



# **Legal Migration Fitness Check**

Evidence base for practical  
implementation

Member State summary

**Slovenia**

*Annex 2 SI*

Written by ICF Consulting Services  
Limited

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## **LEGAL NOTICE**

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## Introduction

This document provides an overview of the legal and practical implementation of EU legal migration acquis in **Slovenia**. 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:

Directive	FRD (Family Reunification Directive 2003/86/EC)	LTR (Long Term Residency Directive 2003/109/EC)	SD (Students Directive 2004/114/EC)	RD (Research ers Directive 2005/71/EC)	BCD (Blue Card Directive 2009/50/EC)	SPD (Single Permit Directive 2011/98/EU)
National parallel scheme		Permanent resident				
		Aliens Act (Zakon o tujcih, Ztu-2, 15 June 2011, and subsequent modifications)				
		Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia (Zakon o urejanju statusa državljanov drugih držav naslednic nekdanje				

<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).

	SFRJ v Republiki Sloveniji, 8 July 1999, and subsequent modification s)	
Options implemented?		Pupil Trainee Volunteer

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

Apart from the status of permanent resident, Slovenian legislation does not provide for any other specific national statuses with a view to the EU legal migration acquis. The long-term residence status, as per the relevant Directive and the Aliens Act, is granted through delivery of the permanent residence permit to persons whose residence in Slovenia is considered to be uninterrupted for five years, including in the case that they were absent from the country and did not have a residence permit for less than six subsequent months and if these absences did not exceed ten months in total.

On the other hand, according to the Aliens Act, permanent residence permit may be issued before the fulfilment of the period stated above to certain groups: TCNs of Slovenian descent, TCNs whose residence in Slovenia is in the interest of Slovenia, family members of a TCN who has a permanent residence permit or refugee status, TCNs who held permanent residence permit in Slovenia, but the permit ceased to be valid, TCNs who were granted long-term residence status in another Member States and whose status ceased to be valid. These groups are not considered long-term residents. They have the option to apply for this status after satisfying the condition of five-year uninterrupted residence in the country, but this is not mandatory. All TCNs mentioned in this paragraph shall meet the same conditions when applying for the long-term resident status (valid travel document, adequate health insurance, and sufficient means of subsistence).

There are further two groups, both consisting of nationals of the former SFRY, which may obtain permanent resident status under the Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia. The first group include nationals of the former SFRY with republican citizenship of other republics of former Yugoslavia were living in Slovenia and had their permanent residence registered in Slovenia on 23 December 1990, they have not acquired Slovenian citizenship and on 26 February 1992 they were unlawfully erased by the State administration from the registry of permanent residents and were, consequently, considered to be irregular migrants in Slovenia (known as "erased" residents). The second group include nationals of the former SFRY with republican citizenship of other republics of former Yugoslavia, who did not have their permanent residence registered in Slovenia, but were living in Slovenia de facto on 25 June 1991 (the day of independence), they did not acquire Slovenian citizenship (they were not allowed to apply) and were considered irregular migrants in Slovenia. The Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia was adopted to provide a regularisation opportunity to people in question. They did not have to meet any of the conditions set out in the Aliens Act, meaning that a parallel system was introduced for these two groups. These persons only have to belong to the

mentioned groups. After five years of uninterrupted residence in Slovenia, they may also apply for long-term resident status under the same conditions as other applicants for such a status.

## **1 Pre-application phase**

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

This section of the summary provides a short overview of the transposition of the EU legal migration acquis relating to the pre-application phase, with a particular focus to the provision of the information relevant for individuals who intend to migrate to Slovenia.

With regard to the applicants' access to information about the application procedure in the SPD and other Directives as well, there is no specific provision in the legislation, including in the Aliens Act, which deals specifically with the provision of information to persons who wish to migrate to Slovenia.

However, the issuance of all types of residence permits in Slovenia, including single permits, is carried out as an administrative procedure. Bodies involved in administrative procedures are bound by the Decree on Administrative Operations. Chapter 2 of the Decree deals with the provision of information on administrative and other public services. According to the Decree, general information concerning administrative procedures shall particularly cover conditions for entitlement to certain right or administrative service; where and under what procedure a customer can obtain certain right or administrative services; documents to be enclosed with the application; administrative fees and other payments and execution of payments. The Decree further elaborates the ways in which information is provided, namely through the counsellors or other public servants, in written form (e.g. brochures, leaflets), via internet.<sup>2</sup> In addition, information is available through internet and through leaflets for certain types of permits (e.g. single permit).<sup>3</sup>

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

Slovenia makes available the information on admission procedures and residence of foreigners in Slovenia to general public through several websites and in several languages,<sup>4</sup> while the Ministry of the Interior regularly publishes data on valid residence permits and residence permits issued by citizenship on its website and produces annual reports on migration with data on valid residence permits and residence permits issued by type and purpose.<sup>5</sup>

<b>Directive</b>	<b>FRD (Family Reunification Directive)</b>	<b>LTR (Long Term Residency Directive)</b>	<b>SD (Students Directive)</b>	<b>RD (Research ers Directive)</b>	<b>BCD (Blue Card Directive)</b>	<b>SPD (Single Permit Directive)</b>
	<b>2004/39/EC</b>	<b>2003/109/EC</b>	<b>2004/114/EC</b>	<b>2005/71/EC</b>	<b>2009/50/EC</b>	<b>2011/98/EC</b>

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<sup>2</sup> Decree on Administrative Operations/ Uredba o upravnem poslovanju, 17 February 2005, and subsequent modifications.

