RD (2016 Students and Researchers Directive)

**The structure and issues to be discussed are the same for all Phases.**

### **1.1 Legal transposition of the EU legal migration acquis**

In the case of Slovakia we can conclude that Slovakia has overall complied with the legal transposition of the EU legal migration acquis. No major non-compliance issues have been identified.

One issue that came into consideration has been the possible existence of equivalent national status to FRD and LTR. On addition to long term residence/temporary residence for purpose of family reunification, Slovak legislation provides possibility for national permanent residence for certain categories of third country nationals (spouses of Slovak citizens, etc.). However, the final conclusion has been that these statuses do not provide equivalent national status to LTR. The question regarding FRD remains to be solved by Commission.

None of the identified non-compliance issues, including above mentioned uncertainty related to equivalent national status to FRD, affect practical implementation of Directives.

### **1.2 Practical application of the EU legal migration acquis**

In relation to pre-application phase, the access to information has been discussed. Although in general access to information on immigration is good, I have identified that most user-friendly and comprehensive information are mainly provided by non-State actors. One central multilingual website with all relevant information, applications and fees, would improve access to information.

However, these shortcomings have not been identified as de facto infringement of the Directive. It is rather a result of Directive leaving room for different interpretation and also based on different levels of understanding how does the user-friendly system of providing information shall look like.

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Researchers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
Languages	National language (s) English Spanish	Add if different				
The information is easy to find*	2	2	2	2	2	3

\* 1: Strongly agree; 2: Agree; 3: Neither agree/nor disagree; 4. Disagree; 5. Strongly disagree

Information can be found on the following aspects of the application procedure:

Application procedure	Conditions for admission	Entry requirements (e.g. visa etc.)	Cost of application	Applicable deadlines	Rights upon admission	Any differences between the Directives
Yes	Yes	Yes	Yes	Yes	Yes	

### **Information upon request**

In Slovakia the law provides for the right to access information (Act no. 211/2000 Coll. on the Free Access to Information). Based on the law, each public institution is obliged to respond to the request for information within the deadline of 8 working days.

In general, the right to access information is respected by public institutions in Slovakia, the request can be filed in writing, online, face-to-face, by fax or by any other technically available means. The response is provided equally, including Braille's language.

The process of obtaining information is user-friendly and information requested has been obtained in timely fashion.

### **1.3 Differences between national statuses and the EU legal migration acquis**

The analysis has identified that Slovak legislation provides for the national statuses, which are additional to FRD. The aim of these national statuses is to enable family reunification of certain categories of TCNs (children) with sponsor, who is holder of permanent residence permit in Slovakia as spouse of Slovak citizen.

These national statuses concern:

Article 43 of the Act no. 404/2011 Coll. on the Stay of the Foreigners (Zákon č. 404/2011 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov / Act No. 404/2011 Coll. on Residence of Aliens and Amendment and Supplementation of Certain Acts, as amended) - **permanent residence for five years**

Article 46 (1) of the Act no. 404/2011 Coll. on the Stay of the Foreigners - **permanent residence for indefinite time**

A) In Slovakia, **permanent residence for five years** can be granted to the following categories of family members of third-country nationals:

a) Unmarried child under 18 years of age entrusted to the custody of a third-country national with permanent residence in Slovakia who is the spouse of a Slovak national;

b) Unmarried child under 18 years of age of a third-country national with permanent residence for five years, or a child under 18 years of age entrusted to the custody of a third-country national with permanent residence for five years;

c) Dependent child over 18 years of age who cannot provide for himself/herself due to a long-term adverse health condition of a third-country national with permanent residence.

B) Permanent residence for an **indefinite period of time** can be granted to a child under 18 years of age of a third country national with permanent residence for an indefinite period of time or to a child under 18 years of age entrusted to the custody of a third-country national with permanent residence for an indefinite period of time.

The purpose of these national statutes is highly similar in relation to purpose to the statuses based on Family Reunification Directive - to enable family reunification of TCN (sponsor) with TCN (child). The difference is , that sponsoring TCN is already a holder of permanent residency as spouse of Slovak national and therefore his/her unmarried child under 18 years of age or dependent child over 18 years of age or a child entrusted to the custody of such TCN is eligible for family reunification under the permanent residency scheme. Permanent residence is the highest type of residence permit in Slovak legislation and provides i.a. direct access to Slovak citizenship. Granting of permanent residency to such TCN who is sponsored is main difference between national status and EU status based on family reunification directive (here TCNs are being granted temporary residence permit).

## **2 Preparation phase**

### **2.1 Legal transposition of the EU legal migration acquis**

In the case of Slovakia we can conclude that Slovakia has overall complied with the legal transposition of the EU legal migration acquis. No major non-compliance issues have been identified, despite some issues related to FRD and SD and RD.

The first concern is about the interview in application of FRD and article 5 (2), 2nd subparagraph. According to the TIPIC Conformity Report, the interview with the applicant shall be conducted by the embassy pursuant to Article 31(2) of Act No 404/2011 for the purpose of preliminary assessment of the application. Slovakian law does not specify that interviews are carried out in order to obtain evidence that the family relationship exists, nor specifies that other investigations may be conducted to confirm the existence of the family relationship. According to the TIPIC report, there is no problem with the fact that other investigations are not mentioned. What may be a cause of concern is that interviews seem to be conducted automatically whereas in some cases documents proving family relations might be sufficient.

Another issue concerns article 11 (2) of the FRD and partially conform transposition of this article into Slovak law. This concerns evidence in relation to family relationship of refugee sponsor and his/her family member. Slovakian law does not specify what does "other evidence" mean and the exception only applies if the application for family reunification is lodged within 3 months since asylum has been granted.

Last issue concerning FRD is article 15 (3). This concerns possibility to be granted autonomous residence permit in the event of particularly difficult circumstances which is not granted by Slovak law.

Finally, some issues have been identified in relation to S&RD article 9 (1) and article 11. However, as pointed out in the questionnaire, these issues have been reported when the old version of law has been valid. Now, the act no. 404/2011 Coll. provides for correct transposition of the directives in this respect and therefore the problems with transposition in relation to these articles ceased to exist.

### **2.2 Practical application of the EU legal migration acquis**

In practice, Slovak legislation provides for one uniform form for the application for residence permit and one uniform form for the application for prolongation of residence permit. These forms are in multiple languages and are available for download at the website of Ministry of Interior. The fill in of the application form is not time-consuming, shall last less than 1 hour. More complicated is usually collection of



accompanying documentation such as certificates, diplomas, crime record, etc. Based on the complexity of the case, it can take up to several months until TCN completes the application form with all required documentation.

