

# ***Factual analysis of Member States Investors' Schemes granting citizenship or residence to third- country nationals investing in the said Member State***

## ***Deliverable B.II Investors' Residence Schemes in Slovenia***

*JUST/2016/RCIT/FW/RIGH/0152 (2017/06)*



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The views expressed herein are those of the consultants alone and do not necessarily represent the official views of the European Commission.

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## I. GENERAL BACKGROUND

### ■ *Legal background*

In Slovenia, specific policies focusing on attracting third country nationals (TCNs) as investors into Slovenia do not exist.<sup>1</sup> Slovenia also does not register this category of foreigners separately and does not specifically gather statistics.<sup>2</sup> Nevertheless, it is possible for third country nationals to obtain residency in Slovenia on the basis of investment under Article 51(3) of the Aliens Act, namely, on the basis of the *interest of the Republic of Slovenia*. For the purposes of this Report, it is residence on the basis of this provision that is analysed.

The relevant legislation concerning admittance of TCNs was adopted at the independence of the Republic of Slovenia. Since then it was amended numerous times, both for internal reasons as well as for reasons of harmonization with the European Union *acquis* in the field of migration, that is, to transpose the requirements of EU Directives related to migration. The Citizenship of the Republic of Slovenia Act,<sup>3</sup> as amended (relevant for granting citizenship) entered into force on 25 June 1991, while the currently valid Aliens Act<sup>4</sup> (relevant for granting residence permit) entered into force on 28 July 2011.

### ■ *Competent authorities*

The main competent authority for granting residence permits in cases relevant for investors (under Article 51(3) of the Aliens Act) is the Ministry of Interior, more precisely its Departments for Administrative Internal Affairs.

The competent authority for granting citizenship is the Ministry of Interior, which, in case of investors, adopts its decision on the basis of the opinion provided by the Ministry of Economy with regard to the question whether the admission into citizenship is in line with the national interest of Slovenia in the field of business and economy.

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<sup>1</sup> EMN Focused Study 2014: Admitting third-country nationals for business purposes, [https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european\\_migration\\_network/reports/docs/emn-studies/emn-studies-25a\\_slovenia\\_admitting\\_third\\_country\\_nationals\\_en\\_final.pdf](https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/networks/european_migration_network/reports/docs/emn-studies/emn-studies-25a_slovenia_admitting_third_country_nationals_en_final.pdf).

<sup>2</sup> Ibid.

<sup>3</sup> Citizenship of the Republic of Slovenia Act, *Zakon o državljanstvu Republike Slovenije* (Official gazette RS, no. 24/07 – official consolidated text and 40/17), <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO13>.

<sup>4</sup> Aliens Act, *Zakon o tujcih* (Official gazette RS, no. 1/18 – official consolidated text and 9/18 – corr.), <http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5761>.

## II. PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA

### 1 APPLICATION PHASE

#### 1.1 PROCEDURES

In the Aliens Act, there is no specific admission system for granting residence permits that would apply explicitly for investors. Hence, **investors have to meet general conditions that are in place for granting residence permits to TCNs.**

Even though this report does not specifically address the issue of visas, it is important to mention that in Slovenia in line with Article 20 of the Aliens Act, a foreigner may apply for **a long-term visa**, which may be issued for the interests of economy. This is important as such long-term visa is also an access to the country on investment grounds. The fact that issuing such visa would be in the economic interests of Slovenia is confirmed by the opinion of the Ministry of Economy. As there is no specific scheme for investors, any TCN can apply for a long-term visa, however, he or she will only be granted the visa if he or she meets the conditions and if the competent ministry for establishing the economic interest – the Ministry of Economy – confirms the existence of such economic interest. General conditions for issuing such long-term visa are: the alien must possess a valid passport with validity of three months longer than the intended stay in Slovenia, travel health insurance (with insurance allowance of at least EUR 30.000),<sup>5</sup> sufficient means of subsistence (monthly at least in the amount of minimum income in Slovenia,<sup>6</sup> i.e. currently EUR 297,53 per month), and has to prove one of the grounds that allow for issuing of a long-term visa, in this case economic interests of Slovenia.<sup>7</sup> The latter is established based on the implementing act issued by the Ministry of Economy.<sup>8</sup> The applicant has to pay an administrative fee of EUR 77 when applying for the long-term visa.<sup>9</sup> The long-term visa is issued for the period of intended stay in Slovenia, which must be longer than 90 days, but not more than one year.<sup>10</sup>

**Temporary residence permits** may be issued to TCNs whose residence is in the national interest of Slovenia.<sup>11</sup> There are no provisions in the law specifying for whom such residence permit may be issued.

The **procedure in place concerning temporary residence permits** which may be issued to an alien whose residence in Slovenia is in the interest of the Republic of Slovenia are as follows. On the proposal of the interested ministry or other state body, the Government of the Republic of Slovenia issues a decision that there is an interest of the Republic of Slovenia for issuing a temporary residence permit to a TCN (hence, the procedure starts with the proposal of the ministry of economy or another state authority, not with the application of a foreigner-investor. It is not defined in law how the Ministry gets to know about a TCN. In practice, someone could inform the Ministry, either the investor himself, a company or someone else who would be interested in this). In the proposal, the interested ministry or other state authority must justify the existence of an interest and attach the consent of the TCN to the initiation of a procedure for issuing a residence permit and proof that the alien has sufficient means of subsistence and adequate health insurance, or provide those funds in the amount of the basic minimum income in the Republic Slovenia for the entire period of validity of the

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<sup>5</sup> Article 23, s. 2 of the Aliens Act.

<sup>6</sup> Article 25 of Aliens Act.

<sup>7</sup> Article 22, s. 2 of the Aliens Act.

<sup>8</sup> Article 20, s. 4 of the Aliens Act.

<sup>9</sup> Tariff for administrative fees no. 61.

