



**Immigration process for foreign
highly qualified Indian professionals
benchmarked against the main economic
powers in the EU and other major
countries around the world**

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Foreword

The objective of this overview is to provide a brief overview of the immigration processes for highly skilled workers in Belgium. We equally compare the Belgian immigration scheme with the ones in the EU and in some other major countries around the world. This comparison shows us that the Belgian migration (work permit) process is one of the fastest and easiest to comply with. Indeed, if we look at the time it takes to process a work permit application in Belgium (about 3 weeks) and what the conditions are in order to obtain a work permit for a highly skilled employee (earning at least EUR 40.124 gross on a yearly basis in 2017), we can only conclude that it is rather easy for third country nationals to be employed in Belgium compared to the past as well as compared to other countries.

Procedures further to immigration to Belgium

Before they are entitled to start working and residing in Belgium, foreign nationals need to fulfil some “immigration” formalities. The number and the kind of formalities depend upon the nationality and the employment situation of the foreign national.



Employment authorization

Foreign nationals coming over to work in Belgium principally need an authorization before they start their employment in Belgium. A distinction needs to be made between “employees” on the one hand and “self-employed persons” on the other hand.

For employees

When is a work permit required?

An employer may not employ a foreign national in Belgium unless he first obtains permission from the competent immigration authorities.

Certain categories of employees are exempt from being in possession of a work permit, such as:

- Nationals of a member state of the European Economic Area (EEA) and their spouses, their descendants aged under 21 years or who are still dependent on them, relatives in the ascending line who are dependent on them and their spouses. (The members states of the EEA are as follows: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lichtenstein, Lithuania, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Spain, Sweden and the United Kingdom)
- The spouse of a Belgian national and their descendants aged under 21 or who are dependent on them, their dependent relatives in the ascending line and their spouses.
- Foreign nationals authorised or admitted to live in Belgium for an unlimited period of time.
- Recognized refugees in Belgium.
- Students who are legally residing in Belgium can work without a work permit during the school holidays (the Christmas holidays, the Easter holidays and the summer holidays).
- Students on training courses which are mandatory in the framework of their studies in Belgium.

What are the rules for issuing a work permit?

In general, work permissions are only issued if it is absolutely impossible to find a suitable local employee on the labour market within a reasonable time. In addition, such permissions are only issued to nationals of countries that have signed international treaties regarding the employment of employees. However, these rules do not apply to employees who can be considered as highly qualified employees or executives.

The request to employ a foreign citizen and to obtain a work permit on his behalf must be made by the employer in Belgium. If the employer is not established in Belgium, he should appoint an agent in Belgium who will make the application on his behalf and will carry out all steps and formalities.

Please note that the permission to employ a foreign national will be granted by the authorities by returning a special form to the employer or mandatory. The issuing of a permission to employ a foreign employee entails automatically the issuing of a work permit B to the foreign employee.

The work permit B is always linked to a specific job with one employer. If the foreign employee gets another job within the same company or starts working with another company, a new work permit B needs to be applied for.

The documents that need to be joined with the work permit application file depend upon the employment status of the employee in (whether he is a seconded employee, exempt from Belgian social security or a local employee, subject to Belgian social security).

Finally, special attention should be paid to the salary the employee concerned will earn. We would like to draw your attention to the fact a distinction is made between foreign highly qualified employees and executives.

Foreign highly qualified employees, whose employment in Belgium is limited to 4 years (renewable for another 4 years period under certain conditions), will be entitled to work permits, even if suitable labour is available in Belgium to fill the vacancy, as long as their gross salary exceeds EUR 40.124.

The executives fulfilling a leading function in a Belgian company will be entitled to work permits on condition that their yearly gross salary exceeds EUR 66.942. These amounts are linked to the conventional salaries' index and are reviewed each year. The mentioned salary amounts are applicable as from January 1, 2017.



For self-employed persons

When is a professional card required?

All Non-EU nationals, except EEA nationals, who wish to exercise a self-employed activity in Belgium, need a professional card if:

- they desire to reside in Belgium to carry out a lucrative independent trade or profession;
- they are appointed (self-employed) director in a company incorporated in Belgium (N.V./S.A. or B.V.B.A./S.C.R.L.);
- they hold a power of attorney to operate a branch of a company incorporated in another country

Therefore, if a foreign national wishes to exercise a self-employed activity in Belgium, he has to obtain a professional card authorising him to do so either as a natural person, a legal entity or a representative of a company or association (regardless of him being paid/remunerated or not for this job).