<sup>3</sup> See e.g. <http://www.infotujci.si/v/53/employment-or-work-highly-qualified-employment-seasonal-work>; [http://english.ess.gov.si/the\\_info\\_point\\_for\\_foreigners/working\\_in\\_slovenia](http://english.ess.gov.si/the_info_point_for_foreigners/working_in_slovenia); [http://www.mnz.gov.si/en/services/slovenia\\_your\\_new\\_country/](http://www.mnz.gov.si/en/services/slovenia_your_new_country/).

<sup>4</sup> See e.g. <http://www.infotujci.si/index.php?setLang=EN&t=&id=>; [http://www.mnz.gov.si/en/services/slovenia\\_your\\_new\\_country/](http://www.mnz.gov.si/en/services/slovenia_your_new_country/); <http://studyinslovenia.si>; <https://www.euraxess.si/>.

<sup>5</sup> See [http://www.mnz.gov.si/si/mnz\\_zavastujci\\_v\\_sloveniji/statistika](http://www.mnz.gov.si/si/mnz_zavastujci_v_sloveniji/statistika); [http://www.mnz.gov.si/en/services/slovenia\\_your\\_new\\_country/](http://www.mnz.gov.si/en/services/slovenia_your_new_country/).

	e 2003/8 6/EC)	/EC)	EC)	EU)		
Languages	National language (s) English French Spanish Russian Other					
The information is easy to find*	1	1	1	1	2	2

\* 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	NI	Yes	Yes	Yes	

### Information upon request

Information is provided upon request in third countries through consular departments and offices of diplomatic missions abroad, and in the country of destination administrative units; both provide information on procedures pertaining to issuance of specific residence permits.

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

In practice, in terms of rights and obligations, Slovenian legislation does not differentiate between long-term residents and permanent residents who are not long-term residents (generally, the legislation covering different fields of life only uses the term permanent residence). The only difference in their status might relate to provisions of the relevant Directive which have not been transposed in Slovenian legislation. For example, the Directive guarantees equal treatment of nationals and long-term residents in access to housing, but currently only Slovenian nationals and, on the basis of reciprocity, the EU nationals who have permanent residence are entitled to apply for non-profit rental housing in Slovenia. This means that only persons with the status of long-term residents may initiate possible legal proceedings on this matter, invoking direct application of the Directive. However, no such proceedings have been initiated as of yet.

## **2 Preparation phase**

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

As per Article 15(3) of the FRD, the Slovenian legislation does not include specific provisions ensuring the granting of an autonomous residence permit in the event of particularly difficult circumstances that family members find themselves, and the situation in Slovenia, according to the assessment we have received, only partially conforms to the requirements of the Directive. There is a general provision in the Aliens Act allowing for the issuance of a temporary residence permit for other legitimate and, by law, international acts or by international principles and customs, justified reasons, or because of the interest of the Republic of Slovenia (Art. 51 of the Aliens Act).<sup>6</sup>

With regard to the SD, the assessment notes that a provision of Art. 9 of the Directive ensuring that the pupil exchange organisation accepts responsibility for him/her throughout his/her period of presence in the territory of the Member State concerned, in particular as regards subsistence, study, healthcare and return travel costs, has not been transposed into Slovenian legislation. Indeed, there is no such specific provision in the law, but, according to the assessment, the Slovenian authorities claimed that this provision is covered by general rules on admission. According to the Aliens Act, every applicant shall, when applying for residence permit, provide evidence that he/she possesses sufficient means of subsistence during his/her stay in Slovenia and adequate healthcare insurance (Art. 33, Para. 3 of the Aliens Act). In addition, the law specifically allows applicants for the residence permit for study purposes to submit parents' statement that they shall provide for the applicant during his/her stay in Slovenia or a certificate confirming that they are recipients of a scholarship granted by the competent Slovenian public body (Art. 44 of the Aliens Act).

In a similar vein, according to the assessment, Art. 11 of the SD concerning admission criteria for volunteers has not been fully transposed into Slovenian legislation. The latter lacks a specific provision relating to the age of volunteers, namely Slovenia did not set up any specific limitation regarding their age. In addition, there is no specific provision in Slovenian legislation ensuring that the organisation responsible for the voluntary service scheme in which he/she is participating has subscribed a third-party insurance policy and accepts full responsibility for him/her throughout his/her stay, in particular as regards his/her subsistence, healthcare and return travel costs. The same as with pupils, it seems that general rules on admission are applicable.<sup>7</sup> The Volunteering Act further stipulates that a volunteer organisation shall provide for personal expenses of an alien volunteer who has been sent to the Republic of Slovenia if a volunteer organisation that sent the volunteer so agreed and if the latter has provided the necessary funds for such a payment or if such payment is provided for by a European or an international programme which is conducted on the basis of an international treaty concluded or acceded by the Republic of Slovenia.<sup>8</sup>

Based on the existing rules, one can conclude that Slovenia chose to place the burden of providing evidence of sufficient means of subsistence and adequate healthcare insurance on the applicants (e.g. pupils, volunteers) rather than organisations accepting them, but this does not necessarily result in non-compliance with the Directive, since both the general admission criteria and certain specific criteria applicable to applicants for the residence permit for study purposes ensures that applicants to whom such permits are granted fulfil admission requirements concerning sufficient means of subsistence and adequate healthcare insurance. The law also does not exclude the possibility that certain funds are allocated by the organisation accepting the applicants.