<sup>10</sup> Article 19, s. 1 of the Aliens Act.

<sup>11</sup> Article 51, s 3 of the Aliens Act

residence permit.<sup>12</sup>

On the basis of a decision of the Government of the Republic of Slovenia, **the ministry responsible for internal affairs will ex officio initiate the procedure for issuing a temporary residence permit.**<sup>13</sup> The parties to the procedure for issuing a residence permit are aliens and the interested ministry (in this case the Ministry of Economy) or other state body (in the law or implementing acts it is not stated which other state body this might be). A temporary residence permit with validity of up to five years can be issued if the stated conditions for the issuance of a residence permit are met and if there are no grounds for suspicion that the alien might be in danger of public safety and security or the international relations of the Republic of Slovenia, or there is no suspicion that his residence in the country will be linked to the conduct of terrorist acts or other acts of violence, illegal intelligence activities, the production or trafficking of drugs or the commission of other criminal offences, or if during the procedure for issuing the first temporary residence permit it is not established that he comes from areas where contagious diseases spread with the possibility of an epidemic listed in the international health rules of the World Health Organization or from areas where contagious diseases are spreading that could endanger human health and for which, in accordance with the law governing infectious diseases, the prescribed measures should be taken.<sup>14</sup> The first permit for temporary residence may also be issued to a TCN who actually resides in the Republic of Slovenia. In this case, the first temporary residence permit is handed to the foreigner by the Ministry of the Interior,<sup>15</sup> and not through the diplomatic-consular representation of Slovenia abroad.

There is **no legal act that specifies when the condition of economic interest is met.** There is only one sub-law that refers to the criteria, but these criteria are defined only for granting long-term visas issued based on economic interest (and not to issuing of residence permits). This sub-law - “Rules on criteria for establishing the economic interest of the Republic of Slovenia in issuing long-stay visas to foreigners”<sup>16</sup> - refers to a situation when an investor would apply for a long-term visa, not for a residence permit. According to these rules, the existence of an economic interest is shown if a foreigner:

- i) demonstrates specialized knowledge and special experience useful for the Slovenian economy,
- ii) can facilitate the increase of business connections of the Slovenian economy with the rest of the world, or
- iii) can facilitate the introduction and use of new technologies, business models or knowledge in the Republic of Slovenia or the investment of capital in the Republic of Slovenia or the expansion and opening of new markets for Slovenian products.<sup>17</sup>

There is no similar sub-law that would be specifically applicable for granting of residence permits.

**However, for an investor who applies for a residence permit based on national (economic) interest the general conditions from the Aliens Act apply:** First, a TCN wishing to reside in Slovenia needs to possess a valid travel document with the validity that exceeds the intended duration of residence in Slovenia by at least three months. Second, the TCN has to have an appropriate health insurance. Third, an alien has to have sufficient means of subsistence for the duration of his or her residence in the country, or his or her subsistence needs have to be provided for otherwise.<sup>18</sup> These are general conditions that all TCNs have to meet.

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<sup>12</sup> Article 51, s. 3 of the Aliens Act.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Rules on criteria for establishing the economic interest of the Republic of Slovenia in issuing long-stay visas to foreigners, *Pravilnik o kriterijih za ugotavljanje gospodarskega interesa Republike Slovenije za izdajo vizuma za dolgoročno bivanje tujcu*, Official Gazette of the Republic of Slovenia No. 50/12, <http://www.pisrs.si/Pis.web/pregledPredpisa?id=PRAV11329>.

<sup>17</sup> Article 2 of the Rules on criteria for establishing the economic interest of the Republic of Slovenia in issuing long-stay visas to foreigners.

<sup>18</sup> Article 33, s. 3 of the Aliens Act.

An alien whose residence in Slovenia is in the interest of the Republic of Slovenia **also has to meet these conditions**. For the procedure to be initiated, the alien has to provide his or her consent and it must prove that he or she has appropriate health insurance and sufficient means of subsistence, or such means have to be provided to the alien.<sup>19</sup>

The available means of subsistence per month must be equivalent to the basic sum of the minimum income in Slovenia (currently 297,53 EUR per month).<sup>20</sup> Means of subsistence can be proven by way of income received as pay for work, insurance schemes, property, capital or other sources (this is an open ended clause that could cover any kind of (legal) source of income, e.g. alimonies, pension etc.). Means of subsistence can also be proven by a contract with which a legal or natural person is obliged to pay to the alien a certain amount of money for his or her subsistence. However, such contract can only serve to prove the entire amount of monthly means of subsistence if the intended residence is for the purpose of study. In all other cases the alien can use a contract as evidence for only half of the required amount of the available means of subsistence. This contract has to be concluded in the Republic of Slovenia in the form of a directly executable notarial contract.<sup>21</sup>

Appropriate health insurance is an insurance which applies in the territory of Slovenia, covers at least emergency medical services and is valid for the time from the filing of the application for residence permit until the end of the intended stay in Slovenia. The administrative unit does not check the amount of the insurance sum of the health insurance.<sup>22</sup>

Such a residence permit is issued for the period of intended residence in Slovenia, but not for more than five years.<sup>23</sup> The expression “in the interest of Republic of Slovenia” is determined by the Government of the Republic of Slovenia on a proposal of the interested Ministry (the Ministry of Economy) that has to justify the existence of such interest.

Generally, the alien has to pay the **administrative fee** when the application for a temporary residence permit is filed. The amount is EUR 50 for residence permit (administrative taxes, Tariff no. 15). However, since the procedure under Article 51(3) of the Aliens Act does not start with the application of an alien, but by initiative of the Ministry of Interior, the alien does not need to pay such fee.

The Aliens Act stipulates that **the application for a temporary residence permit in Slovenia is refused when** an alien does not meet any of the conditions required by law (travel document, means of subsistence, and adequate health insurance).