What are the rules for issuing a professional card?

Applications for professional cards can be filed either with the Belgian diplomatic or consular post in the country of the last residence of the person concerned or with the local authorities of the (Flemish) commune if the applicant already obtained a Belgian residence card and is already legally residing in Belgium at the time of the professional card application.

In case a professional card will have to be applied for the person concerned without him having a residence card, the demand should be introduced with the Belgian Embassy of the place of residence. The Belgian Embassy abroad will then transfer the file to the authorities in Belgium.

Generally, the application for a professional card through the Belgian Embassy takes quite a long time (up to 5 months) and takes usually much longer than when an application for a professional card is directly introduced with the authorities in Belgium. In the latter case, one must however be registered in Belgium. Once

issued, the professional card is valid for a maximum period of five years, and defines precisely the activity that the individual is authorised to practice.

It should be mentioned that the application for a professional card is not the only requirement to be met before a self-employed person can start his activities in Belgium. Access to the profession is essential in order to be registered with the Crossroads Bank for Enterprises as a self-employed person. Such access can be gained by submitting evidence of your basic management knowledge to an authorised business one-stop shop.

Furthermore, a person wishing to exercise one of the 42 regulated professions must also give evidence of specific professional skills.

Application for a temporary residence permit

Once in possession of the work permit or professional card, the foreign national must apply for a visa with the Belgian authorities of the place of residence abroad. Even though some foreign nationals are visa exempt in order to travel to Belgium, we always recommend applying for a visa.

For a period of stay of less than 90 days in Belgium, a visa type C is required. For a period of stay of more than 90 days, a visa type D should be applied for.

Generally, the hereafter mentioned documents are required by the Belgian Embassy/Consulate to issue a visa type D:

- The work permit or professional card.
- The original certificate of good conduct covering the past year issued by the police department of the applicant's place of residence.
- The valid passport.
- A medical certificate.
- 3 identity photographs.
- 2 or 3 visa application forms duly completed and



signed. These forms can be obtained at the Embassy and can also be completed there.

It is to be checked with the competent Embassy/ Consulate whether supplementary documents need to be provided in order to obtain the visa.

Inscription in a Belgian commune – obtaining a residence card

Once arrived in Belgium, the foreign national concerned should present himself at the municipality he will be living in and should report to the city authorities of his place of residence (principally within 8 days after his arrival) in order to be inscribed in the register of foreigners of the commune and obtain a residence card (a so-called Belgian electronic ID card).

To this end the city authorities ask for the passport with visa D stamp, the work permit and a lease contract. Depending on the municipality, supplementary documents can be asked for.

The residence card is in principle valid for a period of 1 year and can be renewed each year on the basis of an extended work permit or professional card.

Mandatory LIMOSA-declaration

In 2006, the Belgian Council of Ministers approved an e-government project relating to social security. The project aims to modernise the Belgian social security system management and the legal framework for monitoring and controlling the employment of foreign nationals (called LIMOSA).

The system, which entered into force on April 1, 2007, consists in:

- A mandatory declaration for each foreign national seconded employee and all foreign self-employed persons working in Belgium (comparable with the DIMONA-declaration for employees who are subject to the Belgian social security system)

- An information exchange system between the different Regions (competent for the application for work permits), the Ministry for Middle Classes (for professional cards) and the Ministry of Internal Affairs (for residence permits). The information will become available and exchangeable between the different authorities.

In practice, the implementation of LIMOSA entails that each foreign employee who is assigned to Belgium without being subject to Belgian social security (even on a temporary and/or partially basis) and all foreign self-employed persons who are working in Belgium need to be declared to the Belgian social security authorities before they start working in Belgium. When filing the Limosa declaration, the employee's name, contract details, place of employment, kind of employment (full- or half-time), the period of assignment and other information will need to be provided.

Exemptions are created for, amongst others, short term assignees (business trips up to 60 activity days per calendar year, limited to 20 consecutive activity days per meeting) and certain categories of trainees.

The Limosa declaration is a legal requirement. Non-compliance can result in penal and/or administrative sanctions. Both the employer, the person appointed by him or his agent can be punished.

