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Ad-Hoc Query on 2024.27 Access to labour market for third-country nationals during their single permit issuance waiting period

Requested by EMN NCP Slovenia on 26 April 2024

Compilation produced on 20 June 2024

Responses from EMN NCP Austria, EMN NCP Belgium, EMN NCP Bulgaria, EMN NCP Croatia, EMN NCP Cyprus, EMN NCP Czech Republic, EMN NCP Estonia, EMN NCP Finland, EMN NCP France, EMN NCP Germany, EMN NCP Greece, EMN NCP Hungary, EMN NCP Ireland, EMN NCP Italy, EMN NCP Latvia, EMN NCP Lithuania, EMN NCP Luxembourg, EMN NCP Montenegro, EMN NCP Netherlands, EMN NCP Poland, EMN NCP Portugal, EMN NCP Serbia, EMN NCP Slovakia, EMN NCP Slovenia, EMN NCP Spain (25 in Total)

Exported for: Wider Dissemination

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## 1. BACKGROUND INFORMATION

For the purpose of employment or work, the TCN obtains a single permit that allows him/her to reside and work or be employed in the country.

The procedure for obtaining a single permit involves checking both, the conditions for residence and the conditions for employment or work.

The process of obtaining a single permit can be very lengthy for various reasons, as all facts and circumstances related to the conditions for the issuance of a single permit need to be verified. Slovenia is interested in access to the labour market for TCNs during the period of legal residence of the foreigner in the country while they are waiting for the single permit to be issued.

**We would like to ask the following questions:**

- 1. 1. Can a TCN who is legally residing in the country (e.g. visa-free TCN, on the basis of a short-term visa or residence permit issued in another Member State), who has applied for a single permit and whose employment or work conditions have already been verified, but their conditions for residence are still in process of verification already work or be employed, even if he/she has not yet been issued and served with a single permit? YES/NO**
- 2. 2. If the answer to Question 1 is YES, please indicate whether this is a general rule or whether this type of (early) access to the labour market is intended only as an exception for specific occupations or sectors of employment? YES/NO. If you answer YES, please explain.**

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**3. 3. If the answer to Q1 is YES, please explain the reasons why you have introduced such an arrangement.**

**4. 4. If the answer to Q1 is YES, please explain any challenges that you have identified with such an arrangement.**

We would very much appreciate your responses by **20 May 2024**.

## 2. RESPONSES


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		Wider Dissemination <sup>2</sup>	
	EMN NCP Austria	Yes	1. No.

<sup>2</sup> A default "Yes" is given for your response to be circulated further (e.g. to other EMN NCPs and their national network members). A "No" should be added here if you do not wish your response to be disseminated beyond other EMN NCPs. In case of "No" and wider dissemination beyond other EMN NCPs, then for the Compilation for Wider Dissemination the response should be removed and the following statement should be added in the relevant response box: "This EMN NCP has provided a response to the requesting EMN NCP. However, they have requested that it is not disseminated further."

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			<p>In Austria, Art. 3 para. 1 Act Governing the Employment of Foreign Nationals stipulates that an employer may only employ a foreign person if a corresponding permit has been issued by the authorities for this person or if the foreign person has a corresponding residence permit or a temporary residence or settlement permit. According to Art. 3 para. 2 Act Governing the Employment of Foreign Nationals, a foreign person may only take up and exercise employment in these cases.</p> <p>If these conditions are met, the foreign person may take up employment.</p> <p>If an application is made for a residence title in the form of a single permit, it is issued by the Settlement and Residence authority. Taking up work is only permitted once the residence permit has been issued (see above).</p> <p>2. n/a</p> <p>3. n/a</p> <p>4. n/a</p>
	<p><b>EMN NCP Belgium</b></p>	<p><b>Yes</b></p>	<p>1. NO. In Belgium, the regions are responsible for granting work permits, while the issuance of residence permits remains a federal competence (Immigration Office). Employers must submit their applications for a single permit through the digital portal "Working in Belgium," which encompasses both employment-related and residency-related documentation: <a href="https://www.international.socialsecurity.be/working_in_belgium/en/home.html">https://www.international.socialsecurity.be/working_in_belgium/en/home.html</a>.</p>



