

Employing third country nationals in Latvia: from idea to execution (1) (3/32/18)

Because not enough professionals are available locally, Latvian employers increasingly face the need to hire skilled workers from countries outside the EU/EEA (e.g. Russia, Ukraine, Canada, and India). However, both the employer and the foreign worker should meet a number of time-consuming statutory requirements before the foreign national receives permission to enter Latvia and lawfully begin employment. It takes 2-3 months from the date the employer identifies the need to hire a suitable foreign national to the date the worker actually arrives in Latvia. This article explores statutory requirements and steps the employer and the foreign national should take in order to organise lawful entry and employment in Latvia.

Posting a vacancy at the National Employment Agency (NEA)

Member states are required to prefer EU nationals when it comes to filling vacancies in order to strike a balance between vacancies and job applications across the EU.¹ Accordingly, an employer is allowed to submit an invitation to the Latvian Citizenship and Migration Office (CMO) only for a vacancy that cannot be filled by an EU/EEA national.

To meet this requirement, the employer is required to register the vacancy at the NEA, where it should remain available for 30 days. Only if no suitable candidate is found when this time limit expires may the employer submit an invitation to the CMO.²

There are a few exceptions, though. If a foreign national is employed under a contract for services³ (e.g. audit services) or carries on a trade or business (e.g. a sole trader entered on the commercial register, a board or council member, a procurator, or an administrator), the post does not need registering with the NEA, and the employer may proceed to submit an invitation with the CMO.

Submitting an invitation to the CMO

For lawful employment in Latvia a foreign national requires –

1. a work permit if the employment involves a short-term or irregular stay in Latvia of up to 90 days in a 180-day period after the date of entry, or
2. a temporary residence permit and a work permit for a long-term and regular employment exceeding 90 days in a 180-day period after the date of entry.

A work permit should be taken out also by any foreign national that does not require a visa to enter Latvia. A citizen of the US, for example, is allowed to stay in the Schengen area for 90 days in a 180-day period without a visa, but is required to take out a work permit for short-term employment in Latvia.

There are two types of invitation a Latvian employer may submit to the CMO: one for short-term and irregular work, and the other for long-term and regular employment. Along with the invitation, the following documents should be submitted to the CMO:

1. a copy of a certificate or an equivalent document recognising that the foreigner's professional qualification meets Latvian requirements if the profession is regulated (e.g. a construction engineer,

- a pilot, or a physician) or a copy of a legalised document of education or of a statement confirming three years' experience, with a Latvian translation if the foreigner's profession is not regulated;
2. a copy of the (draft) employment contract or contract for services; and
 3. a copy of a permit or licence if the proposed work requires one.

Depending on individual circumstances, some other documents may need to be submitted, especially with a long-term and recurring invitation.

The CMO will make a decision to approve the invitation within five working days after submission of all the necessary documents. Once the invitation has been approved, further steps should be taken at the Latvian embassy in either the foreigner's residence country or the one nearest to it.

(to be continued)

¹ Regulation (EU) No 492/2011 of the European Parliament and of the Council of 5 April 2011 on freedom of movement for workers within the Union (codification), article 17(2)

² The Cabinet of Ministers' Rule No. 55 on employment of foreign nationals, paragraph

³ Ibid. paragraph 4.1

⁴ Ibid. paragraph 4.2

⁵ The Cabinet of Ministers' Rule No. 564 on residence permits, Chapter 2