The one for whom or on whose premises the work is carried out in Belgium can also be prosecuted if he fails to declare the absence of a Limosa declaration to the government! In other words, the Belgian "user"/ principal can be held liable for non-compliance of contractors who employ foreign nationals on the premises of the "user".

Social security treaty

The India-Belgium bilateral social security treaty, which was implemented on 1 September 2009, allows employees temporarily assigned to Belgium by their Indian employer to maintain their Indian social security coverage and to be exempt from the Belgian social security system during the period of their assignment. This entails a substantial cost benefit for the Indian employer.

The possibility of "secondment" is stipulated in the bilateral treaty for a period of 5 years. After this 5 year period, the treaty foresees that the host country's local social security legislation becomes applicable, resulting in the transfer of the employee's coverage to the local (Belgian) social security system.

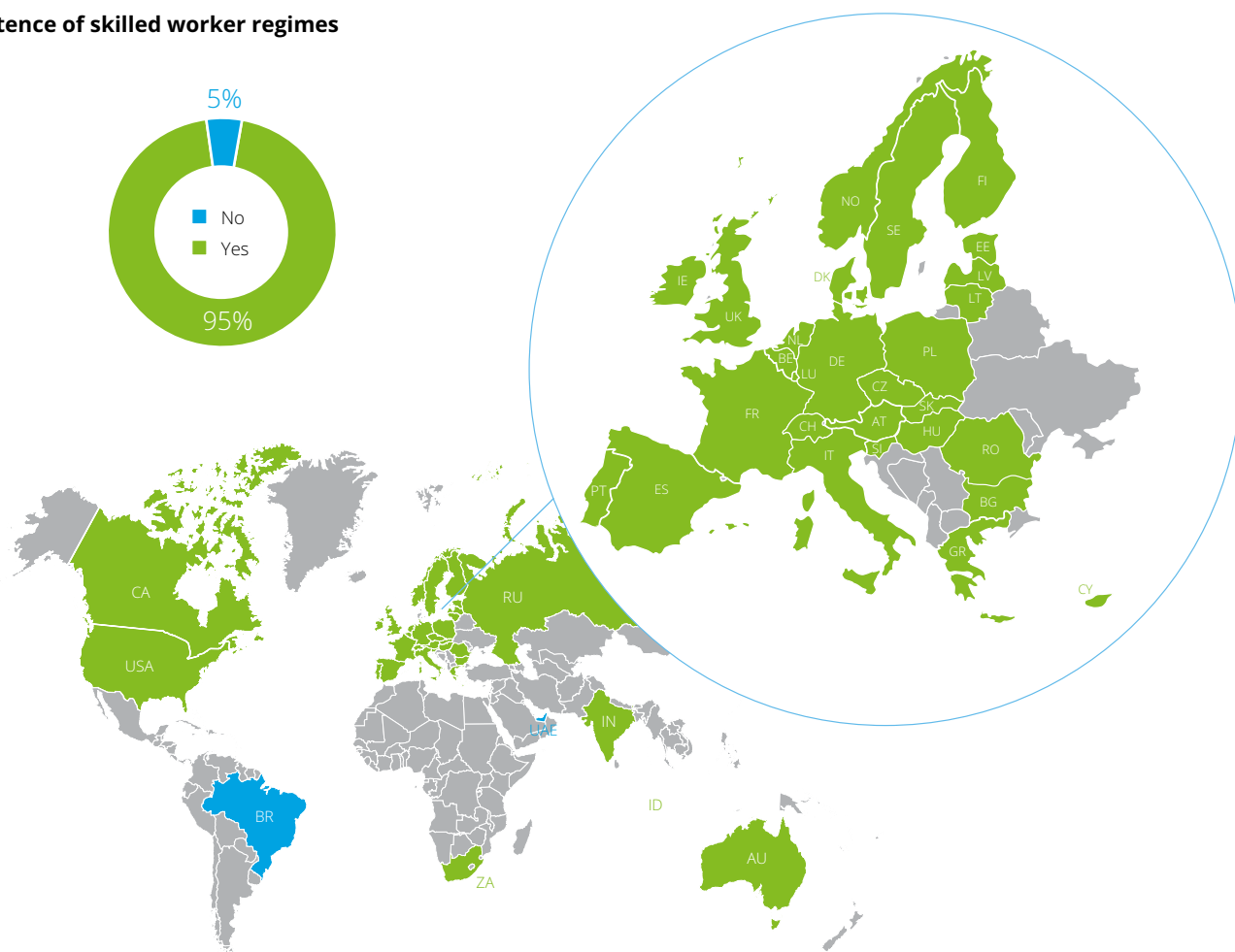
Overview of immigration regimes for highly skilled workers

Qualification for highly skilled workers

Most countries involved in our comparative study have immigration legislation that offers a variety of immigration processes for different categories of immigrant, such as trainees, highly skilled workers, seasonal workers, specialised technicians, etc.