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		<p>Typically, a single permit is sought for employees residing abroad. However, employers may also apply for a single permit if the employee is temporarily or permanently staying in Belgium, provided there is an exemption from the labour market test for the single permit application. This also applies to long-term residents seeking a single permit for subsequent stays in Belgium. The requirement of a labour market tests is lifted in case of an application for a 'bottleneck profession' for certain categories of third-country nationals. The lists of bottleneck professions for every region can be found on this website: <a href="https://www.belgium.be/nl/werk/werk_zoeken/arbeidsmarkt/knelpuntberoepen">https://www.belgium.be/nl/werk/werk_zoeken/arbeidsmarkt/knelpuntberoepen</a> (in Dutch or French). Once an application is submitted via "Working in Belgium," it is automatically forwarded to the appropriate regional Economic Migration Service for the work permit decision. If this decision is positive, the file proceeds to the Immigration Office for the residency permit decision. Only upon receiving positive decisions from both authorities will a single permit be issued. Until the Immigration Office determines the residency conditions, the third-country national (TCN) is not permitted to work or seek employment. Once notified of the positive decision by the Immigration Office, the employee can commence work, even if awaiting the issuance of the electronic single permit.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p>
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	<p><b>EMN NCP Bulgaria</b></p>	<p><b>Yes</b></p>	<p>1. No, these third country nationals cannot work or be employed during their single permit issuance waiting period.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p>
	<p><b>EMN NCP Croatia</b></p>	<p><b>Yes</b></p>	<p>1. No</p> <p>2. n/a</p> <p>3. n/a</p> <p>4. n/a</p>


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 <p><b>EMN NCP Cyprus</b></p>	<p><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1. Yes</li> <li>2. This is the general rule, a TCN can be employed ASAP after arrival in the Republic and before the issuing of the single permit.</li> <li>3. The issuing of the single permit may take up to 4 months, however TCNs are allowed to work during this period.</li> <li>4. There are cases where the employee may be released from the employer before the issuing of the single permit.</li> </ol>
 <p><b>EMN NCP Czech Republic</b></p>	<p><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1. NO. If a Third-country National resides in the territory of the Czech Republic without a visa – in accordance with the Article 4 of the Regulation of the European Parliament and of the Council (EU) 2018/1806 or in accordance with the Article 6 par. 1 let. b) of the Regulation of the European Parliament and of the Council (EU) 2016/399 – he is not entitled to enter the labour market in the territory of the Czech Republic with reference to the § 4 par. 1 of the Regulation of the Government of the Czech Republic from July 10th, 2017 (Regulation No. 215/2017 Coll.). The exceptions of this rule are stated in the § 4 par. 2 of the Regulation No. 215/2017 Coll. and these exceptions are applied e.g. in the cases of researchers, sportsmen, employees in an international transport etc. In general, a visa-free mode serves for the non-profit purposes only.</li> </ol>

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			<p>If a Third-country National is a holder of a valid visa for a stay up to 90 days (a short-term visa or the Schengen Visa) he/she is entitled to enter the labour market in the territory of the Czech Republic if his/her short-term visa has been issued for the purpose of employment.</p> <p>If a Third-country National submitted the application for an issuing the long-term residence permit for the purpose of employment, he/she is entitled to start to work if the Confirmation on Meeting the Conditions for an Issuing the Long-term Residence Permit is issued him/her in accordance with the § 44 par. 2 of the Act on the Residence of Foreign Nationals in the Territory of the Czech Republic (Act No.: 326/1999 Coll.). A Third-country National is entitled to collect this Confirmation if he resides in the territory of the Czech Republic legally. However, this written Confirmation can be issued after the meeting of all the conditions stated for gaining the single permit.</p> <p>2. -</p> <p>3. -</p> <p>4. -</p>
	<p><b>EMN NCP Estonia</b></p>	<p><b>Yes</b></p>	<p>1. No. Applicant does not have the right to work while his/her application for residence permit or application for registering short-term employment is still being processed. Those who are staying in Estonia temporarily (e.g. on the basis of a visa or visa-free) are permitted to work if:</p> <ul style="list-style-type: none"> <li>• the right to work follows directly from a law or a treaty or</li> </ul>

