



Special information | The further development of qualified labour immigration is a done deal

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On 23 June 2023, the Act on the Further Development of Qualified Worker Immigration (hereinafter referred to as AufenthG-nF) was passed by the German Bundestag and passed the Bundesrat on 07 July 2023. This law further modifies the previous Qualified Workers Immigration Act of 2019. Among other things, the new law contains amendments that further liberalise the immigration of workers to Germany in order to counteract the severe shortage of qualified workers in Germany. The law is scheduled to come into force in November 2023 at the earliest.

I. Facilitations for qualified workers (§ 18a, 18b AufenthG-nF)

For qualified workers within the meaning of the right of residence, the granting of a residence permit is facilitated in some respects. According to Section 18 (3) of the Residence Act, qualified workers are persons who hold a German university degree or a foreign university degree comparable to a German university degree (qualified worker with academic training, Section 18a of the Residence Act). Similarly, qualified workers include persons who have completed qualified vocational training in Germany or have acquired a vocational qualification abroad that is equivalent to qualified vocational training in Germany (qualified worker with vocational training, section 18b Residence Act).

- **Employment opportunities:** Qualified workers now have the right to pursue any qualified employment without requiring proof of training for this qualified employment. Qualified occupations are those that require qualified vocational training or studies, Section 2 (12b) Residence Act. This gives employers more freedom in filling specific vacancies and in assessing who is suitable for the job.
- **Decision on the issuance:** In the future, the residence permit for qualified workers is to be granted if the requirements for the residence permit are met (so-called "shall" provision). In this respect, authorities will be restricted in their decision-making power to grant or prohibit residence permits in favour of labour migration.



II. Facilitation of the so-called "EU Blue Card" (§ 18g AufenthG-nF)

The "EU Blue Card", which is the European equivalent to the American "Green Card", is now regulated independently in § 18g AufenthG-nF. There are some facilitations as well:

- **Salary thresholds are falling:** The salary threshold that must be reached in the targeted employment is lowered from 2/3 to 56.6 % of the contribution assessment ceiling in the statutory pension insurance ("BBM"). The salary threshold is also lowered to 45.3 % of the BBM in the (BBM 2023 = EUR 87,600 West or EUR 85,200 East) for those entering the labour market.
- **Facilitation for bottleneck professions:** For so-called bottleneck professions (§ 18g para. 2 AufenthG-nF), the salary threshold will be reduced from the previous 52% to 45.3% of the BBM. In addition, the catalogue of occupations that are to be considered "bottleneck professions" will be significantly expanded. Special consideration in this context is given to the IT sector: here not only the salary threshold is lowered, but also the requirements for the respective educational qualification. In the future, three years of professional experience will suffice, provided that what has been learned is comparable to the level of a university degree or equivalent tertiary education programme.
- **Reduction of the minimum period of employment:** The EU Blue Card can now be issued for an employment period of at least six months (§ 18g para. 3 AufenthG-nF, previously at least twelve months). This not only enables the project-related integration of qualified workers, but it also constitutes a further area of application for secondments to Germany on the basis of local employment relationships and thus an alternative to the ICT card (section 19 AufenthG).
- **Change of job:** The possibility of changing jobs is facilitated (section 18g (4) AufenthG-nF) because the consent of the immigration office is no longer required. In the past, the approval procedure often led to delays due to overburdened authorities. However, an early change of job after the issuance of the EU Blue Card can be delayed by the immigration office by a review period of up to 30 days. Only after twelve months after the issuance of the EU Blue Card, the requirement for consent ceases to apply completely.
- **Better mobility with the EU Blue Card:** A practically important extension is the foreign EU Blue Card holders' mobility (§§ 18h ff. AufenthG-nF). Thus, short stays, i.e., up to 90 days within a period of 180 days, for business activities and stays directly related to the duties arising from the employment contract in Germany are possible without an additional residence permit or work permit.



III. New: The so-called Opportunity Card (§ 20a ff. AufenthG-nF)

The Opportunity Map is a completely new element in the previous concept of labour migration. It is intended to tap the potential of foreign workers for the German labour market. It represents a temporary residence title with which the card holder can seek gainful employment or carry out measures for the recognition of foreign professional qualifications. Holders of the Opportunity Map can, for example, enter into trial employment relationships of a maximum of two weeks each and be employed for an average of up to 20 hours per week.

The Opportunity Map can be obtained by third-country nationals who are either qualified as qualified workers or achieve a certain number of points. Furthermore, additional requirements must be met (including a recognised professional qualification or university degree in the third country and language skills in English or German). There is no entitlement to the Opportunity Map. It is issued at the discretion of the authorities.

IV. Outlook

The Act on the Further Development of Qualified Worker Immigration is scheduled to come into force in November 2023 at the earliest. However, companies should already examine whether they can make use of the aforementioned facilitations in order to bring foreign qualified workers to Germany more quickly, taking into account the new/modified residence titles. Even if the new law does not offer satisfactory solutions for the frequently overburdened administrative offices such as the Federal Employment Agency, foreign missions and municipal foreigners' authorities, whose average processing times have more than doubled last year, it is a step in the right direction. Nevertheless, early and targeted planning and initiation of the application process remain essential for successful labour migration.

Our experts will be happy to support you throughout this process. Feel free to contact us at any time.

Please note that the above-mentioned statements are only an abbreviated, non-binding compilation according to the current status. No guarantee is given for the correctness and completeness of the information. The contact persons of our law firm known to you will be happy to assist you in this regard.



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Concluding remarks

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