However, having one uniform application form can have a negative aspect being that the application form itself does not contain specific instructions for specific types of residence permit such as Blue Card, Family Reunification, etc.. Thus, the applicant must seek advice and information on which documentation is required to complement the application form. The applicant can seek the information at different online and offline sources and must make significant effort to find out, what exactly s/he must fulfil and attach to the application.

Slovakia does not apply any pre-integration measures.

The submission of the application is done in a single step. The law provides for the obligation to submit the complete application, meaning that if the applicant tries to submit incomplete application, the receiving authority shall not accept such submission and shall advise the applicant on missing documents (Act no. 404/2011 Coll. On the Stay of the Foreigners, § 32 (1)).

The application for residence permit can be lodged in person to the embassy accredited for the State, which has issued travel document to the applicant or to the embassy in the State, where the applicant has the legal residency unless the law provides otherwise. If there is no such embassy or in special humanitarian cases, the ministry of foreign affairs in cooperation with ministry of interior shall decide on the embassy where the application shall be lodged (Act no. 404/2011 Coll. § 31 (1)).

In the case that the applicant is lawfully staying at the territory of Slovakia, s/he can lodge the application for residence permit in person at the police office for foreigners at the territory of Slovakia, with the exception of the applicant who is granted tolerated residence permit for the reasons of not being able to leave Slovakia (art. 58 (1) (b) of the Act no. 404/2011 Coll); or with the exception of the applicant applying for the temporary residence permit for the purpose of intra-company transfer (as stipulated in art. 23 (5)); or with the exception of the asylum seeker.

Ease of the application procedure:

<b>Step</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
The information that applicants need to complete is not extensive	2	1	1	2	2	2
The application form is user-friendly	2	1	2	2	2	2

Key information/ documents required:

<b>Type of information</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>
Family ties	Yes, T, C				
Continuous legal residence	No	Yes, C, R			
Sufficient resources	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	

				(students) Yes, T, C, R (trainees)		
Accommodation/Address in territory	Yes, T, C, R				Yes, T, C, R	
Sickness insurance	C	Yes, C, R	No, C	No, T, C	No	
Work contract (for RD host agreement)				Yes, T, C, R	Yes, T, C, R	
Minimum salary threshold						
Professional qualifications				No		
(Pre-) Integration measures	No	No				
Pre-departure conditions				No (students)  No (trainees)		
Proof no threat to public	Yes, T, C, R	No, C	Yes, T, C, R	Yes, T, C, R	Yes, T, C, R	
Medical examination certificate	T		No, C	No, T, C	No, C	
Valid travel document			Yes, C, R	Yes, C, R	Yes, C, R	
Entry visa					No	
Other	No	No	No	No	No	

*Note: T = Translation; C = Certified, R = Requirement, i.e. without this proof the application cannot be lodged.*

### **2.3 Differences between national statuses and the EU legal migration acquis**

No issues were identified, there is a uniform application form for all type of residence permits, what is different is the amount of supplementary documentation required to present with the application form, which is based on different purposes for residence permit.

## **3 Application phase**

### **3.1 Legal transposition of the EU legal migration acquis**

In relation to application phase, no issues of non-conformity have been identified in respect to articles under the review. The general level of compliance of Slovak legislation with the EU law is on a very good level.

### **3.2 Practical application of the EU legal migration acquis**

The general rule for applying for temporary residence permit is that the applicant must apply in person at the embassy accredited to the State which has issued travel document to him/her or at the embassy accredited to the State where s/he resides. If there is no such embassy or in special cases, Ministry of Foreign Affairs designates the

embassy upon the agreement with Ministry of Interior. The exemption as provided by the current law is that the application for temporary residence may be lodged by TCN in person at the police office for foreigners, if TCN lawfully resides at the territory of Slovakia (with the exemption of applicants holding tolerated stay, applicants with temporary residence permit in intra-company transfers and asylum seekers). Also, there is the exemption in relation to long term Directive and the applicants may apply in person at the designated police office for foreigners. The application fee is 99,50 EUR for applicants for volunteer and exchange related residence permits, 132,50 EUR for the family reunification temporary permit and 165,50 for permits based on Blue Card Directive, Single Permit Directive and Long Term Residence Directive. General processing time is 90 days, with exception of students and researchers, where the law provides for 30 days decision time.

In relation to practical implementation, the recommendation would be to improve information available to the applicants, especially in relation to BCD. In Slovakia there is no unified State information website, which would provide comprehensive information to the applicants for residence permit in multiple languages, with all the forms and procedures explained in detail. Thus, the necessary steps and authorities which have to be contacted by the applicant are not very well explained since the outset and the applicant is required to find the information on his own at multiple places. Online information on Blue Card residence permit provided by State to the applicants is very scarce.

When it comes to appeal procedure, the applicant would need assistance in order to write an appeal. The decisions are in general written and delivered in Slovak language and the applicant would need help in order to draft successful appeal against the decision.

The application for residence permit is proceed and decided by the Bureau of the Alien and Border Police – police for foreigners’ station designated based on the expected place of the residence of the applicant in Slovakia. Also, police is responsible for issuing of the residence permit card. In the case that the applicant applies for residence permit at the embassy abroad, embassy acts as the authority which receives the application and forwards the application to the police office. In the case the applicant applied for single permit for purposes of employment, police office which deals with the application, contacts the designated office for labour, social affairs and family in relation to issuance of work permit.

If the residence permit is granted the law provides that written decision is not issued (art. 33 para 9 of the Act no. 404/2011 Coll.). The police notify the applicant in writing per post on granting the residence permit, on its starting date and ending date. The police send written notification via mail or electronically to the applicant, to the embassy of the country where the applicant resides and to the municipality where the applicant will have temporary residence. If the application is rejected, the applicant receives written decision with the possibility to appeal. In the case of the applicant who applies for single permit, also the employer is notified in writing on granting of the residence permit.

The applicant has **15 days since delivery of the decision to file the appeal**. If the competent authority fails to act, the law provides that the superior authority, which would otherwise decide on the appeal, would issue the decision if the matter of the case allows for that and the redress cannot be achieved otherwise (art. 50 of the Act no. 71/1967 Coll. Administrative code).

Directive	General FRD	LTR	SD	RD	BCD	SPD
Application from	Yes / No	Add if				

third country (Q3a)	different					
Permit received in third country	Yes	No				
Number of authorities involved in the application	1	Add if different				
Number of authorities involved in the issuance of the residence permit	1					
Application modalities	In person	Add if different				
Existence of a standard application form for all statuses	Standardised	Add if different				
Language of the application form	National language(s) English	Add if different				
Fees charged	€ 132.50	€ 165.50			€ 165.50	€ 165.50
Other fees charged?	No	No	No	No	No	No
Fees charged for permit issuance	Yes	Yes	Yes	Yes	Yes	Yes
Fees charged for renewal / replacement of the permit						

The processing times are as follows:

<b>Directive</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
Processing time /deadlines (according to law)	90 days	90 days	30 days	30 days	30 days	90 days
Processing time (in practice)	90 days	90 days	30 days	30 days	30 days	90 days

### **3.3 Differences between national statuses and the EU legal migration acquis**

There are no national statuses equivalents to EU statuses, therefore no differences have been identified.

