

Mobility: Immigration alert

July 2023

Germany

Amendments to the Skilled Worker immigration regulations to go into effect starting in November 2023

Executive summary

On 7 July 2023 the German Federal Council ("Bundesrat") approved a draft law that was previously approved by the Federal Parliament ("Bundestag") and amends the Skilled Worker immigration schemes, in an effort to address the shortage of skilled workers in Germany. Some of the amendments will go into effect on 18 November 2023, with others between seven and ten months from the law's official publication date. The amendments focus on providing easier access to the German labor market to third-country nationals with relevant skills and/or qualifications and include reforms to the rules for Blue Cards.

EU Blue Card

The proposed regulations will implement the new EU Blue Card Directive 2021/1883 ("the EU Directive") and introduce the following changes:

- A lower minimum salary threshold for standard occupations of 50 percent (down from 66.6 currently) related to the annual contribution assessment ceiling in the general pension insurance scheme. This would correspond (in 2023) to a lower threshold of EUR 43,800 (down from EUR 58,400 currently).
- A lower minimum salary threshold for shortage occupations of 45.3 percent (down from 52 currently). This would correspond (in 2023) to a lower threshold of EUR 39,683 (down from EUR 45,552 currently).
- The salary threshold for shortage occupations will also apply to young professionals in standard occupations for the first three years after they obtain their academic degree.

- The shortage occupation sectors will be expanded.
- Individuals will be eligible to apply for a Blue Card if they have an employment contract that is valid for at least six months (down from 12 months currently).
- IT specialists who do not have a university degree but do have at least three years of relevant professional experience in the preceding seven years will become eligible to apply for a Blue Card.
- Blue Cards will be restricted to employers or specific job roles only for twelve months (down from 24 months currently). After the Blue Card holder notifies the local foreigners' office about a planned change of employer/job role, the authorities can put the planned change on hold for up to 30 calendar days. They may only reject the proposed change within this 30-day period. Otherwise, the Blue Card holder may start their new job.

The amendments passed by the German government do not include the provision included in the EU Directive, whereby individuals with at least five years of relevant professional experience would be eligible to obtain a Blue Card and work in any qualified occupation in Germany.

Several rules governing the issuance of Blue Cards will remain unchanged, including the following:

- Blue Card applications will not be subject to labor market checks/tests or quotas.

- Blue Card holders will still be required to hold a position that is “adequate” in relation to their degree (as determined by the German authorities).
- In general, Blue Card holders will still be required to have a domestic employment relationship and make all social security payments in Germany (with only limited exceptions).

Further to the new amendments, individuals who hold a Blue Card issued by another EU Member State will be able to move to Germany more easily and obtain a German Blue Card.

- *Long term mobility.* After holding a Blue Card issued by another EU Member State for at least twelve months (down from 18 months currently) or six months in a specific situation (i.e., if they previously held at least two Blue Cards issued by two EU Member States), qualifying individuals will be able to apply for a German Blue Card without filing a consular visa application in their country of residence.
- *Degree recognition.* Individuals who have held a Blue Card issued by another EU Member State for at least 24 months based on an acknowledged degree will have their degree automatically acknowledged, and they will not be subject to Germany’s specific rules regarding degree recognition.
- *Adjudication time.* Once the German Blue Card application is submitted with all required documents, the German authorities will be required to adjudicate the application within 30 calendar days (down from several months in some cases). Under exceptional circumstances (e.g., in complex cases), this period may be prolonged for another 30 days. In the event no decision is made within the first 30 days from the submission of the application, the applicant will be permitted to start working in Germany.

Professional Experience

Currently, residence permits with work authorization based solely on work experience and without being a “specialist”, “Leading Executive” or similar designation are mainly limited to the IT sector. Pursuant to the new amendments:

- Residence permits with work authorization based on relevant professional experience will be available to individuals in all professions (and not just IT).
- Applicants will require at least two years of relevant professional experience in the five years preceding the filing of their application (down from three years within the preceding seven for IT professionals, currently).
- Applicants in professions other than IT will be required to have completed at least two years of vocational education or obtained a university degree, and this must be acknowledged in the issuing country (in both situations).
- German language skills will no longer be required.
- A lower minimum salary threshold (of 45% of the contribution assessment ceiling in the general pension insurance scheme) will apply (down from 60% currently).

Opportunity Card (“Chancenkarte”)

The current visa scheme for job seekers who hold degrees issued outside of Germany (now called the Opportunity Card scheme) will be extended to a broader pool of applicants. It will now include individuals who have not completed vocational education or obtained university degrees acknowledged by the German authorities. These individuals will be able to apply under an alternative, points-based scheme.

Individuals applying under the points-based alternative will be required to:

- Have completed at least two years of vocational education or obtained a university degree (the vocational education or university degree must be acknowledged in the issuing country), and
- Possess language skills of at least A2 (for German) or B2 (for English)

Points can be obtained based on the following criteria:

- Age
- Professional qualifications
- Language skills (i.e., German B1 or B2, or English C1)
- Work experience (i.e., at least five years in the preceding seven, or at least two years in the preceding five after acquiring the professional qualification)

Individuals who enter under the Opportunity Card scheme will be allowed to work for up to twenty hours per week (currently, job seekers without German degrees are not permitted to work in Germany). In addition, they will be able to work for trial periods of up to two weeks when offered jobs in relevant positions (up from 10 hours per week currently). These individuals will be allowed to remain under this scheme for up to one year (up from six months currently). , without the possibility of extending their stay under this scheme (although it may be possible to remain in Germany by applying under another immigration category).

Other categories

The new amendments also introduced the following changes:

- Blue Card holders with German A1 language skills will be eligible for a permanent permit after 27 months (down from 33 currently), provided they meet other applicable requirements.
- Individuals in Germany under other Skilled Worker schemes will be eligible to obtain a permanent permit after three years (down from four years currently).

- Spouses of Blue Card holders will be eligible to obtain a permanent permit after three years (down from five years currently) under certain circumstances.
- Students enrolled at German universities will be allowed to work in employed positions for up to 140 full days or 280 half days per calendar year (up from 120 full days or 240 half days currently).
- The immigration scheme for Balkan countries will become a permanent scheme (i.e., the end date of 31 December 2023 will be eliminated) and its annual quota will increase to 50,000 applicants (up from 25,000 currently).
- Parents of qualified employees and their spouses will now be eligible to obtain dependent permits (currently, this is only possible under extraordinary circumstances, including for medical reasons). Parents of spouses of qualified employees will be eligible to obtain dependent permits only if the spouse plans to stay permanently in Germany.
- Procedures will be simplified for applicants living outside Germany who have relevant prior long-term stays in Germany. The current requirement for an approval from the local foreigners' office will be abolished for most scenarios.
- Immediate family members (i.e., spouse and minor children) of skilled workers and other qualified employees will no longer be required to submit proof of sufficient living space as part of their applications.

Impact on employers

Once the law goes into effect, employers are expected to benefit from a broader range of options for sponsoring third-country nationals to obtain German work authorization. The new rules governing Blue Cards and the permanent nature of the immigration scheme for Balkan countries will go into effect on 18 November 2023. Depending on the date of the law's publication, other amendments will become effective seven months from the date of publication (e.g., new lead times for permanent permits) or 10 months afterwards (e.g., opportunity card; increase in the Balkan scheme annual quota).

Key steps

EY will continue to monitor these developments. Should you have any questions, we encourage you to contact one of our immigration professionals.

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