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<sup>6</sup> Aliens Act/ Zakon o tujcih, Ztuj-2, 15 June 2011, and subsequent modifications.

<sup>7</sup> Aliens Act/ Zakon o tujcih, Ztuj-2, 15 June 2011, and subsequent modifications.

<sup>8</sup> Volunteering Act/ Zakon o prostovoljstvu, 3 February 2011, and subsequent modifications.



## 2.2 Practical application of the EU legal migration acquis

Dedicated reports on this phase are hard to find in Slovenia, but, similarly, there have been no issues raised in public confirming that this phase is particularly problematic or that Slovenia failed to meet the requirements as per the EU legal migration acquis.

There is a general approach, and an applicant is required to submit one application with the competent authority (i.e. diplomatic-consular representation offices of the RS which forward the application to the competent administrative unit (upravna enota) in Slovenia for observation or directly with the administrative unit). The same applies for the SPD, with the exception of citizens of Bosnia and Herzegovina.

According to the bilateral agreement between Slovenia and Bosnia and Herzegovina, a work permit is still issued to citizens of this country, and an additional application for the work permit must be submitted with the Employment Service of Slovenia.

According to the Aliens Act, the issuance of the work permit is regarded as consent by the Service for the issuance of a single permit by the competent administrative unit. (Aliens Act, 15 June 2011, and subsequent modifications; Act ratifying the Agreement between the Government of the Republic of Slovenia and the Council of Ministers of Bosnia and Herzegovina on the Employment of Citizens of Bosnia and Herzegovina in the Republic of Slovenia and the Protocol on the Implementation of the Agreement between the Government of the Republic of Slovenia and the Council of Ministers of Bosnia and Herzegovina on the Employment of Citizens of Bosnia and Herzegovina, 21 November 2012).<sup>9</sup>

The tables below summarise the ease of the application procedure as well as the key information/ documents required.

Ease of the application procedure:

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

Key information/ documents required:

Type of information	FRD	LTR	SD	RD	BCD
Family ties	Yes, T <sup>10</sup> , C				
Continuous legal residence		No			
Sufficient resources	Yes, T, C	Yes, T, C	Yes, T, C	Yes, T, C	
Accommodation/Address in territory	No				No

<sup>9</sup> See also: [https://www.ess.gov.si/delodajalci/zaposlovanje\\_in\\_delo\\_tujcev/zaposlovanje\\_delavcev\\_iz\\_bih](https://www.ess.gov.si/delodajalci/zaposlovanje_in_delo_tujcev/zaposlovanje_delavcev_iz_bih).

<sup>10</sup> Documents proving family ties can be either issued on international forms, (in this case translation is not required), or on original national forms but in this case certified translation is required.

Sickness insurance	Yes, C	Yes, C	Yes, C	Yes, C	Yes, C
Work contract (for RD host agreement)				Yes, T, C	Yes, C
Minimum salary threshold <sup>11</sup>	Yes	Yes	Yes	Yes	Yes
Professional qualifications				No	
(Pre-) Integration measures	No	No			
Pre-departure conditions			No		
Proof no threat to public	Yes, T, C	Yes, T, C	Yes, T, C		Yes, T, C
Medical examination certificate	No		No	No	No
Valid travel document			Yes, C	Yes, C	Yes, C
Entry visa					No
Other	Yes, C	Yes, C	Yes, T, C	Yes	Yes, C

*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 specific issues. Please see Section 1.3 for more information about the national status.

## **3 Application phase**

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

The third section of this summary looks at the application phase of the legal migration procedure. It specifically deals with facilitation of visa acquisition by family members of a TCN and researchers, as laid down in the FRD and RD, respectively.

According to the assessment we have received, the situation in Slovenia related to the Art. 13(1) of the FRD may rise some issues, since Slovenia has not explicitly transposed the obligation to grant family members every facility for obtaining the requisite visas and it was not clear if any measure has been adopted in Slovenia in order to facilitate obtaining a residence permit or a requisite visa. Indeed, apart from general rules governing the granting of a visa, that is, applicable to all applicants without exception, as of yet, no such legal provisions or measures have been adopted. This issue does not necessary impair the implementation of the Directive. For example, in comparison to the provisions of the Directive which provides that decision on the application shall be taken no later than 9 months following the date of submission of the application (even more in specific cases), the Aliens Act provides that the competent authority shall decide on the applications for a residence permit as

<sup>11</sup> The condition of having minimum means of subsistence is a general one and applies to all statuses of foreigners.

soon as possible, but no later than 30 days following receipt of the complete application. Where the competent authority has to carry out a special fact-finding procedure in order to determine the existence of grounds for refusing to issue a permit, it shall decide on the application at the latest within 60 days of the receipt of a complete application.<sup>12</sup> When taking into account the shorter deadline for the issuance of a decision in Slovenia, compared to the time period laid down in the Directive, and, for instance, possible costs of a visa application, it is perhaps pertinent to conclude that not many visa applications are lodged by family members awaiting the decision on their applications for residence permits for family reunification.

Similarly, while the assessment indicated that the situation in Slovenia is in line with the RD, it was also noted that no special facilities under the administrative procedure are foreseen for the acquisition of scientific visa, apart from general visa application procedures. As with the FRD, this lack of specific measures does not necessarily impair the implementation of the Directive when taking into account the relatively short deadlines for the issuance of the residence permit, as well as provisions in the Aliens Act providing that the decision making on such application shall be prioritised.<sup>13</sup>

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

Generally, no specific issues impairing the implementation of the EU acquis have been identified.