Further for those TCNs who are interested in obtaining a residence permit on the basis of national interest (including economic interest), the **reasons for refusal** are also:

- if the national interest in the field of economy is not established (it is not clear how this is assessed as there is no bylaw which would specifically define conditions when the economic interest for issuing a temporary residence permit exists. Also, there are no cases in practice which would reveal the established practice);
- if there are grounds for suspicion that the alien might endanger public safety and security or the international relations of the Republic of Slovenia,
- there is suspicion that his residence in the country will be linked to the conduct of terrorist acts or other acts of violence, illegal intelligence activities, the production or trafficking of drugs or the commission of other criminal offences,
- if during the procedure for issuing the first temporary residence permit it is established that he comes from areas where the spread of contagious diseases with the possibility of an epidemic listed in the international health rules of the World Health Organization or from areas where

<sup>19</sup> Article 51, s. 3 of the Aliens Act.

<sup>20</sup> [http://www.mddsz.gov.si/si/delovna\\_podrocja/sociala/denarna\\_socialna\\_pomoc/](http://www.mddsz.gov.si/si/delovna_podrocja/sociala/denarna_socialna_pomoc/)

<sup>21</sup> Article 51, s. 3 of the Aliens Act.

<sup>22</sup> <https://infotujci.si/en/third-country-nationals/temporary-residence-permit/what-health-insurance-is-adequate/>.

<sup>23</sup> Article 51, s. 3 of the Aliens Act.



contagious diseases are spreading that could endanger human health and for which, in accordance with the law governing infectious diseases, the prescribed measures should be taken.<sup>24</sup>

The Ministry of Interior may establish the reasons for refusal of the application for a residence permit on the basis of data in official State registers of the tax authorities or data in the official State registers on prior criminal records administered by the Ministry of Justice, State registers on pending indictments administered by competent criminal courts or registers of the diplomatic-consular representation offices of Slovenia or the Ministry of Foreign Affairs. All of this data may be obtained by the competent body *ex officio*.<sup>25</sup>

In general, **complaints against refusals to issue a residence permit** by the administrative unit as the first instance body are examined by the Ministry of Interior. These complaints are examined in an administrative procedure, which is set out in the General Administrative Procedure Act. In accordance with the General Administrative Procedure Act, an appeal to the Ministry of Interior has a suspensive effect.

Judicial review of administrative decisions issued by the Ministry of Interior is possible by lodging a lawsuit with the Administrative Court of the Republic of Slovenia, within a period of thirty days after the decision has been served.<sup>26</sup> A lawsuit lodged with the Administrative Court does not have suspensive effect.<sup>27</sup>

There is a limited possibility to lodge a complaint against a judgment of the Administrative Court with the Supreme Court. This is only possible if a) the Administrative Court has established different facts compared to those established by the Ministry of Interior and these different facts were the reason why it changed the decision of the Ministry, or b) if the Administrative Court has found that the decision of the Ministry was not in accordance with the law and has ordered other measures to be taken in this respect.<sup>28</sup> In such cases, the time limit for lodging an appeal with the Supreme Court, which in this case does have suspensive effect, is fifteen days after the decision has been served.<sup>29</sup> If an appeal against the Administrative Court judgment is not permitted, it is possible that there are extraordinary legal remedies available to the parties after the judicial decision has become final. These extraordinary legal remedies are available in a very limited number of circumstances.

A final possibility concerns lodging a constitutional complaint with the Constitutional Court of the Republic of Slovenia, if human rights or the fundamental freedoms of an alien have been violated by the refusal to issue a residence permit.

These general rules, however, are not directly applicable in cases of foreigners who would be refused a residence permit under Article 51(3) of the Aliens Act. Namely, in these cases they are not the ones who initiate the procedure (it is initiated by the ministry or another state body) and hence they are not a party to the procedure. In such case, the Ministry of Economy could file a lawsuit against the Ministry of Interior before the Administrative Court, in line with the Administrative Dispute Act.<sup>30</sup>

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<sup>24</sup> Article 51, s. 3 of the Aliens Act.

<sup>25</sup> Article 55, ss 2, 3 and 4 of the Aliens Act.

<sup>26</sup> Article 30 of the Administrative Disputes Act.

<sup>27</sup> Article 32, s. 1 of the Administrative Disputes Act.

<sup>28</sup> Article 73, s. 1 of the Administrative Disputes Act.

<sup>29</sup> Article 73, s. 3 of the Administrative Disputes Act.

<sup>30</sup> Administrative Dispute Act, *Zakon o upravnem sporu* (Official Gazette RS, no. 105/06, 107/09 – Const. Court Decision, 62/10, 98/11 – Const. Court Decision, 109/12 and 10/17 – ZPP-E).

## 1.2 COMPETENT AUTHORITIES AND NON-PUBLIC BODIES

In case of granting a residence permit based on national interest (including economic interest) the competent body for issuing a residence permit is the **Ministry of Interior**, the decision that the national interest exists is issued by the **Government of the Republic of Slovenia**, and the interested ministry that is required to submit a consent for admission is the **Ministry of Economy**.<sup>31</sup>

The Ministry of Interior is competent for conducting the procedure for issuing a residence permit, the Government issues a decision on the existence of national interest, and the Ministry of the Economy would have to propose the issuance of such residence permit and provide reasoning for such proposal. In issuing the residence permit the Ministry of the Interior relies on the Ministry of Economy's consent and the Government's decision, and would not decide contrary to the consent and the decision, unless exclusion criteria apply related to national security, public health or public order (as specified above).

There are **no non-public bodies** that would be involved in the procedure for issuing a residence permit.

## 1.3 MONITORING OF THE PROCEEDINGS AND THE AUTHORITIES INVOLVED

As there is no explicit scheme for investors and hence there is also no cap on the number of applicants or approved applicants, scrutiny mechanisms or reporting obligations are not relevant in the Slovenian context.