## **4 Entry and travel phase**

### **4.1 Legal transposition of the EU legal migration acquis**

In general, legal transposition of EU legal migration acquis in relation to entry and travel phase is without any significant non-compliance.

In relation to legal transposition, we did identify one issue that is problematic. This covers transposition of FRD art. 13 (1) – Slovakia requires the applicant, who is granted residence permit and resides in third country to apply for national visa allowing the travel into and entry of Slovakia. The application for national visa is subjected to payment of visa fee. It has been established that this counter the purpose of the Directive, since Slovakia imposes additional submission and additional fees.

### **4.2 Practical application of the EU legal migration acquis**

The overall practical application of the EU legal migration acquis in this area is good, Slovakia does not impose barriers in relation to entry and travel phase, with the exception of partial non-conformity as identified above. A person, who has been granted a residence permit and resides in third country, has to apply for national visa for the purpose of residence in Slovakia and pay visa fee in the amount of 33 EUR. This may be of concern. Also, it has to be mentioned that Slovakia is country with relatively low number of embassies around the world, therefore the obligation to obtain national visa for the purpose of residence permit may pose additional non-direct financial and time burden of the applicant, who would need to travel to the Slovak embassy multiple times. This may even include the obligation to request visa to the country where the Slovak embassy is present, if the third country national needs visa to enter such country.

As the third-country national is not yet in the possession of a residence permit, the Member State issues a visa but has not put a specific timeframe for issuing the latter.

The Member State allows country nationals who hold a valid permit and valid travel document to enter and re-enter their national territory only on the basis of the permit.

The third-country national is allowed to travel to other Schengen Member States only on the basis of the permit and valid travel document.

The Member State does not impose specific entry requirements to third-country nationals of a visa free country.

Upon arrival, third-country nationals are required to register with social security institutions and with healthcare providers.

### **4.3 Differences between national statuses and the EU legal migration acquis**

Slovakia does not have equivalent national statuses, therefore no differences have been observed.

## **5 Post-application phase**

### **5.1 Legal transposition of the EU legal migration acquis**

No major issues related to non-compliance have been identified. The only issue is related to art 13 (2) FRD.

In general, Slovakia is compliant with the requirements of the EU legal migration acquis in respect to post-application phase. However, one issue has been identified in relation to FRD and renewal of residence permit.

Article 13 (2) of FRD provides that the Member State concerned shall grant the family members a first residence permit of at least one year's duration. This residence permit shall be renewable.

Corresponding Slovak law states as follow:

Pursuant to Article 34 (1) (b) of Act No. 404/2011 on Stay of the Foreigners, a temporary residence permit is renewable maximum for three years, if the assumed residence of a third country national shall last at least three years.

Pursuant to Article 34 (1) (c) of Act No. 404/2011, a temporary residence permit is renewable maximum for five years if the assumed residence of a third country national shall last at least five years.

The Conformity report assessing the transposition of FRD into Slovak law concluded as follows: "Thus, if the residence does not last at least for three years, there is no guarantee for renewal, which counters the purpose of the Directive."

However, it has to be noted that the precise wording of arts. 34 (1) (b) and (c) of Act no. 404/2011 Coll. allows for the conclusion that the residence permit is renewable even if the renewed residence permit will last less than 3 years. This is for the reasons that disputed articles of Slovak law **provide for maximum duration of renewed residence permit, not minimum**. It means that if the renewed residence permit would last 1 year, the residence permit would last 1 year. But if the expected renewed residence permit would last 3 and ½ years, the renewed residence permit can be prolonged for maximum 3 years and for the remaining ½ year the applicant would have to apply for additional renewal.

Therefore the conclusion of the researcher is that the identified issue in fact does not constitute major one and is caused mainly by differences in reading of the Slovak law.

### **5.2 Practical application of the EU legal migration acquis**

In general, practical application of the EU legal migration acquis has been observed as conform in Slovakia. The only one issue of non-conformity identified as explained below, does not lead to practical problems in the application of the EU legal migration acquis in relation to FRD and no practical problems have been identified.

The general time period for delivering the residence permit is 30 days and is counted either since the applicant is granted residence permit if application has been lodged at the Slovak territory or since the applicant registered his entry and residence within the time limit provided by law upon arriving to the territory based on national visa on the ground of residence permit. The issuance of residence permit card costs 4.50 EUR and speedy issuance within 2 working days costs 24.50 EUR. If the applicant wants the

residence permit to be delivered to the address in Slovakia, this costs 3 EUR on addition.

There is a difference in relation to rights of family members of Slovak citizens (who in general receive permanent residency), family members of TCNs (who in general receive temporary residence permit) and in relation to non-EU family members of EU nationals exercising their right to free movement. In general, the conditions to acquire residence permit are simpler and easier for the non-EU family members of EU citizens comparing to other family members of either Slovak nationals or TCNs. This is also applied in terms of fees – family reunification temporary residence permit application costs 132.50 EUR, permanent residence permit application for non-EU spouse of Slovak citizen or non-EU direct dependent Slovak citizen is exempt from payment of the application fee and non-EU family members of EU citizens are required to pay the only fee of issuing residence card – 4.50 EUR.

<b>Directive</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
Minimum validity of the first permit	The same period for which the sponsor was granted the right to stay	Unlimited	Duration of studies	Duration of research	3 months	Duration of employment
Maximum validity of first permit	60 months	Unlimited	72 months	24 months	48 months	60 months
Minimum validity of permit renewal						
Maximum validity of permit renewal	Can renew the residence permit to maximum 5 years if the residence would last at least 5 years	Unlimited	Can renew the residence permit to maximum 5 years if the residence would last at least 5 years	Maximum on 3 years if the presumed residence of temporary residence permit would last at least 3 years	For the duration of 4 years; or if the duration of work would be less than 4 years for the actual duration of the work agreement plus 90 days	Can renew the residence permit to maximum 5 years if the residence would last at least 5 years

The Member State does not have a set timeframe to deliver the permit following the notification of the decision.

The employer is the main applicant but is not involved in the delivery of the permit.

### **5.3 Differences between national statuses and the EU legal migration acquis**

There are no equivalent national statuses to consider for the purpose of assessment, therefore no differences have been identified.

