

The German Immigration Reform of 2022/2023

MARCH 2023

This policy paper summarizes the memorandum on skilled labour migration from third countries, presented by the German Federal Government on 30 November 2022, as well as preliminary drafts of the upcoming immigration reform bill.

Introduction

On 30 November 2022, the German Federal Government presented a memorandum, Cornerstones on Skilled Labor Migration from Third Countries (Eckpunkte zur Fachkräfteeinwanderung aus Drittstaaten), which outlines the government's immigration reform agenda.

An official draft bill is expected in March of 2023. The bill is likely to go through the parliamentary process by the summer, and may enter into force in late 2023 or early 2024. The government's reform agenda touches both changes to work visa categories and to the immigration process. It also addresses the government's measures regarding attracting foreign talent and marketing Germany as a destination country.

What major changes can we expect by the end of 2023 or early in 2024?

- ▶ Widely extended immigration options into unregulated professions for foreign talents with at least two years of professional experience and with degrees which are not recognized in Germany but in their home country;
- ▶ Lowered statutory salary levels for the EU Blue Card;
- ▶ Access to the EU Blue Card for foreign nationals with professional experience but without degree;
- ▶ Points based system which will allow foreign talents to enter Germany for job search for up to one year;
- ▶ Entry visa valid long enough to accommodate for ongoing process delays with the immigration offices; and
- ▶ Online visa application portal to be rolled out until 2024.

Legislative changes in detail

The new concept for labor migration rests on four categories: the skilled labor pillar for foreign talents with a job offer and a recognized degree; the experience pillar for individuals with a job offer and professional experience, but without a degree recognized in Germany; and the opportunities pillar, which is open for foreign talents without a job offer based on a points-based system. The fourth element of the system is the “Best friends” category, which grants privileged access to Germany for nationals of certain countries, like the USA, Canada or Japan. Additionally, the government proposes some other new regulations which will have an influence on labor migration.

► First pillar: Skilled immigrants with recognized degrees

The core category of this pillar is the EU Blue Card, which is available for foreign nationals with a recognized degree and a job offer. To broaden the applicability of this category, the government proposes to lower the salary requirements.

Under the current scheme, the salary limit amounts to 58.400 € (regular salary limit) which corresponds to two-thirds of the annual income threshold of the general pension scheme or rather to 45.552 € (lowered salary limit, for special professions, see below), corresponding to 52% of the annual threshold of the general pension scheme. According to the new concept, the salary limit is to be lowered to 56.6% (regular salary limit) or rather 45.3% (lowered salary limit) of the annual income threshold for contributions to the general pension insurance scheme. This would be 49.582 € or rather 39.683 €.

Another reform is the expansion of the professional groups to which the lower salary limit applies. Previously, only natural scientists, mathematicians, engineers, physicians and professionals in information and communications technology were eligible. Now, teachers, healthcare professionals (e.g., pharmacists, physical therapists), veterinarians, managers in the provision of specialized services such as in childcare or care for the elderly, managers in the provision of information and communications technology services, and managers in production, mining, construction and in logistics are among the privileged professions.

The eligibility requirements of the EU Blue Card will be altered to include individuals without degrees but with professional experience in the IT sector. In addition to the regular salary requirements, the employee must prove at least three years of professional experience in the information and communication technology sector, acquired in the last seven years.

Another important suggestion of the first pillar is that skilled workers should be allowed to perform any qualified employment and no longer be restricted to their professional education. For example, an administrative employee could also work as a logistician.

► Second pillar: Skilled immigrants with degrees and professional experience

For the second pillar, the government proposes that foreigners with work experience, but without a degree recognized in Germany, should be allowed to work in skilled, but unregulated positions as well. The education pursued abroad must have lasted at least two years and must be recognized in the country of origin. Also, the employee must prove two years of work experience. The employee must earn at least 45% of the annual income threshold of the general pension scheme which corresponds to 39.420 €.