As regards monitoring, only general monitoring mechanisms apply, such as those in the competence of the Administrative Inspectorate<sup>32</sup> (organised within the Ministry of Public Administration), which has the duty to supervise the implementation of the General Administrative Procedure Act and other legislation in the field of public administration.

## 1.4 INFORMATION ON APPLICATIONS

There is **no obligation to disclose information about successful applicants**. Information about applicants for residence permits is subject to personal data protection law.

The specific statistics for investors do not exist, as there is no legal basis for collection of such statistics. The statistics relating to those TCNs who receive a temporary residence permit on the basis of national interest (including economic interest) are kept, however in total, not explicitly for investors. Among those who obtained such permit there are no investors.<sup>33</sup>

The general table below shows the number of requests for residence permits on any ground, not the ground of investment (as such ground does not exist). The number of successful applications is some years higher than the number of requests, due to pending applications from the previous year. The table does not include the statistics on procedures that were terminated and those procedures that were dismissed (not decided upon on the merits).<sup>34</sup>

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<sup>31</sup> Article 51, s. 3 of the Aliens Act.

<sup>32</sup> [http://www.mju.gov.si/si/o\\_ministrstvu/inspektorat\\_za\\_javni\\_sektor\\_organ\\_v\\_sestavi/upravna\\_inspekcija/](http://www.mju.gov.si/si/o_ministrstvu/inspektorat_za_javni_sektor_organ_v_sestavi/upravna_inspekcija/).

<sup>33</sup> Telephone interview with the Ministry of Interior, 1 March 2018.

<sup>34</sup> Ibid.

| Year | Total no. of requests for residence | No. of requests for residence by investors | No. of successful applications | No. of turned down applications | Sources              |
|------|-------------------------------------|--|--------------------------------|---------------------------------|----------------------|
| 2012 | 53.511                              | 0  | 58.842                         | 855                             | Ministry of Interior |
| 2013 | 56.744                              | 0  | 58.019                         | 1.036                           | Ministry of Interior |
| 2014 | 55.861                              | 0  | 56.264                         | 1.374                           | Ministry of Interior |
| 2015 | 48.729                              | 0  | 45.242                         | 1.063                           | Ministry of Interior |
| 2016 | 53.433                              | 0  | 49.303                         | 1.161                           | Ministry of Interior |
| 2017 | 63.185                              | 0  | 57.833                         | 919                             | Ministry of Interior |

Further, under Article 51(3) of the Aliens Act which provides for issuing a residence permit based on the interests of the Republic of Slovenia (any kind of interest, including economic interest, but investors are not a separate category and also in practice investors do not apply for residence permit on this ground), the statistics are as follows: in 2012, 2 temporary residence permits were issued, in 2013 none, in 2014 there were 4, in 2015 there were 2, and in 2017 and 2018 there was one temporary residence permit issued on this basis. Only in 2017 it was the Ministry of Economy that proposed to the Government of Slovenia that such residence permit is issued (for economic interests), while in the previous years the initiators of the procedure were other ministries.<sup>35</sup>

The statistics on investors are not available because there is no scheme specifically available for investors.<sup>36</sup> In the consultation process it was explicitly confirmed that there are no investors who received a residence permit on this basis.<sup>37</sup>

Specific databases for investors were not consulted to obtain information, as such databases do not exist. Phone and e-mail consultations were conducted with the representative of the Ministry of Interior to obtain the information provided.

## 1.5 INFORMATION ON APPLICATIONS BY FAMILY MEMBERS

### ■ *Measures concerning residence permits granted to family members*

The general rule is that each TCN who has resided in Slovenia for the past year on the basis of a temporary residence permit and possesses a temporary residence permit with a validity of at least one additional year has the right to family reunification with his or her close family members.<sup>38</sup>

This rule could be relevant for those TCN investors who have been residing in Slovenia based on employment and work.

Close family members of a TCN who can be issued a temporary residence permit for the purpose of family reunification include:

- a spouse, registered partner or cohabiting partner;
- minor unmarried children of the TCN;
- minor unmarried children of the spouse, registered partner or cohabiting partner;
- parents of a minor TCN who cohabited the TCN before his or her arrival to Slovenia; and
- adult unmarried children or parents of the TCN, his or her spouse, registered partner or cohabiting partner, whom the TCN or the TCN's spouse or partner is obliged to maintain in accordance with the legislation of the State of which he or she is a national.<sup>39</sup>

<sup>35</sup> E-mail response from the Ministry of Interior, 25 April 2018.

<sup>36</sup> Telephone interview with the Ministry of Interior, 1 March 2018.

<sup>37</sup> Telephone interview with the Ministry of Interior, 1 March 2018.

<sup>38</sup> Article 47, s. 1 of the Aliens Act.

<sup>39</sup> Article 47, s. 3 of the Aliens Act.

By way of exception, the competent body may, at its discretion, also regard other relatives as a family member if special circumstances justify family reunification in the Republic of Slovenia. In the case of a polygamous marriage, the residence permit for family unification can only be issued and extended for one spouse.<sup>40</sup>

A condition for the issuing of a temporary residence permit is that the TCN submits evidence of sufficient means of subsistence to maintain their close family members, who intend to reside in Slovenia. An alien invoking the right to family reunification will also have to prove their family relations either with a marriage certificate (for spouses) or a birth certificate (for children). The temporary residence permit for family reunification is granted to a close family member of the TCN with a temporary residence permit for the same period as the TCN's permit is valid, but not for a period exceeding one year. Minor unmarried children and the parents of a TCN who is a minor can only be granted a temporary residence permit on the grounds of family reunification until the child reaches the age of majority.<sup>41</sup> A temporary residence permit is granted to close family members as an autonomous permit, which means that it can be extended when the sponsor dies.<sup>42</sup>

■ *Statistical data on the number/percentage of successful applications for residence permits for family members*

The available statistical information does not provide for any insight into family members of investors. The ministry only keeps information on those who were granted a residence permit as family members of all TCNs, and there is no information on whether any of these TCNs are investors.