An application for the permanent residence permit, including for the long-term resident status, shall be lodged with the competent administrative unit (upravna enota) in the country. An application for the first temporary residence permit for different purposes shall be, generally, lodged with the diplomatic mission or consular post of the Republic of Slovenia abroad, if not determined otherwise by the law (Art. 34, Para. 2).

An application for the first residence permit may be lodged in Slovenia by e.g. an employer (EU Blue Card and single permit for employment or work), a person who has resided legally in the country for one year and applies for the single permit for the purpose of self-employment, researcher, university lecturer, or university staff member who resides legally in the country on the basis of identity or travel document, or a valid residence permit issued in another EU Member State, or a visa C issued by the competent authority of the Republic of Slovenia or of a State Party to the Convention implementing the Schengen Agreement and who has concluded a hosting agreement with a research organisation or university in Slovenia, by a sponsor applying for family reunification in Slovenia, an alien who resides legally in the country on the basis of identity or travel document, or a valid residence permit issued in another EU Member State, or a visa C issued by the competent authority of the Republic of Slovenia or of a State Party to the Convention implementing the Schengen Agreement, who has concluded an employment contract with an employer in Slovenia and who applies for the EU Blue Card, by aliens who have long-term resident status in another Member State, reside in Slovenia without residence permit for 90 days, and wish to reside in Slovenia for the purpose of work, self-employment, study or for other purposes, etc. The applicants may lodge the application both abroad and in the country in person or by post. Application forms are available online, may be downloaded, printed out, filled in and sent to the competent authorities by post.<sup>14</sup> The applicants, however, shall be summoned by the competent authorities to provide their fingerprints, since without fingerprints an application shall be deemed incomplete.

Up to three authorities are involved. When the application is lodged with the diplomatic missions or consular posts abroad:

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<sup>12</sup> Aliens Act/ Zakon o tujcih, Ztuj-2, 15 June 2011, and subsequent modifications.

<sup>13</sup> Aliens Act/ Zakon o tujcih, Ztuj-2, 15 June 2011, and subsequent modifications.

<sup>14</sup> See e.g. [www.infotujci.si/gfx/slike/obrazci\\_residence\\_permit.docx](http://www.infotujci.si/gfx/slike/obrazci_residence_permit.docx).

- diplomatic missions or consular posts receive applications, send them to decision-making authorities (administrative units) and deliver decisions and permits to applicants, and, in cases when the decision-making authority requests additional documentation from or an interview with an applicant, inform the applicant about this in writing;
- administrative units (upravne enote) deal with applications, issue decisions on the applications and send decisions and permits to diplomatic missions or consular posts for delivery; (in exceptional cases administrative units may deliver residence permits to applicants if they, due to unexpected circumstances, could not obtain the permits before entering the country, provided that they reside legally in the country);
- Employment Service of Slovenia grants the necessary consent for the issuance of employment-related permits at the request of administrative units (single permit and EU Blue Card).

When the application is lodged in the Republic of Slovenia:

- administrative units (upravne enote) receive applications, deal with them, issue decisions on the applications and deliver decisions and permits to applicants;
- Employment Service of Slovenia grants the necessary consent for the issuance of employment-related permits at the request of administrative units (single permit and EU Blue Card);
- Ministry of the Interior receives applications, deal with them, issues decisions on the application and delivers decisions and permits to beneficiaries when they are already in the country (application for family reunification by persons to whom refugee status has been granted);
- Diplomatic missions and consular posts receive decisions and permits issued by the Ministry of the Interior in procedures concerning application for family reunification lodged by persons to whom refugee status has been granted, and deliver them to family members who are not present in the territory of the Republic of Slovenia; they further receive decisions and permits in procedures concerning application for family reunification lodged by TCNs and delivers them to family members.

The applicant is informed of a decision in writing via post. For notifying the applicant of a decision, the Member State issues one administrative act/decision.

While it is true that the reasons for negative decision and instructions on legal remedies are always part of the decision on an application (in Slovenian), it would be commendable that more practical information concerning redress procedures in such cases of negative decision as well as in cases of administrative silence is publicly available.

When the application is lodged by an employer, the employer may carry out other acts in the proceedings, but only in accordance with the authorisation granted by the TCN. Furthermore, the TCN shall certainly be included at the application stage, since the application is only complete when the TCN has provided his/her fingerprints. In case of rejection of the application, and the reasons for rejection are on the side of the employer, the decision is served to both the TCN and the employer.

An appeal against the decision of the competent administrative unit (upravna enota), the first instance body, may be lodged when the applications for the following residence permits were rejected: permanent residence permit, including residence permit granting the long-term resident status, the application for the first temporary residence permit for the purpose of conducting research in Slovenia, the first temporary residence permit for the purpose of studying in Slovenia, the first temporary residence permit for the purpose of family reunification with an alien legally

residing in Slovenia, the first temporary residence permit issued to TCNs who are long-term residents in another EU Member State and their family members (Art. 87, Para. 4) (Aliens Act/ Zakon o tujcih, 15 June 2011, and subsequent modifications).

Finally, the concept of administrative silence exists. If an appeal against decision of the competent authority is allowed and the competent authority does not issue the decision and does not serve it to the applicant in due time, the applicant shall have the right to appeal, as if his/her application was rejected (Art. 222, Para. 4) (General Administrative Procedure Act/ Zakon o splošnem upravnem postopku, 16 September 1999, and subsequent modifications).

