

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 Slovakia

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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:*

Residence in the Slovak Republic

In August 2011 the Slovak government adopted a strategic document called the ‘Migration policy of the Slovak Republic - Perspective until the year 2020’, prepared by the Ministry of Interior¹ (hereinafter, “**Slovak Migration Policy**”). According to the Slovak Migration Policy the basic criterion applicable to the acceptance of foreigners within the controlled economic migration is their potential for the development of the Slovak economy and society. The abovementioned document also prioritises immigration of high-skilled workers with an emphasis on culturally related countries. There is no specific investors’ residence scheme defined by the official Slovak Migration Policy, or any other relevant policy document.

The main law regulating the entry and stay of third country nationals in the Slovak Republic and the main tool implementing the Slovak Migration Policy² is **Act No. 404/2011 Coll. on the Residence of Foreigners**³ and Amendment and Supplementation of Certain Acts (hereinafter, “Act on Residence of Foreigners”)⁴. This Act entered into force on 1 January 2012 and replaced the previous Act No. 48/2002 Coll. with the aim of responding to **new trends in immigration** after the accession of Slovakia into EU and joining the Schengen area, such as continuous increase in the number of foreigners, with a larger proportion of third country nationals, since 2004. The last amendment of Act No. 404/2011 Coll. entered into force on 1 May 2018⁵ introducing more comprehensive security checks by intelligence services (see Section II.4 of this Report). Another amendment was introduced on 25 May 2018⁶ introducing the content of Passenger Transport Records processed during the air transport. This is irrelevant for the purposes of this Report.

Pursuant to the Act on Residence of Foreigners a **third-country national, who wishes to stay in Slovakia for a period exceeding three months must always have a specific, legitimate reason and be able to prove it.**⁷ When it comes to foreign investment in Slovakia, there is no such specific legal purpose of the stay covered by the law. The Slovak legislation does not observe a specific programme through which foreign investors can access residence in Slovakia⁸ however, they may apply for the temporary residence for business purposes or permanent residence granted in the interest of the Slovak

¹ Migration Policy of the Slovak Republic Perspective until the year 2020 (*Migračná politika Slovenskej republiky s výhľadom do roku 2020*), available at: www.emn.sk/phocadownload/documents/migration_policy_sr_2020_en.pdf.

² Migration Policy of the Slovak Republic Perspective until the year 2020.

³ The official translation of the Act uses the word “alien” (Act on Residence of Aliens); however, for the purpose of this study the used term is foreigner.

⁴ Act No. 404/2011 Coll. of 21 October 2011 on Residence of Foreigners and Amendment and Supplementation of Certain Acts (*Zákon č. 404/2011 Z.z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov*), published in the Collection of Laws No. 126/2011 on 22 November 2011, available at www.slov-lex.sk/pravne-predpisy/SK/ZZ/2011/404/20170901 (Act No. 404/2011 Coll.).

⁵ Amendment by Act No. 108/2018 Coll. of 13 April 2018 amending Act No. 404/2011 Coll. on Residence of Foreigners and Supplementation of Certain Acts and amending other acts (*Zákon, ktorým sa mení a dopĺňa zákon č. 404/2011 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony*), published in the Collection of Laws No. 108/2018 on 13 April 2018, available at <http://www.zakonypreludi.sk/zz/2018-108>.

⁶ Amendment by Act No. 68/2018 Coll. of 1 February 2018 amending Act No. 171/1993 Coll. on Police Force as amended and Act No. 404/2011 Coll. on Residence of Foreigners and Supplementation of Certain Acts and amending other acts (*Zákon, ktorým sa mení a dopĺňa zákon č. 404/2011 Z. z. o pobyte cudzincov a o zmene a doplnení niektorých zákonov v znení neskorších predpisov a ktorým sa menia a dopĺňajú niektoré zákony*), published in the Collection of Laws No. 29/2018 on 9 March 2018, available at www.slov-lex.sk/pravne-predpisy/SK/ZZ/2018/68/20180525.html

⁷ Article 20 par. 2 and Article 42 par. 1 of Act No. 404/2011 Coll. Legitimate reasons to apply for the permit are, for example, family reunification, business activity, employment or study.

⁸ Conclusion reached by national expert further to desk research and stakeholder consultation.

Republic⁹ if the general conditions of the law are met (explained below in Section II of this Report).