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<sup>40</sup> Article 47, s. 4 of the Aliens Act.

<sup>41</sup> Article 47, s. 6 of the Aliens Act.

<sup>42</sup> Article 47, s. 7 of the Aliens Act.

## 2 TYPE OF INVESTMENT<sup>43</sup>

| Type of investment required   | Applicability of financial threshold | Procedure to verify the fulfilment of the investment criterion | Competent authorities and non-public bodies  |
|---|--------------------------------------|--|--|
| No such provisions exist for granting of residence permits (only for granting long-term visas). There is no provision in the law which specifies what investment is required for issuing a long-term visa. The law only refers to the economic interest of the Republic of Slovenia very generally, and does not specifically mention investment. | N/A, no such provision               | N/A, there is no investment criterion.                         | Only generally competent authorities for issuing residence permits exist, these are Administrative Units. In case of national interest applications based on Article 51, s. 3 of the Aliens Act, the Ministry of Interior, the Government and the Ministry of the Economy would be involved. |

## 3 RESIDENCE PHASE

| Residence permit  | Procedure   | Competent authorities and non-public bodies | Renewal of the residence permit   |
|---|---|---|---|
| <b>Temporary residence permit</b> of duration up to five years (national interest). | In general, a person who obtains a residence permit has to reside in Slovenia based on the residence permit. A suspicion that the person will not reside in Slovenia based on the residence permit is one of the reasons for not granting a permit (Article 55, s. 1 of the Aliens Act). This would be relevant if the person obtained a residence permit for employment or work. | Ministry of Interior                        | The application for extension has to be filed at the administrative unit before the permit expires (Article 36, s. 1 of the Aliens Act). Upon the application for extension, the administrative unit issues an alien a letter of confirmation which, in certain cases, allows the alien to reside in Slovenia until the administrative unit decides on the application for extension (i.e. if the purpose of residence is research, highly-qualified work, or |

<sup>43</sup> For the purposes of this Table, the term ‘investment’ covers any pecuniary disbursement required as part of the process for obtaining residence under the investors’ residence scheme.

| Residence permit | Procedure   | Competent authorities and non-public bodies | Renewal of the residence permit   |
|------------------|---|---|---|
|                  | If a person applies under Article 51, s. 3 of the Aliens Act (national interest), then residence is not a requirement. The alien does not need to be physically present in Slovenia at all. |   | participation of victims of trafficking or victims of unlawful employment in criminal proceedings) (Article 38, s. 5, Article 41, s. 2 and Article 50, s. 6 of the Aliens Act, respectively). For an extension of the temporary residence permit the applicant has to, once again, fulfil the same conditions as for the first permit (Article 36, s. 1 of the Aliens Act). The only difference is that in certain cases, an extension for a longer period than one year is possible; for example, a single permit for residence for the purpose of employment and work which is initially issued for a one-year period can be extended for a maximum period of two years (Article 37, s. 4 of the Aliens Act). |

#### 4 DUE DILIGENCE CRITERIA AND SECURITY CONSIDERATIONS

| Due diligence and security considerations  | Procedure to verify due diligence and security considerations  | Competent authorities and non-public bodies | Ex-post checks  |
|--|--|---|---|
| In case of residence permits based on national interest (Article 51, s. 3 Aliens Act), the permit may not be issued if: <ul style="list-style-type: none"> <li>– there are serious reasons for suspicion that a TCN may pose a danger for public order and security or the international relations of Slovenia;</li> <li>– there is a suspicion that a TCN's residence in the country</li> </ul> | Residence permit might be refused if the TCN is refused entry. In accordance with Article 5 of the Instructions for non-EU citizens, a reason for suspicion that a TCN's stay in the country will be connected to the commissioning of crimes exists in particular if: <ul style="list-style-type: none"> <li>■ the TCN was convicted in Slovenia with a final decision for a crime for which the law prescribes a sanction of imprisonment of at least one year;</li> <li>■ the TCN was reported to have committed a crime in Slovenia which is prosecuted ex officio in the past two years;</li> <li>■ a TCN has in his or her possession any objects that are used for the commissioning of crimes; or</li> <li>■ there is information or if it is apparent from the circumstances</li> </ul> | Ministry of Interior                        | If the state bodies find out that there are reasons to annul or cancel the residence permit, they may do it (Article 51, s. 3 of the Aliens Act).<br><br>Conditions under which the right of residence may be lost differ with regard to the type of legal status of a person. Usually they are related to committing criminal offences |