Only Brazil and UAE do not have a specific immigration process that focuses on highly skilled workers. Compared to our previous study, now all EU member states do.

Existence of skilled worker regimes

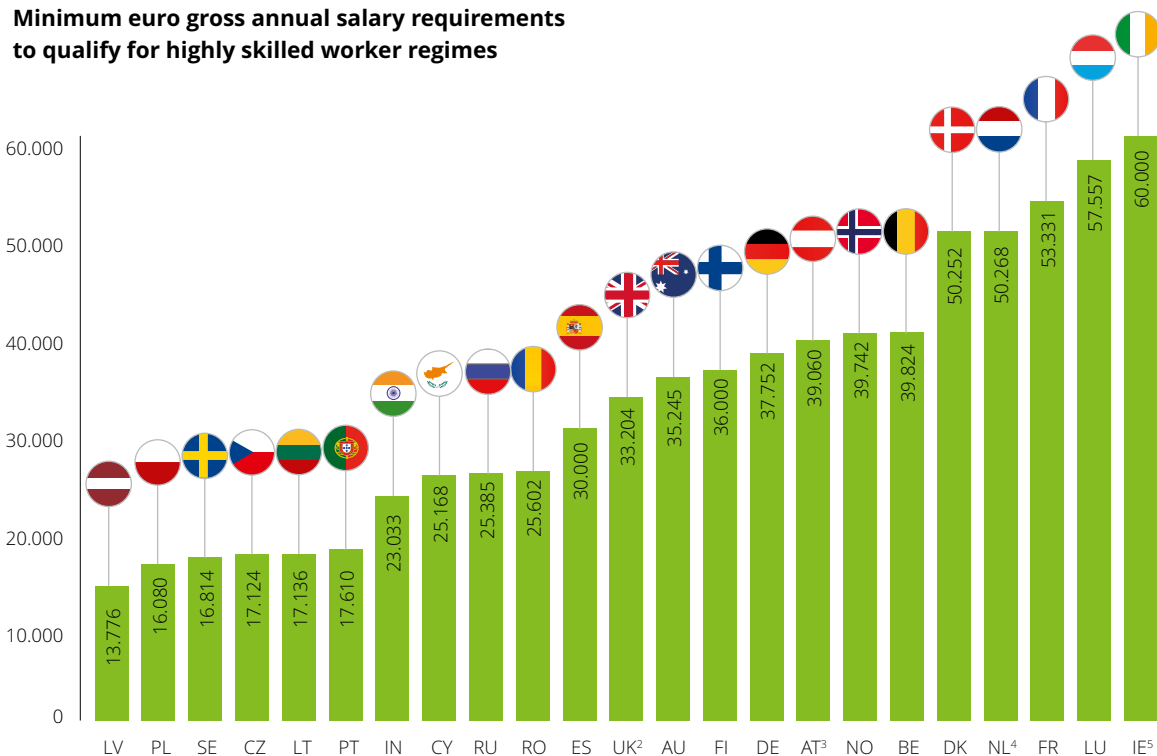


Minimum gross salary

When looking at the immigration process for highly skilled workers, they are mainly distinguished from other workers by the salary they must earn and qualifications they need to possess. Most countries require foreign nationals to possess at least a bachelor's or master's degree in order to qualify as a highly skilled worker. Most challenging can be the need to obtain a duly legalised and translated degree which also has an influence on the overall processing time for obtaining the required work permit or work visa.

Some countries do not have a fixed minimum salary, therefore, they have not been included in the overview. In certain countries, the salary level depends on the experience and/or age of the worker involved (see footnotes). For example, in Switzerland the minimum salary depends on various factors such as professional experience, responsibilities, age, education and work location.