## **6 Residency phase**

### **6.1 Legal transposition of the EU legal migration acquis**

In general Slovakia complies with equal treatment of the directives and other relevant provisions. On 29 January 2014 the Slovak Government adopted a Resolution No 45/2014 on Integration Policy of the Slovak Republic. This Resolution lays down policy options on facilitating integration of foreign nationals in Slovakia and requests from the relevant Ministries to propose specific legislative measures which would implement approved policy measures. The Resolution No 45/2014 further foresees adoption of conditions which would facilitate integration of foreign citizens in the territory of Slovakia, including of language courses. It is foreseen that such measures will be on voluntary bases.

Some issues have been identified in the reports. These include:

Article 16 (1) (a) 2<sup>nd</sup> subparagraph FRD, and

Article 18 (3) LTR.

In relation to Family Reunification Directive, we have concluded that article 16 (1) (a) 2<sup>nd</sup> subparagraph has not been transposed into the Slovak law. The article reads as follows:

"Article 16

1. Member States may reject an application for entry and residence for the purpose of family reunification, or, if appropriate, withdraw or refuse to renew a family member's residence permit, in the following circumstances:

(a) where the conditions laid down by this Directive are not or are no longer satisfied. When renewing the residence permit, where the sponsor has not sufficient resources without recourse to the social assistance system of the Member State, as referred to in Article 7(1)(c), the Member State shall take into account the contributions of the family members to the household income;"

The corresponding national provision(s) could not be located. The law only provides in article 36 (2) of the act no. 404/2011 Coll. that residence permit shall not be revoked if the consequences of revocation would not be proportional to the purpose of the revocation of temporary residence permit in relation to private and family life of third country national. However, this provision does not correspond with the wording of the article 16 (1) (a) 2<sup>nd</sup> subparagraph FRD.

Article 16(1)(b) and (c) of the Directive set out an option, which Slovakia has not chosen to apply.

In relation to article 18 (3) LTR, the transposition has been assessed as of concern. This article concerns disease contracted after the first residence permit was issued. The Article 18 (3) LTR states:

"Article 18



3. Diseases contracted after the first residence permit was issued in the second Member State shall not justify a refusal to renew the permit or expulsion from the territory.”

According to the assessment of the corresponding conformity report: “Article 18 (1) LTR sets out an option, which Slovakia chose to apply. Article 32 (10) and 83 (8) (b) of Act No 404/2011 transpose Article 18 (3) of the Directive. Concerning “the refusal to renew the permit”, Article 32 (10) of Act No 404/2011 states that a third-country national is only required to prove his medical conditions when applying for a first residence permit. When applying for a prolongation of the residence permit or certain amendments thereof, he/she does not need to prove that he/she does not suffer from a disease, which would threaten public health. There is no explicit provision prohibiting a police department from refusing to renew the residence permit. However, a police department is not entitled to check a third-country national’s medical statement for the purpose of reviewing public health issue. As a result, Article 32(10) of Act No 404/2011 does not explicitly transpose first of requirements of the Directive provision. Nevertheless, it has a similar purpose meaning that a police department is not allowed to refuse to renew the residence permit where the tropical diseases have been contracted after the first residence permit was issued. Concerning “the expulsion from the territory”, Article 83 (8) (b) of Act No 404/2011 explicitly states that a police department may not expel a third-country national on the basis of public health where the tropical diseases have been contracted after the first three months from the moment the person concerned had entered the territory of the Slovak Republic. As a short-term residence is not generally required for the residence not exceeding three months, it can be assumed that after first three months of a third-country national’s residence in the territory of the Slovak Republic, the person concerned will have an issued residence permit. Or at least he/she would have applied for a short-term residence at a police department. On the other hand, where a third-country national obtains a short-term residence permit earlier than three months after his/her arrival and contracts a serious illness within the three months from his arrival, he/she might be subject to the administrative expulsion.”

It has to be noted that the cited Article 83 (8) (b) of the Act no. 404/2011 Coll. is in fact rarely applied in practice. Based on the precise reading of the Article it can be concluded that police would have possibility to issue expulsion decision in the case a third country national entered the territory of Slovakia and the tropical disease occurred in first three months since entry. However, the issuance of decision on expulsion follows the revocation of residence permit. Therefore the grounds for revocations have to be examined firstly. The grounds for revocation of temporary residence permit are listed in Article 36 of the Act no. 404/2011 Coll. which in article 36 (1) (b) allows police to revoke temporary residence permit in the case that conditions for which the residence permit would not be granted according to the article 33 (6) or (7) are being met.

Among the grounds for non-granting of temporary residence permit listed in article 33, the subpara 6 let (b) provides that temporary residence permit shall not be granted if there is a reasonable ground to believe that s/he would be a threat to national security, public order or public health. Based on the above mentioned it can be concluded that the law may not contain sufficient protection for third country national against revocation of residence permit if the disease would be contracted after the first residence permit would be granted. This must be tested in practice.

## **6.2 Practical application of the EU legal migration acquis**

In general, practical application of the EU legal migration acquis has been observed as conform in Slovakia. Slovakia is Schengen country and issues residence permit documents in unified form. The possession of residence allows the holder to move around whole territory of Slovakia and travel to other EU MS and third country nationals who are holders of residence permit in other Schengen country can travel and enter Slovakia freely.

The third country nationals are able to renew the residence permit at the territory of Slovakia and are also eligible for status change. The renewal of residence permit must be done in person at designated police office for foreigners. No online procedure is possible. In any case when the information provided in residence permit document does not correspond with the reality (e.g. change of name, address), the third country national must apply for renewal of residence permit documents within 5 days of the change.

The conditions for renewal of residence permit are in general the same as with the application, but several documents does not need to be submitted again, e.g. criminal record or medical record. In general TCN have to apply for change of status every time they want to change the purpose of the residence permit (e.g. if applying from employment to business, etc.). In relation to employment, the TCN has to apply for change of status if s/he changes employer or occupation.

All relevant information in relation to employment are listed on the residence permit document, no additional documents are needed. The residence permit for employment is linked with specific employer thus if the employment relation discontinues, the third country national must apply for new residence permit if s/he finds a new employer.

In relation to Blue Card, if the TCN who holds Blue Card residence permit is unemployed less than 3 months and within this time period finds a new highly qualified employment, s/he only informs the police office about this within this 3 months period since the last employment has ended. The police office than applies to office of labour, social affairs and family for the confirmation of availability to fill in the vacancy which corresponds with the highly qualified employment.

Pursuant to Article 5(1) of Act No 311/2001, labour-law relations between foreigners (i.e. EU citizens and third-country nationals) and stateless persons working on the territory of the Slovak Republic and employers registered in the territory of the Slovak Republic are governed by Act No 311/2000 (Labour Code), unless stipulated otherwise by legal regulations on international private law.