| Due diligence and security considerations  | Procedure to verify due diligence and security considerations   | Competent authorities and non-public bodies | Ex-post checks   |
|--|---|---|--|
| <p>may be linked with the execution of terrorist or other violent actions, illegal intelligence activities, the possession of drugs or the execution of other criminal acts;</p> <p>The competent body (Ministry of Interior) may establish the reasons for refusal of the application for a residence permit on the basis of data in official State registers of the tax authorities or data in the official State registers on prior criminal records administered by the Ministry of Justice, State registers on pending indictments administered by competent criminal courts or registers of the diplomatic-consular representation offices of Slovenia or the Ministry of Foreign Affairs. All of this data may be obtained by the competent body ex officio.<sup>44</sup></p> | <p>that a TCN could commit a crime in Slovenia.</p> <p>***</p> <p>The reason for the suspicion that a TCN will be under threat by the public order of the Republic of Slovenia is in particular:</p> <ul style="list-style-type: none"> <li>■ - there is information or, if it is clear from the circumstances, that a TCN may have threatened public order during his stay in the Republic of Slovenia,</li> <li>■ - a TCN enters with the intention of participating in a public gathering and is expected to violate public policy or carry objects that are not allowed to be brought to public gatherings,</li> <li>■ - in the last two years, a TCN has been sentenced in the Republic of Slovenia for a minor offence under the regulations against public order, in particular for offenses under the regulations governing the state border, aliens and illicit drugs,</li> <li>■ - there is information or if it is clear from the circumstances that a TCN will use the stay in the Republic of Slovenia to enter the territory of another country illegally or allow another person to enter the territory of another country illegally or</li> <li>■ - attempts to enter the Republic of Slovenia by means of a means of transport which does not meet the conditions for use in the Republic of Slovenia or a TCN does not meet the conditions for using this means of transport.<sup>45</sup></li> </ul> <p>All these conditions are <b>checked out before the residence permit is issued</b>. The residence permit might also be annulled if any of the reasons appear after it has been granted.</p> |   | <p>or minor offences, or the detection that false data has been provided by the alien in the procedure for the acquisition of residence rights (Article 61 of the Aliens Act).</p> <p>A temporary residence permit is annulled if (only those instances that are relevant for potential investors are listed here):</p> <ul style="list-style-type: none"> <li>■ it is subsequently found that the alien no longer meets the conditions for issuing a residence permit or that there are other reasons for refusing the application for a residence permit (in the cases of economic interest such case would be that the economic interest no longer exist – added by author);</li> <li>■ an alien has intentionally provided false data on his or her identity or other false information, or has intentionally</li> </ul> |

<sup>44</sup> Article 55, s. 3 of the Aliens Act.

<sup>45</sup> Article 6, Instruction on the reasons for refusing entry into the Republic of Slovenia to a non-EU national.

| Due diligence and security considerations | Procedure to verify due diligence and security considerations | Competent authorities and non-public bodies | Ex-post checks  |
|---|---|---|---|
|   |   |   | <p>concealed the circumstances relevant for the issuing of a temporary residence permit (Article 56, s. 1 of the Aliens Act).</p> <p>No information on cases of misuse associated with corruption and fraud has been found.</p> |



### III. RIGHTS GRANTED BY THE PERMITS

#### 1 RIGHTS GRANTED TO INVESTORS

A temporary residence permit provides a legal basis for a TCN to **reside in Slovenia, to move freely and to freely choose his or her place of residence**. The residence permit protects him or her from deportation, unless an alien is convicted of a crime and sanctioned by an imprisonment of more than three months or where there are other circumstances that justify a termination of the right to reside in Slovenia (see Section IV on loss of right of residence). A TCN against whom a criminal proceeding has been initiated has the right to establish contact with the competent bodies of the State of which he or she is a national (Article 4, s. 1 of the Aliens Act).

TCNs who obtained a residence permit based on national interest, **do not have free access to the labour market**. If they wish to access the labour market, there is a need for labour market verification and can only be employed if there is no suitable candidate registered in the unemployment register (unless they want to work as representatives of a company).<sup>46</sup>

In principle, all basic **human rights and fundamental freedoms** of TCNs residing lawfully in Slovenia are recognized, on the same footing as those of the nationals of the Republic of Slovenia, unless the Constitution or the law stipulate that some rights are granted to nationals only. Such limitations are frequent. For example, a temporary residence permit only ensures protection of a limited list of social and economic rights in Slovenia provided for by various laws. For instance, according to the Parental Protection and Family Benefits Act, the right to child's benefits is recognized to one of the parents, for a child who has a registered residence in Slovenia.<sup>47</sup> Another right which is also recognized is the right of minors of up to 15 years of age to elementary education. Above that age, the aliens who do not have a permanent residence right in Slovenia have to pay tuition fees if they enrol at the university, unless there is a bilateral agreement between Slovenia and the country of the TCN's nationality that provides otherwise (i.e., the reciprocity principle).<sup>48</sup>

Further, in accordance with the Decree on the Ways and Scope of Providing Programmes of Support for the Integration of Third Country Nationals, TCNs who hold a residence permit that has been issued with a period of validity of one year, are entitled to **lessons to learn the Slovenian language** free of charge.<sup>49</sup> All aliens, including those who for any reason do not have a health insurance (e.g., if the employer did not include them into health insurance, which is against the law as it is obligatory for employers to register every worker in the basic health insurance system), have the right to **urgent health care services free of charge** if they are not able to pay for health services, in accordance with the Health Care and Health Insurance Act.<sup>50</sup> TCNs with only a temporary residence permit, however, do not have access to public housing, unemployment benefits, social financial assistance in the case of poverty, or emergency financial assistance. There is one exception to this rule with regard to **social financial assistance** which is accessible also for those TCNs who has been issued a temporary residence permit based on the fact that they have been staying in Slovenia on the basis of permission

<sup>46</sup> Article 32-34 of the Employment, Self-employment and work of Aliens.

<sup>47</sup> *Zakon o starševskem varstvu in družinskih prejemkih* (ZSDP-1), Official Gazette of the Republic of Slovenia, No. 26/2014.

<sup>48</sup> Article 7, s. 6 of the Higher Education Act [*Zakon o visokem šolstvu* (ZVis)], Official Gazette of the Republic of Slovenia, No. 67/1993, as amended. See also Art. 7, s. 4 of the Vocational Education Act [*Zakon o poklicnem in strokovnem izobraževanju* (ZPSI)], Official Gazette of the Republic of Slovenia, No. 12/1996, as amended.

<sup>49</sup> Article 4, s. 2 of the Decree on Ways and Scope of Providing Programs of Support for Integration of Third Country Nationals [*Uredba o načinih in obsegu zagotavljanja programov pomoči pri vključevanju tujcev, ki niso državljani Evropske unije*], Official Gazette of the Republic of Slovenia, No. 70/12.