The application process, including processing times is summarised in the tables below.

<b>Directive</b>	<b>General</b>	<b>FRD</b>	<b>LTR</b>	<b>SD</b>	<b>RD</b>	<b>BCD</b>	<b>SPD</b>
Application from third country (Q3a)	Yes / No	Add if different					
Permit received in third country	Yes						
Number of authorities involved in the application	Up to 3, depends on case	Add if different					
Number of authorities involved in the issuance of the residence permit	3						
Application modalities	Post In person						
Existence of a standard application form for all statuses	No						
Language of the application form	National language(s) English						
Fees charged	application fee: 4.50 EUR; fee for the issuance of the permit: 50 EUR If the application for		application fee: 4.50 EUR fee for the issuance of the permit: 90,60 EUR				

	the first residence permit is lodged with the diplomatic mission or consular post: application fee: 13 EUR						
	fee for the issuance of the permit: 102 EUR						
	fee for the delivery of the decision /permit abroad:						
	in Europe: 6 EUR						
	outside Europe: 13 EUR						
Other fees charged?	No						
Fees charged for permit issuance	Yes						
Fees charged for renewal / replacement of the permit	application fee: 4.50 EUR	The permit is issued for unlimited period of time, and there is no need for renewal	application fee: 4.50 EUR	application fee: 4.50 EUR	application fee: 4.50 EUR	application fee: 4.50 EUR	application fee: 4.50 EUR
	fee for the issuance of the permit: 50 EUR		fee for the issuance of the permit: 50 EUR	fee for the issuance of the permit: 50 EUR	fee for the issuance of the permit: 50 EUR	fee for the issuance of the permit: 50 EUR	fee for the issuance of the permit: 70 EUR

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)	30 days	30 days	30 days	30 days	30 days	30 days
Processing time (in practice)	NI	NI	NI	NI	NI	NI

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

No specific issues. Please see Section 1.3 for more information about the national status.

## **4 Entry and travel phase**

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

In general, Slovenia complies with the EU legal migration acquis. With regard to issues concerning FRD and RD, please see the preceding section, since this section seems to repeat questions already addressed in Section 3.1.

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

In terms of practical implementation of the EU legal migration acquis, no reports or other sources of information raising possible issues of de facto non-compliance with the acquis were identified. Similarly, there is no information that third-country nationals to whom Slovenia issued residence permit had encountered any obstacles in practice to leave the third country, transit and/or enter Slovenia.

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.

Third-country nationals do not encounter any obstacles in practice to leave the third country, transit and/or enter the Member State.

Upon arrival, third-country nationals are required to register with the local authority and with social security institutions.

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

No specific issues. Please see Section 1.3 for more information about the national status.

## **5 Post-application phase**

## 5.1 Legal transposition of the EU legal migration acquis

This section deals with the post-application phase of the migrant procedure. It focuses on the duration of residence granted to family members of a TCN under the FRD and admission of pupils under the SD.

With regard to Article 13(2) of the FRD, the conformity assessment confirms that the situation in Slovenia is in line with the requirements of the Directive, namely that the Member State concerned shall grant the family members a first residence permit of at least one year's duration, albeit noting that such a residence permit may be issued for a shorter period of time. Indeed, the Aliens Act stipulates that the first residence permits are issued to family members for the period of validity of the sponsor's residence permit (i.e. possibly for less than one year), but for not longer than one year.<sup>15</sup> On the other hand, such an approach reflects Article 13(3) of the Directive laying down that the duration of the residence permits granted to the family member(s) shall in principle not go beyond the date of expiry of the residence permit held by the sponsor.

The conformity assessment of the SD further states, among other things, that Art. 13 of the Directive has not been transposed in Slovenia. The new Aliens Act, adopted after the mentioned assessment was produced, still does not explicitly mention school pupils, but includes "other forms of education" as an open clause and ground for the issuance of residence permit that captures the school pupils.<sup>16</sup> For example, Slovenia provides for a scholarship scheme for secondary technical education of citizen of the Western Balkans, and these pupils are granted residence permits for study purposes.

## 5.2 Practical application of the EU legal migration acquis

No practical barriers that would impair the implementation of the EU legal migration acquis could be identified.

The table below gives an overview of the validity of different permits.

Directive	FRD	LTR	SD	RD	BCD	SPD
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	The duration of the work contract + 3 months	Duration of the employment or work contract or self-employment
Maximum validity of first permit	12 months	Unlimited	12 months	12 months	24 months	12 months
Minimum validity of permit renewal	NI	NI	NI	NI	NI	NI
Maximum validity of	24 months	Unlimited period of	In the event that	Until the work	- duration of the	24 months

<sup>15</sup> Aliens Act/ Zakon o tujcih, Ztuj-2, 15 June 2011, and subsequent modifications.

<sup>16</sup> Aliens Act/ Zakon o tujcih, Ztuj-2, 15 June 2011, and subsequent modifications.



permit renewal (Q6b(ii))	time	studies or education programme last longer than one year, the permit is extended annually	carried out under the hosting agreement is concluded, but not longer than 1 year, and such a permit could be renewed annually for the duration of the work carried out under the hosting agreement	employment contract, but for not longer than 3 years - family members: for the period of validity of the sponsor's permit
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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**

No specific issues. Please see Section 1.3 for more information about the national status.