Entrepreneurs may generally apply for a temporary residence for a purpose of business (up to three years) either as a natural person or as a statutory body of a business company.¹⁰ However, entrepreneurial schemes fall out of the scope of this Report.

In accordance with the Act on Residence of Foreigners, third-country nationals (TCNs) who wish to **stay** in Slovakia for any legal purpose and **for a period of residence exceeding 90 days** must generally **apply for a temporary residence**. TCNs can also apply directly **for a permanent residence for a purpose of family reunification** with Slovak national or **if it is in the interest of the Slovak Republic** (only the former is relevant for the purposes of this Report).

To apply for residence (temporary or permanent) in the Slovak Republic, foreigners have to make an investment in a private company, whether it is a new company set up by the investor or whether it is an already existing company in Slovakia¹¹. Moreover, the Slovak legislation also requires the **active participation of the investor in the private business** in which he/she intends to invest in order to apply for residence in Slovakia. An investment in government bonds for instance is not a reason for granting a residence in Slovakia¹².

Key to the Slovak context is the concept of “**major investor**”. This notion is defined in Act No. 175/1999 Coll. on Measures Concerning Preparation of Major Investments Act (as amended)¹³ as “a company which is a holder of a major investment certificate issued by a competent ministry”. However, pursuant to the information provided by the Ministry of Economy, an individual foreign investor may also obtain such certificate if he/she is a member of the statutory body of such undertaking or a company, or a person in direct management of the statutory body of this undertaking or a company.¹⁴ To apply for **permanent residence in the (economic) interest** of the Slovak Republic it is necessary that the investor qualifies as major. Meanwhile, to apply for **temporary residence** no investment is necessary (only that the foreigner carries out business in the Slovak Republic as a natural person, or acts or will act on behalf of a business or cooperative and is not in an employment relationship)¹⁵. However, it is possible that the foreigner works for a major investor.¹⁶

Act No. 175/1999 Coll. also sets out rules for issuing of the so called “**Certificate of a Major Investment**”. The Certificate is issued by the Ministry of Economy in cooperation with SARIO agency upon request of the concerned business. The requirements to issue the Certificate are the following:

- a) a capital investment for the development of the enterprise of at least EUR 100 million,
- b) the investment is economically significant or at least 300 new jobs will be created by the company,
- c) the investment is in the public interest of Slovakia as per decision of the Government of the

⁹ Permanent residence in the interests of the Slovak Republic is also analysed in Section II of this Report. It is available to major/ significant investors or those who were provided investment aid. Last year, **174** TCNs were granted permanent residence in the interests of the Slovak Republic: 82 Korean KIA managers, 37 Chinese and 17 Russians. No information on their identity was retrieved. In comparison, by the end of 2017, 6,112 TCNs were granted temporary residences for business purposes (total, self-employed and companies).

¹⁰ Article 22 of Act No. 404/2011 Coll.

¹¹ Article 22(1)(b) of Act No. 404/2011 Coll.

¹² *Ibid.*

¹³ Act No. 175/1999 Coll. on Measures Concerning Preparation of Major Investments Act as amended (*Zákon č. 175/1999 Z.z. z 29. júna 1999 o niektorých opatreniach týkajúcich sa prípravy významných investícií a o doplnení niektorých zákonov*), published in the Collection of laws no. 76/1999 on 16. July 1999, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/1999/175

¹⁴ Information gathered through consultation with national stakeholder (Ministry of Economy, competent authority, 27 March 2018).

¹⁵ Article 22(1)(a) of Act No. 404/2011 Coll.

¹⁶ Article 33(8)(d) of Act No. 404/2011 Coll.