<sup>50</sup> Article 7, s. 1, indent 1, of the Act Amending the Health Care and Health Insurance Act [*Zakon o spremembah in dopolnitvah zakona o zdravstvenem varstvu in zdravstvenem zavarovanju* (ZZVZZK)], Official Gazette of the Republic of Slovenia, No. 76/2008.

to remain (toleration status). After returning to their country of origin, aliens can access their social security and pension rights for which contributions have been paid in the Republic of Slovenia, if Slovenia and the country of origin have concluded an agreement on social security.

## 2 RIGHTS GRANTED TO THE INVESTORS' FAMILY MEMBERS

Family members who are issued a temporary residence permit for the purpose of family reunification with foreigners who already reside in Slovenia (including those with residence permits issued for national interest) are entitled to **the same rights as other aliens with a temporary residence permit** (see point 1 of this Section above). In accordance with the Decree on the Ways and Scope of Providing Programmes of Support for the Integration of Third Country Nationals, family members of those TCNs who enjoy a right to free lessons in the Slovenian language are also entitled to such lessons free of charge, provided that these family members have a temporary residence permit issued for the purpose of family reunification in Slovenia.<sup>51</sup>

## 3 OTHER BENEFITS

There are no additional benefits granted.

In the field of personal income taxation, the Slovenian tax legislation distinguishes between residents and non-residents. TCNs can fall in both groups, depending on the reason for their presence in Slovenia, duration of their presence and type of residence permit.

Residents have to pay their income tax in Slovenia. Types of residents who may include investors are:

- persons with an officially registered permanent residence in Slovenia,
- persons with a habitual residence in Slovenia or if the centre of their personal and economic interests in Slovenia,
- persons who are present in Slovenia for more than 183 days in any tax year.<sup>52</sup>

Non-residents, in the sense of personal income tax law, only have to pay personal income tax in Slovenia for income which is originating from Slovenia. Non-residents are:

- persons who do not have a permanent residence in Slovenia, whose centre of their economic and personal interests is not in Slovenia, are present in Slovenia for less than 183 days in a single tax year,
- persons with diplomatic or consular status of a foreign country in Slovenia,
- persons who work as employees or officials of an international organization,
- persons who are present in Slovenia for employment in the diplomatic representation, consulate, international mission of a foreign country,
- persons employed in Slovenia as foreign experts, for whom there is insufficient staff in Slovenia (required approval by the Slovenian tax authority),

From this it can be seen that TCNs who are investors have no specific tax status in Slovenia. They are considered as tax residents or non-residents under the criteria specified above.

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<sup>51</sup> Article 4, s. 3 of the Decree on Ways and Scope of Providing Programs of Support for Integration of Third Country Nationals.

<sup>52</sup> Only those types of residents which are relevant for TCNs are listed here.

#### IV. INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES

For TCNs citizenship of the Republic of Slovenia may be acquired by naturalisation, i.e. on the basis of a prescribed period of actual and continuous residence in the Republic of Slovenia, provided that the person also meets all other conditions for admission to citizenship laid down by law.

Naturalisation is a manner of acquisition of Slovenian citizenship based on the will of the individual expressed through the filing of an application, based on the TCNs residence in Slovenia for a certain period of time (see below). Admission to citizenship is not a right but a prerogative of the state.

In addition to regular naturalisation, there is also exceptional naturalisation,<sup>53</sup> which provides for the acquisition of Slovenian citizenship in the case of a state benefit in a specific field of social life, provided that this is advantageous to the state due to scientific, economic, cultural, national or similar reasons. This provision requires a one-year period of actual residence in Slovenia and gives the opportunity to acquire citizenship under more lenient conditions. Among others, the foreigner may keep his or her current citizenship. In exceptional cases, no prior residence is required. There is no provision in the law that would preclude a foreigner who obtained a residence permit based on Article 51(3) of the Aliens Act from applying for citizenship under this provision. In such case the year spent in Slovenia based on such residence permit would count towards a condition for granting citizenship.

There are **no specific citizenship possibilities for investors**. In the framework of the acquisition of citizenship, Slovenian citizenship legislation distinguishes between regular naturalisation that provides for a ten-year residence period of a foreigner in Slovenia<sup>54</sup> and naturalisation with benefits that provides for a shorter prescribed period of actual residence of a foreigner in Slovenia and hence gives the opportunity to acquire citizenship under more lenient conditions only to certain categories of foreigners (if the person is married to a Slovenian citizen – after three years of residence;<sup>55</sup> if the person lost Slovenian citizenship on the basis of a release or renouncement – after six months of residence; if the person is a Slovenian emigrant or his or her descendant – after one year of residence; if the person has no citizenship (a stateless person) – after five years of residence; if the person is a refugee – after five years of residence; if the person attended and successfully finished at least higher education studies in the Republic of Slovenia – after seven years of residence; if the person is born in Slovenia and has lived in Slovenia since birth onwards; if the person is a minor and lives in Slovenia).

In addition to the period of residence, other naturalisation conditions are:

1. being 18 years or older;
2. dismissal from previous citizenship or proof that the person will receive such dismissal if he or she is accepted into citizenship of the Republic of Slovenia;
3. that he/she actually lives in Slovenia for a certain period of time (10 years in general, less time for certain groups specified above);
4. that he has the means to provide material and social security for him/herself and the persons he/she has to support;
5. to master the Slovenian language for the needs of everyday communication, as evidenced by the certificate of successful completion of the exam in the knowledge of Slovene at the basic level;
6. that he/she has not been finally convicted of an unconditional prison sentence longer than three months or that he/she has not been sentenced to a suspended sentence of imprisonment for a probationary period of more than one year;
7. that his/her residence permit in the Republic of Slovenia was not cancelled;
8. that his/her admission to citizenship of the Republic of Slovenia does not pose a threat to

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<sup>53</sup> Article 13 of the Citizenship of the Republic of Slovenia Act.

<sup>54</sup> Article 10 of the Citizenship of the Republic of Slovenia Act.

<sup>55</sup> Article 12, s. 3 of the Citizenship of the Republic of Slovenia Act.