## **6 Residency phase**

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

This section deals with residence of TCN in Slovenia. It focuses particularly on certain areas. With regard to the transposition of the FRD, it may seem that Slovenian legislation provides for excessive reasons for refusal to renew a residence permit to a family member of a TCN, while there may be also concerns as regards equal treatment provisions, such as access to post-secondary education as per e.g. LTRD or SPD, and access to housing as per the LTRD.

Article 6(2) of the FRD is an optional provision which Slovenia has chosen to transpose, but has done this in partially correct manner. According to the conformity assessment, apart from the reasons of public security and public order understood in the narrow sense, as provided by the Directive, Slovenian legislation provides for additional grounds which may result in refusal to renew a residence permit to a family member of TCN. These further grounds for refusal include e.g.: there are reasons to assume that the alien will not voluntarily depart from the Republic of Slovenia after the expiry of the permit; there are reasons to assume that the alien will not abide by the legal order of the Republic of Slovenia; if in the process of issuing a first residence

permit it is found out that there are serious reasons for considering that an alien may be during his/her residence in Slovenia a victim of trafficking in human beings; if there are reasons to believe that the alien will not be residing in the territory of the Republic of Slovenia. According to the assessment, while these reasons "may be understood as reasons of public policy and public security in a broader sense, they do not comply with the restrictive interpretation of the terms established and reiterated several times by the EUCJ." At the time of writing, these provisions are still valid.<sup>17</sup>

With regard to equal treatment provisions, there may be certain questioning areas in Slovenia. For example, this seems particularly to be the case in respect to access to secondary and higher education where equal treatment of TCNs and nationals are guaranteed under the EU legal migration acquis (e.g. LTRD, SPD). In general, equal access to post-elementary education in Slovenia is conditioned and TCNs have access to secondary and higher education under equal conditions as nationals on the basis of the principle of reciprocity (i.e. when Slovenian citizens enjoy the same rights in the state concerned) access to post-elementary education in Slovenia).<sup>18</sup>

While access to parental benefits is provided under equal conditions, access to most payments under family benefits scheme (e.g. childbirth grant, special childcare allowance, large family allowance), payable from the state budget, are granted when one of the parents and/or the child, or only the child, possesses permanent residence permit and actually reside in Slovenia.<sup>19</sup> Rather than on citizenship, the difference is made between holders of permanent or temporary residence permits.

Unlike long-term residents, as provided by the EU legal migration acquis (LTRD), only Slovenian citizens and, on the basis of reciprocity, EU nationals with permanent resident status shall have the right to apply for non-profit rental housing, rental subsidies and housing loans under public scheme.<sup>20</sup>

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

In general, practical barriers preventing proper implementation of the EU legal migration acquis could hardly be identified. When these occur in practice, they generally reflect inadequate transposition of the EU legal migration acquis into the body of the national law, as noted, for instance, in the preceding section.

### **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 the 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:

<b>Access to education</b>	<b>Access to healthcare</b>	<b>Registration with PES</b>	<b>Fixed telephone</b>	<b>Utility subscription</b>	<b>Open a bank account</b>	<b>Social security registration</b>
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<sup>17</sup> Aliens Act/ Zakon o tujcih, Ztuj-2, 15 June 2011, and subsequent modifications.

<sup>18</sup> Grammar School Act/ Zakon o gimnazijah, 14 February 1996, and subsequent modifications; Vocational Education Act/ Zakon o poklicnem in strokovnem izobraževanju, 13 July 2006; Higher Education Act/ Zakon o visokem šolstvu, 7 December 1993, and subsequent modifications.

<sup>19</sup> Parental Protection and Family Benefits Act/ Zakon o starševskem varstvu in družinskih prejemkih, 3 April 2014, and subsequent modifications.

<sup>20</sup> Housing Act/ Stanovanjski zakon, 19 June 2003, and subsequent modifications.

	subscrip tion	ion
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**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 LTR and the national equivalent. The procedure for requesting a status change is the same as the first application procedure.

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

- The competent authorities may within their discretion admit the applicant through naturalisation to the citizenship of the Republic of Slovenia if this is in agreement with the national interest, provided the applicant is of at least 18 years of age; has a release from current citizenship or proves that he/she will obtain a release if he/she acquires citizenship of the Republic of Slovenia; has actually been living in Slovenia for 10 years, and continuously for the 5 years prior to the submission of the application and has had a lawful alien status; has a guaranteed permanent source of income in, at least, the amount that enables material and social security; has a command of the Slovene language for the purposes of everyday communication, which he/she shall prove with a certificate verifying that he/she passed a basic level exam in Slovene; has not been sentenced to an unconditional prison sentence longer than three months, nor conditionally sentenced to a prison sentence with probation longer than one year; his/her residence in the country has not been terminated; his/her naturalisation poses no threat to the public order, security or defence of the state; has settled all tax obligations; swears that he/she will respect the free democratic constitutional order as established in the Constitution of the Republic of Slovenia (Art. 10, Para. 1)
- Certain groups may acquire Slovenian citizenship under more lenient conditions, such as, for example, persons married to a Slovenian citizens, stateless persons, refugees, persons who attended and successfully finished at least a university study programme in the Republic of Slovenia, persons whose naturalisation is to the benefit of the state for scientific, economic, cultural, national or similar reasons. (Art. 12 and 13).