Article 13(1) of Act No 311/2000 explicitly provides that employers are obliged to treat employees in labour-law relations in accordance with the principle of equal treatment stipulated by Act No 365/2004 (Antidiscrimination Act). Pursuant to Article 13(2) of Act No 311/2001, discrimination is prohibited on the grounds of sex, marital and family status, sexual orientation, race, colour of skin, language, age, unfavourable health state or health disability, genetic traits, belief or religion, political or other conviction, trade union activity, national or social origin, national or ethnic group affiliation, property, lineage or other status. Act No 311/2001 equally protects the Slovak national employees and the third-country employees who perform their work in Slovakia. National Labour Inspectorate has general supervision over labour law and work conditions.

Slovakia does not apply integration measures that would be required by law. The Integration Policy, which has been approved in 2014 by decree of the government, contains measures, which shall be implemented in the relation to integration of third country nationals, but they shall be implemented on voluntary basis.

A foreigner can acquire Slovak citizenship by naturalization, if s/he meets the requirements stipulated by the Act on Citizenship of the Slovak Republic (Act no. 40/1993 Coll on State Citizenship). As a general rule, a foreigner who wishes to apply for Slovak citizenship is mainly required to have an uninterrupted permanent residence in the territory of the Slovak Republic for at least eight years immediately preceding submission of the application. The exemptions from eight years are provided for spouse of Slovak citizen with permanent residence permit for 5 years, recognized refugees (4 years), stateless persons (3 years), and underage children (3 years) etc. On addition, the applicant must undergo a probity check according to the

Act on Citizenship of the Slovak Republic; prove his/her command of the Slovak language; prove a general knowledge about the Slovak Republic; submit all documents required by the Act on Citizenship of the Slovak Republic. The decision making process on application for Slovak citizenship can last up to 24 months.

The information provided publicly in relation to renewal or status change of residence permit and regarding naturalization are good in general. But this applies mostly when it comes to public website of Slovak Mission of International Organization for Migration (IOM), which operates Migrant Information Centre. Their website contains user friendly, multilingual information for foreigners unlike the website of majority of ministries and State authorities in Slovakia. State – owned websites provide very little information, in English only and there is no single State owned comprehensive website dedicated solely for the purpose of informing third country nationals. In this area, more improvement is necessary.

**a. Use of the permit:**

The residence permit is issued using the format as set out in Regulation (EC) No 1030/2002 for residence permits. The permit has a constitutive value. It gives third-country nationals to right to move freely on the Member State’s territory.

The Member State allows third-country nationals holding residence permits from other Member States applying the Schengen acquis (together with a valid travel document) to enter and move freely within its territory.

The permit is required as a legal document for the following other administrative procedures:

Access to education	Access to healthcare	Registration with PES	Fixed telephone subscription	Utility subscription	Open a bank account	Social security registration
		X	X	X		

**b. Renewals of the permit:**

National or EU law imposes a direct or indirect requirement to renew a valid residence document.

The renewal process follows a single procedure, involving more than one authority. The same authorities are involved as in the first application procedure.

**c. Change of status and naturalisation**

Status changes are possible for most statuses, with the exception of change of the residence permit for the purpose of studying to long term residence permit as stipulated in art. 52 (2) (e) of the Act no, 404/2011 Coll. on the Stay of the Foreigners. The procedure for requesting a status change is different from the first application procedure.

In order to obtain citizenship, the third-country nationals needs to comply with the following conditions

- have an uninterrupted permanent residence in the territory of the Slovak Republic for at least eight years immediately preceding submission of the application;

- undergo a probity check according to the Act on Citizenship of the Slovak Republic;
- prove his/her command of the Slovak language;
- prove a general knowledge about the Slovak Republic;
- submit all documents required by the Act on Citizenship of the Slovak Republic.

Besides the above-mentioned:

- an applicant must not have been sentenced to expulsion from the Slovak Republic by a court judgment;
- an applicant must not be under current criminal prosecution;
- an applicant must not be under extradition proceedings and an European arrest warrant must not have been issued for the applicant;
- an applicant must not be under proceedings of administrative expulsion;
- an applicant must not be under proceedings of withdrawal of his/her asylum status.

The applicant is required to submit all documents proving that he/she abides by the duties and obligations set forth in the legislation regulating the Residence of foreigners in the territory of the Slovak Republic, the public health insurance, social insurance, old-age pension savings system, taxes, payments and fees, employment of foreigners in Slovakia, etc.

Probity check:

- An applicant will pass a required probity check, if he/she meets the following requirements:
- An applicant has been convicted of a deliberate criminal offense and the conviction of the applicant has been expunged at least five years before the date of filing the application;
- Criminal prosecution against the applicant for a deliberate criminal offense has been conditionally stayed and the probation period has expired at least five years before the date of filing the application;
- Criminal prosecution against the applicant for a deliberate criminal offense has been stayed by the court decision on approval of out-of-court settlement, or by the prosecutor's decision on out-of-court settlement, provided that the decision became effective at least five years before the date of filing the application.

The clear criminal record shall be proved with an extract issued by the General Prosecutor of the Slovak republic or with a similar confirmation issued in an applicant's country of origin.

All exemptions from the above-mentioned requirements are listed in the Act on Citizenship of the Slovak Republic. The conditions in respect to some specific groups of migrants can be more lenient, for example if an applicant is a spouse of a Slovak citizen, a foreigner who has been granted asylum or a foreigner whose activities represent a benefit to the Slovak Republic.

An exemption from the eight-year uninterrupted permanent residence requirement can be applied in the case of an applicant who has a residence in the territory of the Slovak Republic for a period of time shorter than eight years, if he for example:

- concluded a marriage with a Slovak citizen, provided that the marriage still lasts and the spouses have lived together in a common household in the territory of the Slovak Republic for at least five years immediately prior to filing the Citizenship application;
- is a person representing a significant benefit for the Slovak Republic in the field of economy, science, technology, social affairs, culture or sports, or if granting Slovak citizenship to this foreigner is in the interest of the Slovak Republic;

