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Overview

Law of Ukraine No. 2058-VIII, “On amendments to certain legislative acts of Ukraine aimed at removing barriers to foreign investments” (the “Law”), came into force on 27 September 2017. The Law introduced some changes to the procedure for obtaining work permits and temporary residency permits in Ukraine for foreign nationals and stateless persons.

Key changes

The Law provides for the categorization of foreign nationals and stateless persons, whose labor may be used in Ukraine (the notions of a foreign employee, foreign assigned employees, foreign highly compensated professionals, foreign IT professionals, and foreign creative professionals are introduced).

Certain requirements for obtaining a work permit will not apply to special categories of foreign nationals, specifically the following: foreign highly compensated professionals, foreign IT professionals, foreign creative professionals, and founders (members, beneficiaries (controllers)) of a legal entity set up in Ukraine.

Foreign nationals (stateless persons) who stay in Ukraine for the purpose of exercising control over the activities of a legal entity, and are its founders and/or members and/or beneficial owners (controller) will obtain a temporary

residency permit for the term of up to two years. The share of such a foreign national (stateless person) in the authorized capital of a Ukrainian legal entity should not be less than EUR 100,000 at the official exchange rate of the National Bank of Ukraine as of the date of contribution.

An entity is allowed to employ foreign nationals (stateless persons) in different capacities with one or several (two or more) employers, subject to obtaining work permits for the employment of foreign nationals (stateless persons) in each position.

The minimum salary that an employer must pay to its foreign employees to obtain the work permit should amount to:

- At least five minimum wages (approximately EUR 510 in 2017) if foreigners are employed with public associations, charitable organizations, and educational institutions.
- At least ten minimum wages (approximately EUR 1,020 in 2017) for other categories of employees.

These requirements do not apply to special categories of foreigners. The list of documents to be filed for obtaining and renewing the work permit has been shortened. Work permit validity for special categories of foreigners and foreign assigned employees has been extended (for up to three years); the deadline for filing documents for work permit renewals has been changed.

The term of validity of a temporary residency permit has been changed to the term of validity of a work permit to employ foreign nationals/implement an international technical-assistance project. In all other cases, the temporary residency permit remains valid for one year.

The Law regulates the procedure for making changes in the work permit in case of changes to the legal entity's name, issue of a new passport (ID), or changes in the foreign national's (stateless person's) position.

To renew the temporary residency permit, the foreign national (stateless person) must confirm the employment of at least three Ukrainian nationals with the same legal entity over the last six months preceding the date of application for temporary residency permit renewal or the payment of corporate income tax by the legal entity in the amount of at least 50 minimum wages for the last fiscal year preceding the date of application.

Deloitte's view

As of now, there are no official rulings or recommendations issued by the respective state authorities with respect to new rules and procedures application.

We expect that the immigration procedures will be simplified (especially for the specified categories of foreign individuals). However, as the minimum salary required to be paid to a foreign individual has increased, this may potentially lead Ukrainian entities to reduce the amount of foreign individuals they employ.

— Dmytro Pavlenko (Kyiv)
Director
Deloitte Ukraine
dpavlenko@deloitte.ua

Svitlana Tutovska (Kyiv)
Manager
Deloitte Ukraine
stutovska@deloitte.ua

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