- the public order, security or defence of the state;
9. has settled tax liabilities;
10. to make an oath of respect for the free democratic constitutional order established in the Constitution of the Republic of Slovenia.

All these conditions would have to be met by an investor who would apply for citizenship under regular naturalisation. Regular naturalisation would be relevant for an investor who obtained a residence permit under Article 51(3) of the Aliens Act and, for instance, married a Slovenian citizen, or completed higher education in Slovenia.

Other provisions which may be relevant for investors are the provisions of exceptional naturalisation under Article 13 of the Citizenship of the Republic of Slovenia Act. By naturalisation, citizenship of the Republic of Slovenia can be acquired by an adult if he/she benefits the state for scientific, economic, cultural, national or similar reasons, provided that he/she actually lives in Slovenia for at least one year before submitting the application and has a regulated status of an alien, and meets the conditions set out in 4, 6, 8, 9 and 10 of the first paragraph of Article 10 of the Citizenship Act.<sup>56</sup>

Notwithstanding the provision of the preceding paragraph, citizenship of the Republic of Slovenia may be acquired by a person, even if he/she does not fulfil the condition of uninterrupted residence in the Republic of Slovenia and the condition of the regulated status of an alien, taking into account his/her exceptional contribution to the development of the Republic of Slovenia and to increase the international reputation or recognition of the Republic of Slovenia.<sup>57</sup>

The existence of “exceptional contribution” is established by the Government of the Republic of Slovenia on the basis of the opinion of the competent authority (i.e. the relevant ministry, in the case of investors by the Ministry of Economy).<sup>58</sup>

The conditions for exceptional naturalisation are further defined in the Government Decree amending Decree on criteria for establishing the national interest for acquiring the citizenship of the Republic of Slovenia through article 13 of Act on the Citizenship of the Republic of Slovenia.<sup>59</sup> In the field of economy (business) Article 6, s. 1 of this Decree specifies the criteria that the ministry responsible for the economy has to use in formulating an opinion on the existence of a State's interest for a certain person to be granted citizenship. These criteria are:

- the possibility of increasing the business connections of the Slovenian economy with the rest of the world,
- increasing and promoting the competitiveness of the Slovenian economy on international markets,
- the possibility of introducing technological innovations in production,
- transfer in the world of promising or established production to the Republic of Slovenia,
- promoting a common presence on international markets,
- the possibility of opening more jobs at a higher level of complexity,
- increasing employment on the basis of new programmes,
- the possibility of introducing new technologies, knowledge and capital to the Republic of Slovenia,
- promoting and introducing a production that is energy-efficient and does not pollute the environment,
- the possibility of setting up and developing micro, small or medium-sized enterprises with a high level of innovation,

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<sup>56</sup> Article 13, s. 1 of the Citizenship of the Republic of Slovenia Act (*Zakon o državljanstvu Republike Slovenije*), available at <https://zakonodaja.com/zakon/zdrs>.

<sup>57</sup> Article 13, s. 2 of the Citizenship of the Republic of Slovenia Act.

<sup>58</sup> Article 13, s. 4 of the Citizenship of the Republic of Slovenia Act.

<sup>59</sup> *Uredba o spremembi Uredbe o merilih za ugotavljanje nacionalnega interesa pri sprejemu v državljanstvo Republike Slovenije na podlagi 13. člena Zakona o državljanstvu Republike Slovenije* (Official gazette RS, no. 24/13).

- the possibility of expanding and opening new markets for Slovenian products, or
- promotion of exports, rationalization of purchasing sources and incoming foreign direct investment.

In addition to complying with one of the above criteria, an economic interest in the Republic of Slovenia must be demonstrated by attaching at least three recommendations of companies, institutes, chambers of commerce or craftsmanship and similar institutions in which the investor participates (Article 6, s. 2 of the Decree).

An application for acquiring citizenship of the Republic of Slovenia pursuant to Article 13 of the Citizenship of the Republic of Slovenia Act may be filed with the Ministry of Interior or the diplomatic mission or consular post of the Republic of Slovenia abroad.<sup>60</sup> In the decision making process the latter obtains the opinion of the Ministry of Economy which has to obtain three recommendations by persons/companies specified above. In its decision the Ministry of Interior strictly follows the opinion of the Ministry of Economy.

The process is hence accelerated in comparison with the regular naturalisation.

The table below presents **statistical data** on the number of TCNs who were granted Slovenian citizenship based on economic or business interests of Slovenia (and based on residence permit), which does not necessarily include or cover investors. There are no numbers available specifically for investors, as investors are not a legal category of beneficiaries of the Citizenship Act.

| Year | Number/Percentage of TCNs who obtained citizenship on the basis of investors' residence permit* | Source                          |
|------|---|---------------------------------|
| 2012 | /   | Ministry of Interior, 23.2.2018 |
| 2013 | /   | Ministry of Interior, 23.2.2018 |
| 2014 | 9   | Ministry of Interior, 23.2.2018 |
| 2015 | 2   | Ministry of Interior, 23.2.2018 |
| 2016 | 3   | Ministry of Interior, 23.2.2018 |
| 2017 | 3   | Ministry of Interior, 23.2.2018 |

Specific databases for investors were not consulted to obtain information, as such databases do not exist. Phone and e-mail consultations were conducted with the representative of the Ministry of Interior to obtain the information provided.

<sup>60</sup> Article 27.a, s. 1. of the Citizenship of the Republic of Slovenia Act.

## V. ECONOMIC AND FINANCIAL EFFICIENCY OF RESIDENCE PERMITS FOR FOREIGN INVESTORS

There is no mechanism to measure the economic impact of granting of residence out of economic interest of Slovenia.<sup>61</sup> There is no information available in relation to the economic and financial efficiency of residence permits for foreign investors.

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<sup>61</sup> Information obtained through interview with Ministry of the Interior, 23.2.2018.