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		<ul style="list-style-type: none"> <li>• their short-term employment has been previously registered by the employer in the Estonian Police and Border Guard Board.</li> </ul> <p>The right to work of a TCN who is staying temporarily in Estonia follows directly from the Aliens Act and short-term employment does not have to be registered with the Police and Border Guard Board on the following cases:</p> <ul style="list-style-type: none"> <li>• a TCN who performs directing or supervisory functions of a legal person or a branch of a foreign company registered in Estonia throughout the duration of his or her temporary right to stay;</li> <li>• a TCN who owns a visa or a residence permit issued by a competent agency of a member state of the Schengen Convention and who has the right to work in that member state if:(a) the TCN's employment in Estonia is related to the establishment of an undertaking in Estonia;(b) the TCN has a legal basis for staying in Estonia;</li> <li>• a journalist accredited by the Ministry of Foreign Affairs who has a legal basis for staying in Estonia and whose working time does not exceed 270 days during 365 consecutive days;</li> <li>• a TCN whose work is of a temporary nature and whose working time does not exceed five days within the period of 30 days;</li> <li>• a TCN who has the right to stay in Estonia arising from the expiry of the period of validity of the temporary residence permit.</li> </ul> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p>
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+	EMN NCP Finland	Yes	<p>1. NO. Generally, an applicant <b>does not have the right to work</b> while their <b>first</b> application for a residence permit is still being processed. They may begin working when they have been granted a residence permit including the right to work. Work for which a residence permit is not required is an exception to this rule. However, they will be allowed to work in this way without a residence permit only until the expiry of their visa or exemption from visa.</p> <p>According to 81b § in the Aliens Act, there are certain jobs in which a person may work without a residence permit. In such cases, the work may last for a maximum of 90 days. If the person intends to continue working after 90 days, they must apply for a residence permit. The 90 days of work can be within any 180 day period.</p> <p>A person does not need a residence permit if:</p> <ul style="list-style-type: none"> <li>• their residence in Finland is legal;</li> <li>• they have been invited to work in Finland or they have signed a contract to work in Finland;</li> <li>• they will work for a maximum of 90 days; and</li> </ul> <p>they will be working as:</p> <ul style="list-style-type: none"> <li>• an interpreter, a teacher, a specialist or a referee; or</li> <li>• a professional artist, a professional coach, a professional athlete, or are a member of an assistance or support team for such a person.</li> </ul> <p>They may also perform these tasks without a residence permit if you work lasts 90 days or less:</p> <ul style="list-style-type: none"> <li>• They are a product demonstrator or a film worker, and their employer does not have an office in Finland.</li> </ul>