**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 does not need to request a change to the permit.

**e. Equal treatment**

With regard to equal treatment provisions, there could be certain problematic areas in Slovenia. For example, this seems particularly to be the case in respect to access to

secondary and higher education where equal treatment of TCNs and nationals are guaranteed under the EU legal migration acquis (e.g. LTRD, SPD). In general, equal access to post-elementary education in Slovenia is conditioned and TCNs have access to secondary and higher education under equal conditions as nationals on the basis of the principle of reciprocity (i.e. when Slovenian citizens enjoy the same rights in the state concerned) access to post-elementary education in Slovenia).<sup>21</sup>

While access to parental benefits is provided under equal conditions, access to most payments under family benefits scheme (e.g. childbirth grant, special childcare allowance, large family allowance), payable from the state budget, are granted when one of the parents and/or the child, or only the child, possesses permanent residence permit and actually reside in Slovenia.<sup>22</sup> Rather than on citizenship, the difference is made between holders of permanent or temporary residence permits.

Unlike long-term residents, as provided by the EU legal migration acquis (LTRD), only Slovenian citizens and, on the basis of reciprocity, EU nationals with permanent resident status shall have the right to apply for non-profit rental housing, rental subsidies and housing loans under public scheme.<sup>23</sup>

With regard to identifying labour exploitation, the Member State does not have a mechanism in place to monitor the exploitation of third-country nationals.

#### **f. Integration:**

Specific integration procedures and conditions 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**

No specific issues. Please see Section 1.3 for more information about the national status.

## **7 Intra-EU mobility phase**

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

Of the problematic areas, the conformity assessment we have received, states that rights under Article 8 of the SD are only given to long-term residents in another EU Member State and that this article has not been explicitly transposed. However, according to the Aliens Act now in place, it seems that the situation in Slovenia is in conformity with this provision of the EU legal migration acquis.

Among other things, a TCN who was admitted as a student or who will participate in an international study exchange in the relevant educational institution in the Republic of Slovenia may be granted a temporary residence permit for the purposes of study, provided that he/she meets other conditions (e.g. health insurance, sufficient means of subsistence). The competent authorities shall give priority to processing applications for the issuance of temporary residence permits for study purposes. In addition, a TCN who possess a valid travel document and a residence permit issued by another Member State, or a valid visa C issued by another State Party to the

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<sup>21</sup> Grammar School Act/ Zakon o gimnazijah, 14 February 1996, and subsequent modifications; Vocational Education Act/ Zakon o poklicnem in strokovnem izobraževanju, 13 July 2006; Higher Education Act/ Zakon o visokem šolstvu, 7 December 1993, and subsequent modifications.

<sup>22</sup> Parental Protection and Family Benefits Act/ Zakon o starševskem varstvu in družinskih prejemkih, 3 April 2014, and subsequent modifications.

<sup>23</sup> Housing Act/ Stanovanjski zakon, 19 June 2003, and subsequent modifications.

Convention implementing the Schengen Agreement, or a valid visa D issued by another Member State for study purposes may reside in Slovenia for 90 days, and may, before the expiration of the relevant documents, lodge an application for the temporary residence permit for study purposes with the competent Slovenian authority.<sup>24</sup> (The last sentence in this paragraph and the last paragraph of this section have been moved above, to Section 6.1, where they belong. Initially, they were wrongly inserted in this part of the summary, namely Section 7.1.).

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

For short-term mobility:

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

In general, no practical barriers that would impede the implementation of the EU legal migration acquis could be identified.

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

No specific issues. Please see Section 1.3 for more information about the national status.

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

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

According to the conformity assessment of the LTRD, the situation in Slovenia only partially conforms to the requirements of Article 9(1)(b) of the Directive, read in conjunction with Article 12, since the Slovenian legislation sets out additional grounds for expulsion of a TCN that are not stipulated in the Directive. Apart from the withdrawal of the long-term residence status because a TCN with the long-term resident status poses a threat to public order and security, his/her status may be revoked if he/she was convicted for a crime and sentenced with unconditional imprisonment of more than three years. The latter ground for expulsion, however, is not included in the Directive. At the time of writing, the situation in Slovenia is still not in full conformity with the EU acquis.

The assessment further notes that the Slovenian legislation, namely the Aliens Act does not conform to the requirements of Article 9(7) of the LTRD, since the decision on the withdrawal of the status automatically contains the time limit for the departure of a TCN. While it is true that withdrawal or loss of a status automatically leads to irregular stay by a TCN in Slovenia, the law provides for certain safeguards, and it is not necessary that such a person leaves the territory of the state. The prohibition of return is limited by the principle of non-refoulement and may be further limited by justified reasons preventing return. The former prohibits forced deportation or return of an alien to a country where his/her life or liberty would be endangered because of his/her race, religion, nationality, membership of a particular social group or political opinion or to the country where he or she could be subject to torture or inhuman and degrading treatment or punishment. Such persons are issued permissions to remain.

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<sup>24</sup> Aliens Act/ Zakon o tujcih, Ztuj-2, 15 June 2011, and subsequent modifications.

Such permissions to remain may also be granted if an alien does not have and cannot acquire a travel document of the country of his/her nationality; a doctor advises against the alien's immediate deportation due to health reasons; because of death or serious illness of a family member residing in Slovenia the alien has to extend his/her stay; there is a need to secure urgent participation of the alien in a procedure before a State body in Slovenia; a minor alien attends primary school in Slovenia in which case the deportation is postponed to the end of the school year; the country of the alien's nationality or the country of a stateless alien's last residence is not willing to accept him/her; deportation is not possible as it is not possible to ensure the travel by land, air or sea; deportation is not possible due to circumstances in the country of the alien's nationality or the country of a stateless alien's last residence, such as a natural disaster or other accidents that do not allow for return; and the guardian of an unaccompanied minor does not agree to deportation. The permission to remain is issued by the police for six months and can be extended until the reasons preventing the return stop to exist.<sup>25</sup> The Slovenian law sets out the conditions allowing persons who have lost legal status to remain on its territory and is thus in line with the requirements of the Directive in question.