- has had a continuous permanent residence permit in the territory of the Slovak Republic for at least three years before reaching 18 years of age;
- is a minor with a uninterrupted residence in the territory of the Slovak Republic for at least two years immediately prior to filing the Citizenship application, provided that the legal representative or a guardian of such minor is a Slovak citizen or a legal entity, which has been appointed by a Slovak court. However, this length of the residence period does not apply to children younger than 2 years of age;
- has been an asylum holder for at least four years immediately preceding submission of the application;
- was born in the territory of the Slovak Republic and has had a permanent residence in Slovakia for at least three years immediately prior to filing the Citizenship application;
- has had an uninterrupted residence in Slovakia for at least ten years and has already been granted a permanent residence permit at the time of filing the Citizenship application;
- is stateless and has been residing in Slovakia continuously for at least three years immediately prior to filing the Citizenship application;
- has been previously released from the state bond of the Slovak Republic according to section 9 of the Act on Citizenship of the Slovak Republic and has been residing in the territory of the Slovak Republic for at least two years immediately prior to filing the application for regaining the Slovak citizenship;
- has had an uninterrupted residence in the territory of the Slovak Republic for at least two years immediately prior to filing the Citizenship application, provided that one of the applicant's parents was a citizen of former Czechoslovakia and the other parent was a foreigner and he/she has not gained Czechoslovak citizenship according to section 1 subsection 2 of the Act No. 194/1949 Coll. on Acquisition and Loss of Czechoslovak Citizenship;

The exemption also applies to a foreigner who has been granted the Status of a Slovak National Living Abroad (declared by the Certificate of a Slovak National Living Abroad – former Slovak Expatriate Card) and who has had an uninterrupted residence in the territory of the Slovak Republic for at least three years immediately prior to filing the Citizenship application.

Minor applicants younger than 14 years of age are exempted from the requirement of undergoing the Slovak language and general knowledge check. If the applicant is a person representing a significant benefit for the Slovak Republic in the field of economy, science, technology, social affairs, culture or sports or a person previously released from the state bond of the Slovak Republic.

#### **d. Employment rights on the basis of the permit**

In general, a work-related permit is linked to a certain employer. When changing employer, the third-country national needs to request a change to the permit.

#### **e. Equal treatment**

In relation to equal treatment we did not identify any restrictions with respected to areas of concern.

With regard to identifying labour exploitation, the Member State does have a mechanism in place to monitor the exploitation of third-country nationals. Other specific measures in place to prevent labour exploitation of third-country nationals

include National Program on Combating the Trafficking in Human Beings for the years 2015 – 2018, which sets up number on preventive measures including those targeting labour exploitation prevention – e.g. information and awareness raising campaigns among employees and employers. Prevention of trafficking in human beings belongs under the Ministry of Interior, Prevention of Criminality Department (<http://www.minv.sk/?prevencia-kriminality-5>) . There is designated special police unit to combat human trafficking, which belongs to Office of the Alien and Border Police - National Unit to Combat Illegal Migration (<http://www.minv.sk/?organizacna-schema-uhcp-p-pz>) .

**f. Integration:**

Specific voluntary integration programs provided by non-State actors do apply to third-country nationals once established on the territory of the Member State. There are no consequences if the third-country national does not participate in these or fails the integration measure.

**6.3 Differences between national statuses and the EU legal migration acquis**

There are no national statuses in Slovakia to compare with relevant EU legal migration acquis.

**7 Intra-EU mobility phase**

**7.1 Legal transposition of the EU legal migration acquis**

Here the conformity issues have been identified in relation to SD article 8 (2) related to the mobility of students. It has been established that the article 8 (2) is partially transposed as the legislation does not include the students who take part of studies abroad.

Another non-conformity issue has been identified in relation to **BCD art. 18 (3)**, which provides: "The application may also be presented to the competent authorities of the second Member State while the EU Blue Card holder is still residing in the territory of the first Member State."

Transposition of this article has been concluded as not conform due to the legislative gap. Since the national authorities did not refer to any provision that would establish a right of an EU Blue Card seeker to present the application in Slovakia while the EU Blue Card holder would be still residing on the territory of the first Member State, the conclusion has not been changed.

Another non-conformity issue has been identified in relation to **LTR** article 15 (2) (a) of the Directive, which sets out an option, which the Slovak Republic chose to apply. Transposition of this article has been observed as not-conform.

Articles 32(2)(c), 32(6)(a)-(d) and (g) and Article 32(15) of Act No 404/2011 transpose Article 15(2) of the Directive.

Article 32(2)(c) of Act No 404/2011 requires a third-country national to show evidence of having stable and regular resources when applying for a short-term residence status at a police department. These can be e.g. an employer's confirmation about the level of agreed salary, a statement of balance of a bank account of third country national, a statutory declaration of his family member. The exact type of a required

document will depend on the purpose of the residence. All documents need to be submitted in either Slovak (official language) or Czech language. Applicants are responsible for the translation, if necessary.

Concerning “the stability and regularity of the resources”, there are no parameters referred to in the Slovak legislation which would evaluate the stability and regularity of the financial resources. However, Article 32(15) of Act No 404/2011 refers to a specific indicator, which is the minimum living standard. Every applicant thus needs to show that he/she has financial resources equal to: 12 times the minimum living standard. For the year 2014 it would be 2377, 08€ or 1188, 54€ in case of a minor person. Where the applicant fails to prove that he/she is in possession of the above stated amount, the police department will refuse his/her application. Based on the above, conformity is not concluded.

The non-conformity mentioned above may affect the practical application of SD, BCD and LTR as the law does not provide other option hence the Directives would have been applied directly by the competent authority.

## **7.2 Practical application of the EU legal migration acquis**

For short-term mobility, the Member State:

- Does not require the third-country national to notify
- Does not require the third-country national to ask for authorisation.

## **7.3 Differences between national statuses and the EU legal migration acquis**

There are no equivalent national statuses, therefore no issues were identified.

# **8 End of legal stay / leaving the EU phase**

## **8.1 Legal transposition of the EU legal migration acquis**

In general, legal transposition of the EU legal migration acquis in relation to end of legal stay has been observed as being in line with the law. There was one issue of partial conformity, which has been observed in relation to article 9 (1) LTR introductory wording.

Article 9 (1) LTR introductory wording concerns withdrawal and loss of status and provides:

Article 9 Withdrawal or loss of status

Long-term residents shall no longer be entitled to maintain long-term resident status in the following cases: [...] (c) in the event of absence from the territory of the Community for a period of 12 consecutive months.

According to the conformity assessment report, the wording of the related articles in Slovak law has been assessed as only partially conform. According to the report, although worded differently, Articles 55 and 56 of Act No 404/2011 have a purpose similar to that of Article 9(1), introductory wording, of the Directive. Article 56 of Act No 404/2011 lays down conditions following which a police department shall withdraw the long-term residence status from the third-country national. Besides, there are reasons listed in the Article 55 of Act No 404/2011 for which the third-country national loses his long-term resident status from the moment the reason for the loss comes to an existence. Therefore, it can be concluded that the Slovak legislation applies both the withdrawal of the long-term residence status, which implies an administrative

decision and the loss of the long-term residence status, which does not imply an administrative decision. In addition, Article 55 (f) of Act No 404/2011 states that if a police department decides on the withdrawal of the long-term residence status of a third-country national, such status will cease to exist by the operation of law.