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		<ul style="list-style-type: none"> <li>• They are a sailor and they work on a ship listed in the Register of Merchant Vessels or, if you were hired outside Finland, on a ship that primarily operates between foreign ports.</li> <li>• They are an employee of a company that operates in another EU/EEA country, and they come to Finland to perform temporary acquisition or subcontracting tasks as specified in the regulations concerning the freedom to provide services. They must also have permits that allow them to reside and work in said country, and these permits have to be valid when they finish their work in Finland.</li> <li>• They are a member of the personnel for a vehicle owned or controlled by a foreign party, and             <ul style="list-style-type: none"> <li>○ they drive a vehicle whose task is to transport across the border a load that is to be delivered to or retrieved from a certain destination, or</li> <li>○ operation in Finland is related to regular service between municipalities, at least one of which is located abroad, and</li> <li>○ they do not reside in Finland.</li> </ul> </li> <li>• They are an employee in tourism industry and they arrive in Finland to participate in tourism events, a package tour or some other trip. They may work for example as a tour leader or tour guide. This also applies to drivers, cooks, and other tourism staff related to the trip. They can enter Finland as part of the group or arrive in advance to welcome the group.</li> </ul> <p>If they intend to continue working even after the period of 90 days, they need to apply/have applied for a residence permit. If they do not have a residence permit when the time limit of 90 days expires, their right to work will end. In this case, they can continue working only after they have been granted a residence permit.</p> <p>2. - 3.</p>
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			- 4. -
	<b>EMN NCP France</b>	<b>Yes</b>	<p>1. YES. A third-country national residing legally in France who has applied for a single permit for the purpose of employment or work and whose conditions of employment or work have already been verified may work, even if he/she has not yet been issued with the permit, if he/she is the holder of a 'récépissé' (receipt of residence permit) mentioning "<i>autorise son titulaire à travailler</i>" ("authorises the holder to work") issued when the application for a residence permit was submitted. This applies to the following categories: employees (contracts of one year or more), temporary workers (contracts of between 3 and 12 months or seconded employees), research scientists, employees in the context of intra-group transfers, highly qualified workers (EU Blue Card), performers and foreigners with an international reputation, beneficiaries of international protection and stateless persons, as well as beneficiaries of temporary protection holding a temporary residence permit authorising them to work. A third-country national residing legally in France may also work if he/she holds a long-stay visa valid as a residence permit (VLT-TS) issued on the ground of his/her application for the purpose of employment or work, as soon as he/she has completed the online procedures for validation within 3 months of his/her arrival in France..</p> <p>2. As a matter of principle, holding the provisional document issued as part of an application for a residence permit, which authorises the foreign national's presence in France without prejudging the final decision that will be taken regarding his or her right of residence, does not authorise the holder to work.</p>

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			<p>Thus, this type of (early) access to the labour market provided for by French law in specific cases as mentioned in Q1 constitutes an exception to this principle.</p> <p>3. This type of arrangement simplifies and speeds up the administrative procedures, by allowing residence permit applicants to work while the permit is still in the process of being issued, which can take some time.</p> <p>4. It may happen that at the end of the processing, a period during which the RPT has been authorised to work, the administrative authority takes a negative decision. This may happen, for example - for applicants for "temporary worker" or "employee" residence permits (under a short term or long term employment contract), when reasons of public order are identified or when the employment contract has been terminated; - for applicants for "talent" residence permits, when it finally appears that the substantive conditions have not been met. However, in the case of first issuance of residence permits, these situations remain exceptional insofar as the administrative authority is bound by the consulate's decision (unless the consulate is mistaken, or there are problems of public order or fraud); In any case, the risks seem limited insofar as receipts and provisional certificates are only issued if the applicant's file is complete, which means that the investigating department, without the application having been investigated as such, has at least been able to carry out an initial check.</p>
	EMN NCP	Yes	1. No.