Minimum euro gross annual salary requirements to qualify for highly skilled worker regimes



- CH: The minimum salary needs to be calculated individually. An online calculator is available in German/French/Italian: <http://www.bfs.admin.ch/bfs/portal/de/index/themen/03/04/blank/key/lohnstruktur/salarium.html>
- GB: The applicant must be paid the appropriate rate for the job in question. The minimum appropriate salary rates are defined by the UKVI's Standard Occupational Classification (SOC) codes. Minimum salary thresholds for Tier 2 Intra-Company Transfer (ICT) are:
 - Short term: £24,800 per year or the appropriate rate according to the SOC codes, whichever is higher.
 - Long term: £41,500 per year or the appropriate rate according to the SOC codes, whichever is higher.
 Minimum salary threshold for Tier 2 General is £20,800 per year or the appropriate rate according to the SOC codes, whichever is higher.
- AT: €2,325 per month for employees younger than 30 (payable 14 times); €2,790 per month for employees older than 30 (payable 14 times).
- NL: Highly Skilled Migrant of 30 years or over: €4,189 gross per month (excl. Holiday Pay); Highly Skilled Migrant younger than 30 years: €3,071 gross per month (excl. Holiday Pay); Highly Skilled Migrant who has graduated from a Dutch University in the year previous to the application: €2,201 gross per month (excl. Holiday Pay).
- Minimum euro gross annual salary requirements to qualify for highly skilled worker regimes: "Roles which are listed on the Irish Government's Highly Skilled Occupations List could qualify for the highly skilled worker regime on a minimum salary of €30,000.

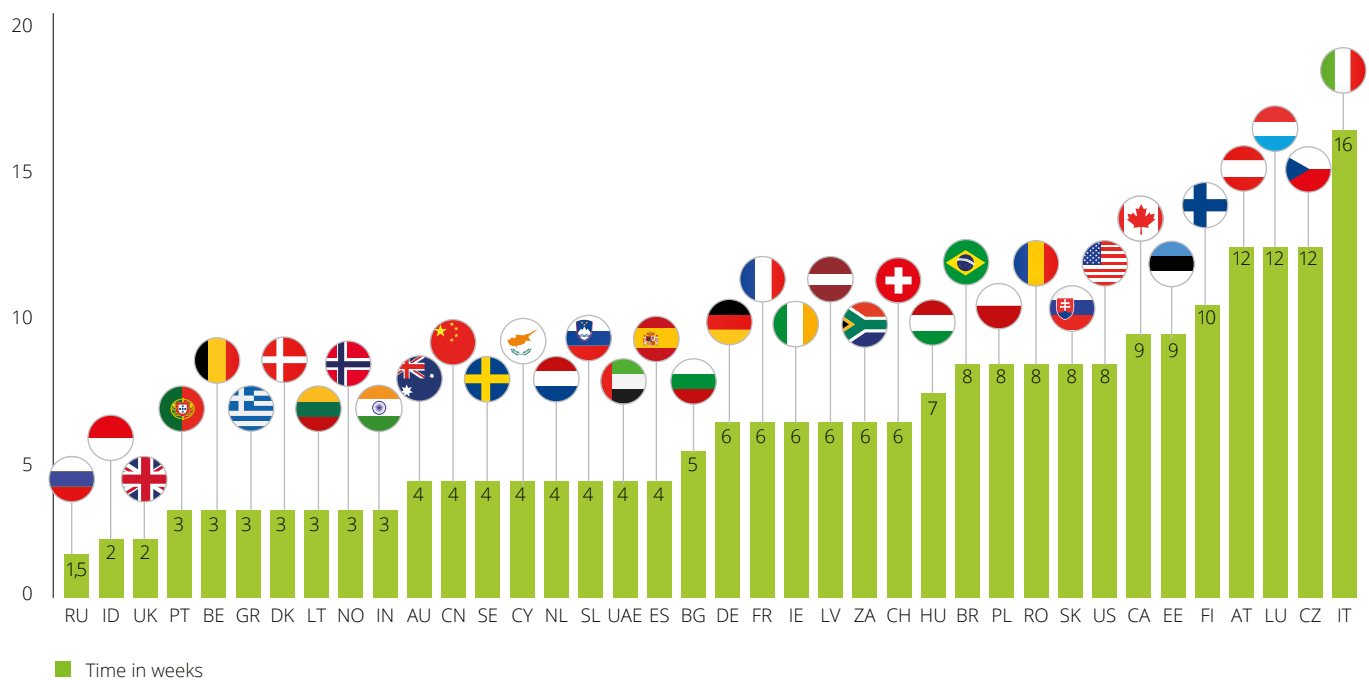
Processing time

Excluding preparatory work

One of the most important aspects of the immigration process for highly skilled workers is the processing time. International corporations need their workforce as mobile as possible, and timing is absolutely essential. This means having a quick immigration process, from filing to receiving a work permit or visa, and a quick overall process, from the relocation decision to the first workday in the new country.