Generally, the grounds for withdrawal or loss of the status referred to in Article 9 of the Directive are observed by Articles 55 and 56 of Act No 404/2011 and are dealt with in more details below. Nevertheless, it is appropriate to mention that there are three additional grounds for the loss of the long-term residence status known in Article 55 of Act No 404/2011, which are applicable to the long-term residents. The grounds in question deal with situations in which the third-country national informs the police department in writing that he wishes to give up his long-term residence status; where the third-country national acquires a Slovak citizenship; and where the third-country national dies or is legally declared as a deceased. The additional grounds do not have an effect on the purpose of the Directive, even if the exhaustive list of grounds for withdrawal or loss of the status has been extended by the Slovak legislation. Based on the above, partial conformity is concluded. (i.e. 9(1)(c) is conformed).

## **8.2 Practical application of the EU legal migration acquis**

In general, practical application of the provisions of EU law transposed into Slovak law is on very good level.

The third country nationals may choose to leave territory of Slovakia. The obligation is to inform police in writing if the third country national with granted residence permit plans to continuously reside outside of the territory of Slovakia for more than 180 days. However, there is no special procedure at place if the third country national decides to leave the territory of Slovakia concerning de-registration or leaving details of new country of residence. If the residence permit document becomes invalid, it shall be returned to police.

In relation to transfer of social benefits, following social security benefits are transferable: sickness benefits, nursing benefits, balance benefit, maternity benefit, retirement pension, early retirement pension, widow's pension and widower's pension and orphan's pension. These are transferable also to the countries with which Slovakia does not have bilateral agreement on social security. Unemployment benefit and State social benefits such as family benefit, Christmas benefit and funeral benefit are not transferable. State social aid benefits – material need benefit and additional benefits to material need benefit are not transferable. The process on transfers of pensions and other transferable benefits is stipulated by law. Information on portability of social benefits is published in Slovak and English and in general available to the third country nationals.

Slovakia does not have any official scheme related to circular migration.

Overstaying is considered as unlawful stay at the territory of Slovakia and constitutes administrative offence. The law provides that administrative fine which may be imposed for unlawful stay could be up to the sum of 1.600 EUR. In the case the offence is being proceed in fast procedure, the fine can be up to 165 EUR. However this is only possible if the third country national pledge guilt and agrees to pay a fine. In such case, there is no possibility to appeal the decision on the offence and fine.

Further, Article 82 (1) (b) of the Act No. 404/2011 Coll. provides that police office shall issue decision on administrative expulsion if TCN is unlawfully at the territory of Slovakia. According to article 82 (2) (n) police office may issue decision on administrative expulsion if TCN failed to fulfill the obligation stipulated in the article 111 (1) (p) of the Act No. 404/2011 Coll. (providing the obligation to leave territory of Slovakia on the very last day of lawful residence). According to article 82 (3) (b) in above mentioned cases, police office may accompany the decision on administrative expulsion with the ban on entry in duration of minimum 1 year and maximum 5 years.



There are no specific procedures in place for third-country nationals who choose to leave the Member State.

The Member State allows third-country nationals to export certain social security benefits, namely sickness benefits, nursing benefits, balance benefit, maternity benefit, retirement pension, early retirement pension, widow's pension and widower's pension and orphan's pension. These are transferable also to the countries with which Slovakia does not have bilateral agreement on social security. Unemployment benefit is not transferable and State social benefits such as family benefits, Christmas benefit and funeral benefit are not transferable. Also, State social aid benefits – material need benefit and additional benefits to material need benefit are not transferable. Information on the portability of social security benefits is easy to find and clear.

A third-country national residing in the Member State is allowed to be absent from the territory for a maximum of 180 days (365 days for LTR) before s/he loses the residence permit and/or right to stay. The absence of third-country nationals is monitored by the Member State.

The Member State does not have measures or a scheme in place to allow circular migration.

The consequences of deliberate overstay of the duration of the residence permit are:

**Administrative fine** Article 118 (1) (a) provides that the unlawful stay at the territory of Slovakia is considered to be administrative offence. Article 118 (1) (b) provides that failure to fulfill the obligation to leave territory of Slovakia at the very last day of lawful residence is administrative offence

According to the art. 118 (6) administrative fine may be imposed for above mentioned offences up to the sum of 1600€. In the case the offence is being proceed in fast procedure, the fine can be up to 165€ (art. 118 (7)).

**Decision on administrative expulsion and ban on entry:** Article 82 (1) (b) of the Act No. 404/2011 Coll. provides that police office shall issue decision on administrative expulsion if TCN is unlawfully at the territory of Slovakia.

According to art. 82 (2) (n) police office may issue decision on administrative expulsion if TCN failed to fulfill the obligation according to art. 111 (1) (p) of the Act No. 404/2011 Coll. (providing the obligation to leave territory of Slovakia on the very last day of lawful residence).

According to art. 82 (3) (b) in above mentioned cases, police office may accompany the decision on administrative expulsion with the **ban on entry** in duration of minimum 1 year and maximum 5 years

### **8.3 Differences between national statuses and the EU legal migration acquis**

There are no equal national statuses and therefore no differences have been observed.

## **9 Main findings and conclusions – state of practical implementation of EU legal migration legislation in the Member State**

Overall, the practical implementation of the EU legal migration legislation in Slovakia is on very good level. All directives have been properly transposed, with minor issues related to non-conformity of partial non- conformity identified.

The major issues discussed concerns the access to information related to different types of residence permits and the way these information are provided. The major conclusion is that it would be an improvement if there would be one centralized website in multiple languages with all information concerning different types of residence permits, application form, additional documentation required, fees, etc. The least available information has been observed in relation to BCD. In general, **Blue Card directive** is also the less used type of residence permit in Slovakia and its potential has been largely unused. The lack of quality access to the information on BCD could be one of the reasons.

Several issues of non-conformity have been identified in relation to intra-EU mobility. Here the improvement of legislation would be needed. On 5 October 2017, the Ministry of Interior published amendment of the Act no. 404/2011 Coll. on the Stay of the Foreigners. This amendment would transpose the Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing. The amendment is scheduled to entry into force on 1 May 2018. If approved, the amendment may solve some of the legislative and practical problems as identified in this report in relation to students, volunteers, pupils and researchers. However, the exact state of transposition has to be followed up as currently the amendment is just in draft form and has to undergo legislative procedure to become binding act.