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<b>Germany</b>		<p>In cases where the foreigner has applied for a single permit the foreigner may only be employed or commissioned to perform other paid work or services if they possess a residence title and no prohibition or ban applies.</p> <p>The employer is obliged to check whether the foreigner possesses the necessary residence permit and to keep a copy of the residence title for the duration of employment. Moreover, the employer is obliged to inform the competent foreigners' authority within four weeks of having learnt of the fact that the employment for which a residence title was granted in line with Chapter 2 Part 4 was terminated earlier than envisaged.</p> <p>In accordance with Section 81 (5a) and in conjunction with Sections 81 (3) and 81 (4) Residence Act, gainful employment described in the future residence title for a stay in accordance with Chapter 2 Part 4 (Residence for the purpose of economic activity) Residence Act shall be deemed to be authorized from the date of issue until the residence title is issued in accordance with Section 78 (1) Sentence 1 Residence Act.</p> <p>This authorization shall be included in a provisional certificate pursuant to Section 81 (5) Residence Act. However, the residence permit and hence the provisional certificate can only be issued after both, the work conditions and the conditions for residence have been verified.</p> <p>2. n/a</p> <p>3. n/a</p> <p>4. n/a</p>
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	<p><b>EMN NCP Greece</b></p>	<p><b>Yes</b></p>	<p>1. YES</p> <p>2. According to migration legislation (Migration Code, I.5038/2023), the right of residence of third country nationals who legally enter the Greek territory for one of the reasons provided in the above legislation, is subject, among others, to the condition they hold a valid national long term entry visa. In the legislation are provided only few and specific exceptions of the above provision (e.g. family members of an EU citizen or Greek citizen, third country nationals who enter the country for investment activity are able to apply for a residence permit on the basis of a short term visa). Moreover, third country nationals who are holders of a residence permit issued by another MS which provides the right for long term mobility in a second MS, are able to submit an application for a single permit in Greece according to relevant preconditions (e.g. holders of an EU Blue Card, holders of EC long term residence status and permit, etc.)</p> <p>3. The arrangement for the members of the family of an EU citizen who is a third country national, derives from the provisions of the relevant 2004/38 EU Directive (art.5, par.2). For the purpose of equal treatment, the same right is provided, by a national provision, to the members of the family of a Greek citizen who are third country nationals. Finally, this arrangement is provided to third country nationals who wish to be admitted in the country for investment activity, for reasons of facilitation due to their purpose of their residence, under the condition that all relevant preconditions are met.</p> <p>4. -</p>
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	<b>EMN NCP Hungary</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. No</li> <li>2. N/A</li> <li>3. N/A</li> <li>4. N/A</li> </ol>
	<b>EMN NCP Ireland</b>	<b>Yes</b>	<ol style="list-style-type: none"> <li>1. Ireland does not participate in the Single Permit Directive 2011/98.</li> <li>2. N/A</li> <li>3. N/A</li> <li>4. N/A</li> </ol>

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■	EMN NCP Italy	Yes	<p>1. Yes, it does. According to Article 6 bis of the Consolidated Immigration Act (<i>Testo Unico sull'Immigrazione, TUI</i>) - Legislative Decree No. 286/98 - TUI, a third-country national who arrived in Italy following the issuance of work authorization can start working even if he or she has not yet signed a residence contract for work at the One-stop Shop for Immigration (<i>Sportello Unico per l'Immigrazione</i>) and has not yet obtained a single work permit. This provision is applicable to all cases of entry for subordinate work, including seasonal work, and also applies to entries that take place outside the quotas established by the Flows Decree (Decreto Flussi), such as, for example, entries for Blue Card ex art. 27 quater TUI, intra-corporate transfers ex art. 27 quinquies TUI, entries for training abroad and entries for special cases ex art. 27 TUI. In any case, for the regular hiring of the worker, the employer is always required to comply with the obligations of mandatory reporting of employment to the competent bodies (Form UNILAV). In addition, a third-country national regularly residing in Italy with a permit issued for reasons other than work (e.g., study permit) can still work unless it is a residence permit that does not qualify for work (i.e., permits issued for tourism, business or justice). In general, with certain exceptions, residence permits that enable work can also be converted to a single work permit upon expiration. In any case, permits issued for purposes other than work, if they allow work, are compatible with carrying out work activities even before conversion.</p> <p>2. The possibility of starting work before signing the residence contract applies to all entries for the purpose of subordinate work, including seasonal work, and also extends to entries outside the quotas provided by the flow decree.</p> <p>3.</p>
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			<p>Even in Italy, the process to obtain a single permit can be very lengthy. Thus, the decision was made to allow the worker to provide for his or her own livelihood while waiting for the administrative procedure to be completed. Therefore, it is a guarantee to protect against delays that the administration may have in issuing the residence document.</p> <p>4. The main difficulties encountered concern a not always clear understanding of this regulation at the territorial level.</p>
=	EMN NCP Latvia	Yes	<p>1. No. A TCN, who legally resides in Latvia on the basis of a short-term visa or residence permit issued in another Member State, is not allowed to work in Latvia until he has received the single permit in Latvia. Only if the TCN had already been granted the right of residence in Latvia and the person has submitted documents for requesting a new residence permit, they can continue to work and be employed during the examination period of the documents with the same conditions as before.</p> <p>2. N/a</p> <p>3. N/a</p> <p>4. N/a</p>