Only half of the countries included in the study have a turnaround time of less than one month

Processing time (excluding preparatory work)

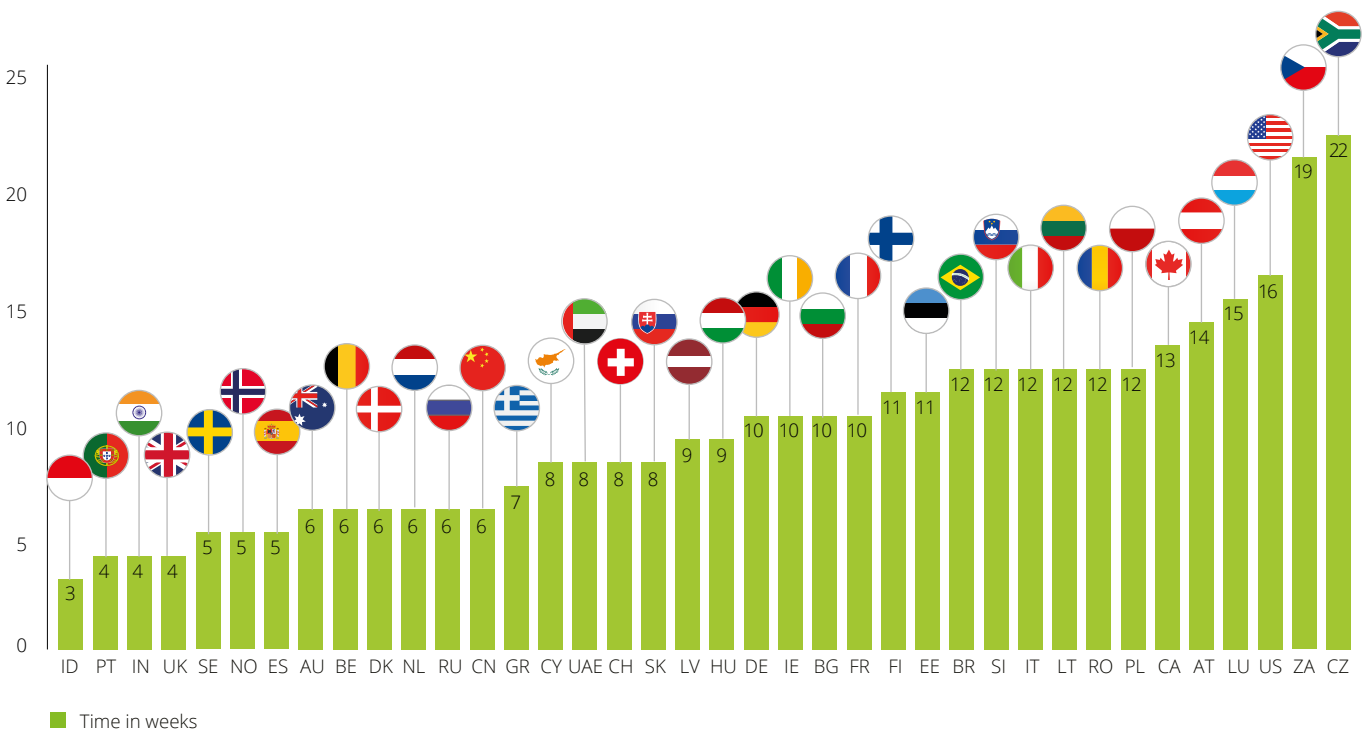


Including preparatory work

When looking at the overall processing time, which includes the time needed to gather, translate and legalise all required documents, the period often doubles or triples.

In more than half of the countries studied the immigration process including preparatory work took more than two months.

Processing time (including preparatory work)



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