## **Annex 1 References**

### Reports:

European Migration Network (EMN), Study on Access of Migrants to Social Security and Health Insurance in Slovak Republic: Politics and Practices, October 2013 , available here\_: <https://www.emn.sk/sk/studie-emn.html>

European Migration Network (EMN), Temporary and Circular Migration in the Slovak Republic, National Study for the European Migration Network, written by Ing. Tomáš Domonkos, PhD., Ing. Michal Páleník, Ing. Marek Radvanský, Bratislava, November 2010, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/circular-migration/23b.\\_slovak\\_republic\\_national\\_report\\_circular\\_migration\\_final\\_version\\_23nov2010\\_sk\\_en.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/circular-migration/23b._slovak_republic_national_report_circular_migration_final_version_23nov2010_sk_en.pdf)

European Migration Network (EMN), Synthesis Report for the EMN Focussed Study 2015 , Changes in immigration status and purpose of stay: an overview of EU Member States' approaches, available here: <https://www.emn.sk/sk/studie-emn.html>

International Centre for Migration Policy Development (ICMPD), LOT 2: Assess the implementation and impact of the "Scientific Visa" package (Researchers Directive 2005/71/EC and Recommendation 2005/761/EC), Assessment for the Directive 2005/71/EC, Vienna, 18 August 2011

TIPIK, Conformity Assessment of Directive 2003/109/EC, Slovakia, Draft Report, Version 1.0 – 12/06/2014

### LAW:

Act no. 404/2011 Coll. on Residence of Aliens and Amendment and Supplementation of Certain Acts

Act No 461/2003 Coll. on Social Insurance, available here: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2003/461/20170701>

Act No 43/2004 on pension insurance and on amendments to other acts, available here: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2004/43/20161201>

Act no. 71/1967 Coll on Administrative Procedure (Administrative Code – zákon č. 71/1967 Zb. o správnom konaní)

Act no. 145/1995 Coll. On Administrative Fees (Zákon č. 145/1995 o správnych poplatkoch)

Act no. 40/1993 Coll. on State Citizenship of the Slovak Republic (zákon č. 40/1993 Zb. o štátnom občianstve Slovenskej republiky)

Act no. 311/2001 Coll. Labour Code

Act no. 124/2006 Coll. On security and protection of the health in work

Act no. 125/2006 Coll. On Labour Inspection

Act no. 600/2003 Coll. on Child Allowances and on the amendment and supplementation of Act no. 461/2003 Coll. on Social Insurance as amended by further regulations.

### Websites:

Central Office of Labour, Social Affairs and Family, Job offer form, available here: <http://www.upsvar.sk/zamestnavatel-1/cudzinci/zamestnanie-statneho-prislusnika->

tretej-krajiny/chcem-zamestnat-statneho-prislusnika-tretej-krajiny-ako-mam-postupovat.html?page\_id=260531&urad=240352

Ministry of Interior, Prevention of Criminality Department:  
<http://www.minv.sk/?prevencia-kriminality-5>

Ministry of Interior, National Unit to Combat Illegal Migration:  
<http://www.minv.sk/?organizacna-schema-uhcp-p-pz>

Sociálna poisťovňa (Social Insurance Company), Information on Old Age Pensions, accessed on 30 July 2017, available here: <http://www.socpoist.sk/old-age-pension-/51389s>

Sociálna poisťovňa (Social Insurance Company), Information on Social Insurance System in Slovakia, accessed on 30 July 2017, available here:  
<http://www.socpoist.sk/social-insurance-system-in-slovakia/24533s>

Website of Ministry of Interior, subsection Foreigners: <http://www.minv.sk/?vizova-info-typy-viz-1/>

Website of Ministry of Interior, subsection Residence of an Alien,  
<http://www.minv.sk/?residence-of-an-alien>

Ministry of Foreign Affairs and European Affairs, Section on Consular Information:  
[https://www.mzv.sk/web/en/consular\\_info/visa](https://www.mzv.sk/web/en/consular_info/visa) ;

Ministry of Foreign Affairs and European Affairs, Section on Consular Information, subsection on visa centres: [https://www.mzv.sk/web/en/consular\\_info/visa\\_centres](https://www.mzv.sk/web/en/consular_info/visa_centres)

Ministry of Foreign Affairs and European Affairs, Information on residence permits:  
[https://www.mzv.sk/web/en/consular\\_info/residence\\_of\\_foreigners\\_in\\_territory\\_of\\_slovakia](https://www.mzv.sk/web/en/consular_info/residence_of_foreigners_in_territory_of_slovakia)

Ministry of Foreign Affairs and European Affairs, Information on existing visa centers,  
[https://www.mzv.sk/web/en/consular\\_info/visa\\_centres](https://www.mzv.sk/web/en/consular_info/visa_centres)

Ministry of Labor, Social Affairs and Family, section on "Information for Foreigners":  
<https://www.employment.gov.sk/sk/informacie-cudzincov/> The section is also available in English: <https://www.employment.gov.sk/en/information-foreigners/>

Central Office of Labor, Social Affairs and Family, sub-section "Foreign citizens" under Section "Employment Services" [http://www.upsvar.sk/sluzby-zamestnanosti/zamestnavanie-cudzincov.html?page\\_id=272197](http://www.upsvar.sk/sluzby-zamestnanosti/zamestnavanie-cudzincov.html?page_id=272197)

Ministry of Education, Science, Research and Sport: [www.minedu.sk](http://www.minedu.sk)

Ministry of Education- information on recognition of diploma/education:  
<http://www.minedu.sk/recognition-of-foreign-diplomas/>

Ministry of Education, Science, Research and Sport: [www.studyin.sk](http://www.studyin.sk)

SAIA: <https://www.saia.sk/en/main/research-in-slovakia/>

EURAXESS: <https://www.euraxess.sk/>

IOM International Organization on Migration: <http://www.mic.iom.sk/en/>

#### Conformity reports:

International Centre for Migration Policy Development (ICMPD), LOT 2: Assess the implementation and impact of the "Scientific Visa" package (Researchers Directive 2005/71/EC and Recommendation 2005/761/EC), Assessment for the Directive 2005/71/EC, Vienna, 18 August 2011

TIPIK, Conformity Assessment of Directive 2009/50/EC Slovakia, Final Report, Version 5.0 –29/03/2013

TIPIK, Conformity Assessment of Directive 2011/98/EU, Slovakia Assessment Report, Version 2.0 – 02/10/2015

TIPIK, Conformity Assessment of Directive 2003/109/EC, Slovakia, Draft Report, Version 1.0 – 12/06/2014

TIPIK, Conformity Assessment of Directive 2003/86/EC, Slovakia, Final Report, Version 2.0 – 09/05/

*IA on au pairs and possible amendments to Directive 2004/114 – Draft Final Report – Annex 2*

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