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	<p><b>EMN NCP Lithuania</b></p>	<p><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1. No</li> <li>2. N/A</li> <li>3. N/A</li> <li>4. N/A</li> </ol>
	<p><b>EMN NCP Luxembourg</b></p>	<p><b>Yes</b></p>	<ol style="list-style-type: none"> <li>1. No. In Luxembourg, article L-572-3 (1) 1 to 3 of the Labour Code requires that the employer of a third-country national is obliged to:             <ol style="list-style-type: none"> <li>1. require that third-country nationals, before taking up employment, hold a residence permit or authorisation of stay and present them to the employer;</li> <li>2. to keep a copy of the residence permit or authorisation of stay for the duration of the employment period, for inspection purposes;</li> <li>3. to notify the Minister responsible for immigration of the start of the period of employment of a third-country national within three working days of the third-country national's first day of work.</li> </ol> <p>If the employee does not have the decision authorising him to work, he cannot begin working.</p> </li> <li>2. N/A.</li> </ol>

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			<p>3. N/A.</p> <p>4. N/A.</p>
	EMN NCP Montenegro	Yes	<p>1. No. Montenegrin Law on Foreigners ("Official Gazette of Montenegro", No. 12/2018, 3/2019 and 86/2022) defines the conditions for the entry, exit, movement, residence and employment of foreigners in Montenegro. Article 66 of this law stipulates that a foreigner can work in Montenegro <u>only</u> after obtaining a single permit.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p>
	EMN NCP	Yes	<p>1. No. A TCN who is legally residing in the country and who has applied for a single permit and whose employment or work conditions already have been verified, but the conditions for residence are still in</p>