In addition to that, the German language requirement for IT-specialists without a degree will be waived.

► Third pillar: Points based system for job searchers

Under the third pillar, a new job searcher permit is to be introduced to look for a job in Germany. The new permit will be named Opportunity Card (Chancenkarte). It is supposed to be applicable to foreign professionals with a recognized vocational training or university degree and for foreigners with at least six points according to a new points-based system.

This system is based on qualification, language skills, work experience, connection to Germany and age. For example, for German language skills on B2 level, applicants will receive three points. Applicants who are younger than 35 years old, will be awarded two points. Two years of work experience within the last five years in the field of the foreign vocational training or university degree (both recognized in home country) will be worth two points. One point will be granted for a stay in Germany of at least six months in the past five years. This new residence permit can be issued for up to one year and it is not renewable. It can also be used for a trial employment of two weeks.

► “Best friends” category and other regulations

The “Best friends” visa will see an extension regarding its second sub-category, the Western Balkans regulation, which is currently bound to expire by the end 2023. The government intends to lift the expiry and to raise the annual quota from 25.000 to 50.000. The Western Balkans Regulation gives nationals of Albania, Bosnia and Herzegovina, Kosovo, the Republic of Northern Macedonia, Montenegro and Serbia access to the labor market in Germany for any kind of employment. It is also possible that the list of countries benefiting from the Best Friends category may see an extension.

Another major change is that the national entry visa type D, which traditionally was only issued for three to six months, will in the future be issued for a period of one year.

Furthermore, the periods for acquiring permanent residence are to be shortened, from five to three years for the general regulation and from four to three years for skilled workers.

Process changes in detail

► Online Visa application process

To increase the immigration of skilled workers, administrative procedures are to be accelerated and digitalized. In particular, the Consular Services Portal (Auslandsportal, <https://digital.diplo.de>) of the German Foreign Office will be expanded. At the moment, it is possible to apply for the EU Blue Card online at some foreign missions (Belgrade, Kolkata, Sarajevo, Recife, Rio de Janeiro, Sao Paolo). The portal is to be further extended both in terms of number of visa categories and in terms of countries covered. Also, the government commits to exchanging application documents exclusively digitally, especially when it comes to the transfer of visa application files from the consular posts abroad to the authorities in Germany.

► Degree recognition process

The draft also suggests that recognition procedures for professional and academic qualifications be carried out as quickly and straightforwardly as possible. The aim is to ensure that legal deadlines are met in all cases in both the standard procedure and the accelerated procedure for skilled workers. More options should be created for documents to be accepted in English or in the original language.

What impact will the proposed measures have on the German immigration system?

- The new professional experience work permit is likely to bring major change to the German immigration landscape, as it means an end to the long-standing policy of allowing immigration with recognized degrees only. The new immigration category will largely consume the EU Blue Card scheme as most immigration under the EU Blue Card takes place within the applicability of the new work permit (unregulated profession, at least two years of professional experience).
- The extension of the Best Friends permit category means that, in effect, the system can be described as resting on four rather than on three pillars. In terms of numbers, the Best Friends permit has been highly successful and offers a significant pathway for the immigration of low-skilled labour into Germany.
- The points-based system will yet have to demonstrate its success. Job searching can be performed under business visitor status as well for up to 90 days, which comes with fewer requirements.
- The digital visa application portal will see comfort improvements for applicants in the midterm. It remains to be seen how quickly and to what extent this step will also facilitate significant changes to overall government processing times.

Need to know more?

For further information related to Germany's immigration system, please contact Partner Marius Tollenaere at mtollenaere@fragomen.com and Associate Lisa Waldner at lwaldner@fragomen.com.

Due to the circumstances, there are frequent changes. To keep up to date with all the latest updates on global immigration, please visit our [dedicated COVID-19 site](#), subscribe to our [alerts](#) and follow us on [LinkedIn](#), [Twitter](#), [Facebook](#) and [Instagram](#).