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

There are specific procedures in place for third-country nationals who choose to leave the Member State. These include:

- De-registration from national / local registers
- Returning the residence permit
- Leaving responsible authorities with an address in the next country of residence (only for LTR).

The Member State allows third-country nationals to export certain social security benefits.

Information on the portability of social security benefits is easy to find but not clear. It would be commendable if more information on the portability of social security benefits is publicly available at the relevant websites. This could particularly include the website <http://www.infotujci.si/>, which is the main entry point for information on migration-related issues in Slovenia and which includes information in several languages.

A third-country national residing in the Member State is allowed to be absent from the territory for a maximum of 365 days (LTR) days 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 the following:

- Such a TCN no longer has a legal basis to stay in Slovenia and his/her stay in the country is considered irregular (Art. 60, Para. 1). He/she has to leave the country within the period set by the competent body (i.e. administrative unit). The time limit has to be set in the same decision which has been issued by a competent body in order to terminate the alien's residence. When setting the time limit the competent body has to take into account the period that the alien needs to leave the country, but the time limit cannot be shorter than seven days or longer than thirty days. The period for leaving the country is not set in

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<sup>25</sup> Aliens Act/ Zakon o tujcih, Ztuj-2, 15 June 2011, and subsequent modifications.

the case of an alien whose residence in Slovenia constitutes a danger to its public order or national security. The decision with the specified period for leaving the country is also sent to the police station in the area where the alien resides (Art. 60, Para. 3).

- If the alien does not leave the country within the period set in the decision, the police issues a return decision allowing the alien to return voluntarily within the period set in the decision or with no period for voluntary return if the alien is subjected to forced return which is carried out by the police (Art. 63, Para. 1).

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

No specific issues. Please see Section 1.3 for more information about the national status.

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

An overview of Slovenian legal provisions transposing the EU legal migration acquis captured by this report suggests that Slovenian legislation mostly transposes the EU framework in a conform manner. Practical barriers impairing the adequate implementation of the acquis could hardly be identified and where existent are only reflections of inadequate transposition of the acquis into the Slovenian legislation.

In regard to the latter, there could be certain problematic areas in Slovenia relating to the equal treatment provisions. For example, this seems particularly to be the case in respect to access to secondary and higher education where equal treatment of TCNs and nationals are guaranteed under the EU legal migration acquis (e.g. LTRD, SPD). However, equal access to post-elementary education in Slovenia is conditioned and TCNs have access to secondary and higher education under equal conditions as nationals on the basis of the principle of reciprocity (i.e. when Slovenian citizens enjoy the same rights in the state concerned) access to post-elementary education in Slovenia).

Unlike long-term residents, as provided by the EU legal migration acquis (LTRD), only Slovenian citizens and, on the basis of reciprocity, EU nationals with permanent resident status shall have the right to apply for non-profit rental housing, rental subsidies and housing loans under public scheme.

In addition, while Article 6(2) of the FRD is an optional provision, Slovenia has chosen to transpose it, but has done this in partially correct manner. According to the conformity assessment, apart from the reasons of public security and public order understood in the narrow sense, as provided by the Directive, Slovenian legislation provides for additional grounds which may result in refusal to renew a residence permit to a family member of a TCN (e.g.: there are reasons to assume that the alien will not voluntarily depart from the Republic of Slovenia after the expiry of the permit; there are reasons to assume that the alien will not abide by the legal order of the Republic of Slovenia; if there are reasons to believe that the alien will not be residing in the territory of the Republic of Slovenia).

## **Annex 1 References**

Aliens Act/ Zakon o tujcih, Ztuj-2, 15 June 2011, and subsequent modifications

Act Regulating the Legal Status of Citizens of Former Yugoslavia Living in the Republic of Slovenia/ Zakon o urejanju statusa državljanov drugih držav naslednic nekdanje SFRJ v Republiki Sloveniji, 8 July 1999, and subsequent modifications

Volunteering Act/ Zakon o prostovoljstvu, 3 February 2011, and subsequent modifications

Grammar School Act/ Zakon o gimnazijah, 14 February 1996, and subsequent modifications

Vocational Education Act/ Zakon o poklicnem in strokovnem izobraževanju, 13 July 2006

Higher Education Act/ Zakon o visokem šolstvu, 7 December 1993, and subsequent modifications

Parental Protection and Family Benefits Act/ Zakon o starševskem varstvu in družinskih prejemkih, 3 April 2014, and subsequent modifications.

Housing Act/ Stanovanjski zakon, 19 June 2003, and subsequent modifications.

Decree on Administrative Operations/ Uredba o upravnem poslovanju, 17 February 2005, and subsequent modifications

<http://www.infotujci.si/v/53/employment-or-work-highly-qualified-employment-seasonal-work>

[http://english.ess.gov.si/the\\_info\\_point\\_for\\_foreigners/working\\_in\\_slovenia](http://english.ess.gov.si/the_info_point_for_foreigners/working_in_slovenia)

[http://www.mnz.gov.si/en/services/slovenia\\_your\\_new\\_country/](http://www.mnz.gov.si/en/services/slovenia_your_new_country/)

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