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<p>Netherlands</p>		<p>process of verification, cannot already work or be employed, even if he/she has not yet been issued and served a single permit.</p> <p>Article 2 (1) of the Foreign Nationals Employment Act (<i>Wet Arbeid Vreemdelingen, WAV</i>) states that “An employer is prohibited from having a foreign national perform work in the Netherlands without a work permit or without a foreign national holding a combined permit to work for that employer.”[1]</p> <p>The TCN has to fulfill conditions to apply for a Single Permit (<i>Gecombineerde Vergunning Verblijf en Arbeid, GVVA</i>). The Immigration and Naturalisation Service (IND), processes the request whereby the IND is responsible for verifying conditions for the residence permit and seeks advice from The Netherlands Employees Insurance Agency (<i>Uitvoeringsinstituut Werknemers Verzekeringen, UWV</i>) for the labour-related part of the combined permit. The permit is only issued once conditions on <i>both</i> dimensions (residence and labour market) have been met. Thus it is not possible for a TCN to work in the Netherlands without a residency permit during the waiting period while waiting for the approval/issuance of the single permit.[2]</p> <p>[1] Article 2 (1) of the Foreign Nationals Employment Act (WAV) 2024.                  [2] Information provided by IND on 10 May 2024.</p> <p>2. N/A.</p> <p>3. N/A.</p> <p>4. N/A.</p>
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<p><b>EMN NCP Poland</b></p>	<p><b>Yes</b></p>	<p>1. Yes. If a third-country national submitted an application for a temporary residence permit during his/her legal stay on the territory of the Republic of Poland and the application did not contain any formal defects or the formal defects were remedied within indicated period, his/her stay in Poland is considered legal from the date of submitting the application for a residence permit for temporary stay until the date on which the decision on this matter becomes final (Article 105(1) and Article 108(1)(2) of the Act of 12 December 2013 on foreigners). If a foreigner was entitled to work in Poland in the period immediately preceding the submission of the application for a temporary residence and work permit (e.g. he/she had a work permit or a temporary residence and work, or was exempt from the requirement to have a work permit), he/she is entitled to perform work if he/she has a work permit (existing or new) or if he/she is exempt from the requirement to have a work permit (Article 87(1)(12)(b) and Article 87(2)(9) of the Act of 20 April 2004 on promotion of employment and labour market institutions). Moreover, if a foreigner has submitted an application for a temporary residence and work permit in order to continue the work he/she performed in accordance with the work permit or temporary residence permit, his/her work in Poland is considered legal until the date on which the decision on granting the permit temporary residence and work will become final (Article 87g(1a) and (1b) of the Act of April 20, 2004 on the promotion of employment and labour market institutions).</p> <p>2. It is a general rule.</p> <p>3. No answer provided.</p> <p>4.</p>
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			No answer provided.
	<b>EMN NCP Portugal</b>	<b>Yes</b>	<p>1. NO. In Portugal it is required that third-country nationals, before taking up employment, hold a residence permit or authorisation to stay and present it to the employer.</p> <p>2. N/A</p> <p>3. N/A</p> <p>4. N/A</p>
	<b>EMN NCP Serbia</b>	<b>Yes</b>	<p>1. Yes.</p> <p>2. The Law on the Employment of Foreigners stipulates that the assessment of the fulfillment of employment conditions shall be applied to the procedure for granting a visa for a long stay based on employment (Visa D). Also, the Law on Foreigners stipulates that a foreigner, who has been issued a visa for a long stay based on employment, exercises the right to employment in accordance with the regulations governing the employment of foreigners.</p> <p>Therefore, in the case that a foreigner holds a D visa based on employment that was approved after February 1, 2024 (which has the character of a permit for entry, stay and work), he/she has the right to work without the obligation to obtain other permission. Given that visa D is of limited duration (from 90</p>

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			<p>to 180 days), the foreigner or his employer should submit a request for the issuance of a single employment permit if he wishes to continue working after the expiration of the D visa.</p> <p>Also, the Rulebook on Issuing a Single Permit for Temporary Residence and Work of a Foreigner prescribes that a certificate of the initiated procedure for the issuance of a single residence and work permit be issued. This certificate allows the foreigner to start working.</p> <p>3. The aforementioned legal solutions allow a foreigner to start working in the shortest possible period of time, i.e. immediately after arriving in the Republic of Serbia (in case he was issued a D visa), i.e. immediately after issuing a confirmation of the start of the process of issuing a single permit card, since the assessment of existence of conditions for the employment is already conducted (see Q2).</p> <p>4. The new legal solutions for related to the employment of foreigners are introduced through the amendments to the Law on the Employment of Foreigners and the Law on Foreigners which entered into force on August 4, 2023, with the application of certain provisions from February 1, 2024. It is expected that new procedures will have a positive impact on both foreigners who want to work in the Republic of Serbia and their potential employers. In addition, the proposed legal solutions protect the domestic labor market, through the implementation of the labor market test and the potential legally prescribed possibilities of introducing quotas.</p>
	<p>EMN NCP Slovakia</p>	<p><b>Yes</b></p>	<p>1. No. However, in the case of professions with labour shortage in a given region, the third-country national may be employed for a specified period for the purpose of his training, for a maximum of eight</p>


