

## Legislative Changes in Slovenia related to Cross-Border Services and Employment of Foreign Nationals

26 June 2023

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### 1 Act on Cross-Border Services

On 22 March 2023, an amendment to the Transnational Provision of Services Act (*Zakon o čezmejnem izvajanju storitev – ZČmIS-1*, "Act on Cross-Border Services") was adopted and partially came into force on 18 April 2023, with individual provisions becoming effective on 1 January 2024.

#### 1.1 The basis for payment of social contributions for posted employees will increase

The Act on Cross-Border Services abolishes paragraph 2 of Article 144 of the Pension and Disability Insurance Act, according to which the basis for the payment of social contributions for employees posted from Slovenia abroad is equal to the salary that the employee would receive for the same kind of work in Slovenia. In practice, the Slovenian minimum wage is used, which typically results in a considerably lower amount of social contributions than a Slovenian employer would need to pay compared to the social contributions payable by an employer in the host country. Such an arrangement means a much lower cost burden for employers, and thus representing unfair competition in relation to employers in other countries, as well as in relation to local employers whose employees perform similar work domestically. It also means lower inflow into the Slovenian pension fund, and, as a result, posted employees will be entitled to much lower pensions compared to other employees who receive the same salaries. From 1 January 2024 onwards, this privilege for employers posting employees from Slovenia abroad has been abolished and the basis on which social contributions for posted employees will be paid will be the salary which the employee actually receives (including all relevant supplements to the salary).

#### 1.2 Stricter regime for employers who work with posted employees

In accordance with the Act on Cross-Border Services, employers posting employees abroad must not have been punished with a fine for more than one violation in relation to payment for work, working hours, undeclared work or individual provisions of the Health and Safety at Work Act (*Zakon o varnosti in zdravju pri delu – ZVZD-1*) (risk assessment for safety and health at work, training employees for safe work or ensuring a safe working environment and the use of safe work equipment) or more than one violation of obstructing the implementation of inspection control, during the previous three years. Employers who do not pay taxes may also post employees.

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### 1.3 Simultaneous work in two EU member states

The Act on Cross-Border Services more precisely defines the conditions for the cross-border provision of services by Slovenian employers, when an employee habitually carries out his/her work for one employer in at least two EU member states.

### 1.4 Registration of work by a foreign employer

Going forward, it will not be sufficient to merely obtain an A1 certificate. Rather, foreign employers must register each individual posted employee with the Employment Service of Slovenia (*Zavod Republike Slovenije za zaposlovanje*, "**Employment Service of Slovenia**") before any services are provided. The following information must be provided in the application: name and registered office of the foreign employer, information regarding the employer's authorized person for contacts with supervisory authorities, type of service, information regarding the employee and his/her job title, posting period and location where the employee performs work. Based on such an application, the Employment Service of Slovenia issues a certificate to the foreign employer.

### 1.5 Targeted supervision by the Ministry of Labour

Compliance with the law will be supervised by the Labour Inspectorate of the Republic of Slovenia, Infrastructure Inspectorate of the Republic of Slovenia, the Financial Administration of the Republic of Slovenia, the Ministry of Labour, Family, Social Affairs and Equal Opportunities ("**Ministry of Labour**") and the police. The Ministry of Labour will carry out a risk assessment and define the industries and the circumstances in which foreign employers most often provide cross-border services or in which violations are most often established. Based on said assessment, the Ministry of Labour will at least once per year propose to the respective supervision authorities that they carry out a targeted supervision of foreign employers.

### 1.6 Fines

The Act on Cross-Border Services provides for fines between EUR 2,000 and 60,000 for violation by a foreign employer, and fines between EUR 200 and 6,000 for the responsible person of the foreign employer. A foreign employer violates the law if it provides cross-border services despite not fulfilling the statutory requirements, without prior registration or based on incomplete registration of services, without translating and storing the documents, not submitting the documents to the competent supervisory authority.

## 2 Foreigners Act

The amendment to the Foreigners Act (*Zakon o tujcih – ZTuj-2*, "**Foreigners Act**") was adopted on 22 March 2023 and later again in April 2023, due to the suspensive veto of the National Council of the Republic of Slovenia. Most provisions of the amendment will enter into force on 27 April 2023.

### 2.1 Proficiency in the Slovenian language

The Foreigners Act provides that in order to extend the residence permit of the family members of foreign employees, it is necessary for the latter (who are between the ages of 18 and 60) to pass within the period of one year the Slovenian language exam at the A1 level, which is the basic skill level for the language. This provision has

already been included in the previous amendment of the Foreigners Act, but its effective date has been postponed for 18 months, therefore the provision will come into force on 1 November 2024. The government aims to facilitate the process of integration of foreigners, primarily with free language courses, which will allow for an easier integration of foreigners into Slovenian society.

## 2.2 Simplified change of the employer and job position

The Foreigners Act simplifies the procedure of switching job positions with the same employer and the process of changing the employer within the scope of the foreigner's existing uniform permit or an EU blue card. In such cases, the competent authorities no longer have to issue decisions on the written approval of the change. The switch is already possible based on the consent by the Employment Service of Slovenia, which makes the procedures faster and simpler for foreigners.

Furthermore, the Foreigners Act allows for the streamlining of foreigners' applications processing related to the issuance of a single permit for health care, social care and education professionals. The relevant consent is granted by the Employment Service of Slovenia and no longer by the administrative unit.

The Foreigners Act significantly expands the possibilities for handing over permits or decisions to a foreigner, thereby eliminating administrative obstacles (e.g. foreigners who are in the process of renewing their residence permit are allowed to cross the national border; foreigners can also be served their renewed temporary residence permit per post).

## 3 Employment, Self-employment and Work of Foreigners Act

The Employment, Self-employment and Work of Foreigners Act (*Zakon o zaposlovanju, samozaposlovanju in delu tujcev – ZZSDT*, "**Employment, Self-employment and Work of Foreigners Act**") was amended on 28 March 2023. Most of the amendments came into force on 8 April 2023 and the rest will become fully effective on 8 July 2023. Its content is harmonized with the amendment of the Foreigners Act insofar as both acts regulate the employment, work and residence of foreigners in a comprehensive (substantive and procedural) manner.

The Employment, Self-employment and Work of Foreigners Act enables asylum seekers to exercise their right to free access to the Slovenian labour market after only three months of asylum seeker status and no longer than nine months.

### How can we support you?

Wolf Theiss offers comprehensive, and at the same time, customized solutions for ensuring business compliance, namely:

- (i) preparation of all necessary documents for hiring foreign employees;
- (ii) preparation of employment law documentation for posting of employees or performing the work of employees in two EU member states;
- (iii) legal advice in the field of employment law and employment of foreigners; and
- (iv) an experienced team of lawyers specializing in employment law.

In addition to our team of employment law experts, **our strength is our extensive international experience and understanding of the organisational structure of corporations with associated in the CEE and SEE region.**

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