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			<p>consecutive weeks in a calendar year after submitting a complete application for a single permit for the same post.</p> <p>At the same time, the employer must employ less than 30% of third-country nationals.</p> <p>In order to speed up access of third-country nationals to the Slovak labour market, the Slovak Republic is reforming its residential and labour legislation, by simplifying the acquisition of residence and work permits for workers from third countries (currently in the approval process in the National Council of the Slovak Republic, planned to be effective from 15 July 2024). An amendment is proposed that a third-country national who is in possession of a certificate of the possibility of filling a vacancy, which includes consent to its filling and an acknowledgement of receipt of the application for a single permit, together with all the supporting documentation, may work from the date of receipt of the application until the final completion of the procedure for granting the single permit. In this context, the possibility for a third-country national to be employed for a specified period for the purpose of training as described above will be discarded.</p> <p>2. See response to question 1.</p> <p>3. To satisfy the immediate needs of the labour market.</p> <p>4. Setting a percentage limit on the number of employed third-country nationals appears to be a challenge for employers - see question 1. The new legislation proposes to increase the share from 30% to 45% of third-country nationals in cases where an employer wants to employ third-country nationals from the list of professions with labour shortage.</p>
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	<p><b>EMN NCP Slovenia</b></p>	<p><b>Yes</b></p>	<p>1. YES</p> <p>2. On 2 September 2023, the Act Determining Intervention Measures for Recovery from the Floods and Landslides of August 2023 entered into force. For the purpose of eliminating the consequences of floods and landslides, the Act enables workers, citizens of third countries, who do not need a visa to enter and stay in the Republic of Slovenia, to start work already on the basis of a certificate of the submitted application for the issuance of a single permit and verified conditions for employment or work (this verification is given in 15 days) while their application for single permit is still being processed (conditions for residence are still in process of verification). These TCN are required to be employed or work in professions that are already in short supply and absolutely necessary to eliminate the consequences of floods and landslides. The measures apply until 31 August 2024.</p> <p>3. The goal was to ensure a large enough workforce to deal with the consequences of the floods that hit Slovenia in August 2023. The intervention legislation was only applicable to TCNs who would be employed or work to deal with the consequences of the floods. As stated in reply to Q2, the measures are temporary and will only apply until 31 August 2024.</p> <p>4. A small number of employers and TCNs tried to benefit from fast-track employment that was not intended for the purpose of eliminating the consequences of floods and landslides.</p>
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	<p><b>EMN NCP Spain</b></p>	<p><b>Yes</b></p>	<p>1. NO The general rule is that access to the labour market is not authorized until the application has been processed, the decision is positive, and the third country worker has been granted the single permit. Only in very specific cases there are exceptions to this rule (see Q2).</p> <p>2. Exceptions to the general rule:</p> <ul style="list-style-type: none"> <li>- The holders of a Blue Card in a second member state can exercise long term mobility and come to Spain in application of article 21 of the Directive (EU) 2021/1883. In this case, they can start working from the moment of the application (transposition of art. 21(3), second paragraph).</li> <li>- There are specific rules for seafarers and fishermen onboard of a Spanish vessel operating in some geographic areas (out of the scope of the Single permit directive). In this case, the TCN can start working as soon as the application for a permit is filed and the worker has embarked the vessel. However, some basic requirements are checked in advance (e.g. the TCN has the right qualifications to do the job).</li> <li>- There are also specific rules for professional sportsmen and women. In this case, it is also allowed to start working once the application for a permit is filed and until a decision is taken. Some basic checks are carried out, such as the authorization from the sports association to participate in the competition.</li> </ul> <p>3. For blue card holders, the reason is the application of art. 21(3) of the Directive (EU) 2021/1883.</p>
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			<p>In the other cases, the reason is the specificity of the activity, that makes it necessary to start operations as soon as possible (delays can have severe impact in the activity)</p> <p>4. The main challenge is to decide what minimum requirements need to be checked before allowing the provisional authorization. In accordance with experience and court rulings, qualifications and professional requirements need to be checked in advance in any case.</p>
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