Slovak Republic.¹⁷

A major investor is also a residence applicant **approved to receive regional investment aid**¹⁸ under Act No. 57/2018 Coll. on Regional Investment Aid.¹⁹ **Investment incentives** were until 30 April 2018 only provided according to Act No. 561/2007 Coll. of 29 October 2007 on Investment Aid and Amendments to certain acts as amended (hereinafter also as “Act on Investment Aid”). This Act was repealed and replaced, during the preparation of this study, by the new Act No. 57/2018 Coll. on Regional Investment Aid with effect from 1 April 2018²⁰. This new Act sets out the general conditions for granting the **investment aid for regional development**. The main requirement of job creation in industrial production has been limited by Act 57/2018. However, this Act is not yet enforceable as the necessary implementing legislation has not still entered into force. On the one hand, Decree No. 187/2018 Coll. of the Ministry of Economy of the Slovak Republic²¹ was adopted on 11 June 2018 and published on 27 June 2018 but it will not enter into force until 1 July 2018. The Decree regulates the content and details of the application for an investment aid, the content of the acceptance of investment aid offer and its annexes, the content of the various reports that must be submitted under this Act including their annexes, and the content of the information board - – a physical board at the premises of the competent authority which informs about the investment aid provided pursuant to this Act. In addition, the Regulation to implement Act 57/2018 (LP/2018/181) is still being debated by the Ministry of Economy.²² It is foreseen that it will be approved and published soon. Such Regulation will establish the conditions for the granting of investment aid, the maximum aid intensity and the maximum amount of investment aid in the regions of the Slovak Republic.

TCNs must submit the application **in person, prior to the arrival**, at the **Slovak Embassy** accredited in their country of origin and submit a number of documents pursuant to relevant provisions of the law. All the documents must be up to date – it means **not older than 90 days** from the date of their issue, duly **verified - by attaching an Apostille clause or super-legalisation and translated to Slovak by a court appointed translator**.²³

However, **employers or legal representatives of an investment company** are allowed to **authorise a third party** to submit the application for permanent residence in the interest of the Slovak Republic²⁴ on their behalf²⁵.

The Slovak legislation also allows for the **renewal of residence permits**; the frequency of renewal, as well as the conditions, depend on the type of residence granted²⁶.

¹⁷ Article 1 par. 2 of Act No. 175/1999 Coll. sets the criteria to issue a Certificate of Major Investment.

¹⁸ Information gathered through consultation with the national stakeholder (Ministry of Economy, competent authority, 27 March 2018).

¹⁹ Criteria for granting regional investment aid differ according to sectors of economy or areas where they are located. All criteria are stipulated in a new Act No. 57/2018 Coll.

²⁰ Act No. 57/2018 Coll. of 7 March 2018, on Regional Investment Aid and on amendments to certain laws (*Zákon č. 57/2018 Z.z. o regionálnej investičnej pomoci a o zmene a doplnení niektorých zákonov*), published in the Collection of Laws No. 27/2018 on 7 March 2018, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/2018/57/20180401.

²¹ Decree No. 187/2018 Coll. of the Ministry of Economy of the Slovak Republic of 11 June (*Ministerstva hospodárstva Slovenskej republiky 11. júna 2018, ktorou sa ustanovujú náležitosti žiadosti o investičnú pomoc, akceptácie ponuky investičnej pomoci, ročnej správy o priebehu realizácie investičného zámeru, správy o ukončení investičného zámeru, ročnej správy o využívaní investície, záverečnej hodnotiacej správy a informačnej tabule*), published in the Collection of Laws No. 187/2018 on 27 June 2018, available at https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2018/187/vyhlasene_znenie.html.

²² The stage of the procedure to approve the Regulation can be consulted at <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2018/181>.

²³ Article 126(4) of Act No. 404/2011 Coll. All the documents are listed in Section II.1.1 of this Report.

²⁴ Article 43(1)(e) of Act No. 404/2011 Coll.

²⁵ Article 44(1) of Act No. 404/2011 Coll.

²⁶ Article 34(1)(c), Article 46(1) a) or Article 52 (1)(c) of Act No. 404/2011 Coll.

■ **Competent authorities:**

The national competent authority in the general area of migration is the **Ministry of Interior of the Slovak Republic** (*Ministerstvo vnútra Slovenskej republiky*), which is responsible to **review applications for citizenship** of the Slovak Republic pursuant to Act No. 40/1993 Coll.²⁷ Application for a Slovak citizenship is subject to proceedings and the decision of the Ministry of Interior of the Slovak Republic and the Minister of Interior, which also cooperates with other central government authorities and Slovak Intelligence Service.

Within the Ministry, the **Bureau of Border and Alien Police of the Presidium of the Police Force** (*Úrad hraničnej a cudzineckej polície Prezídia Policajného Zboru*, UHCP) is the national competent authority in the field of **ensuring controls on the borders** of the Slovak Republic. The UHCP was founded in 2000.²⁸ Subordinated to the UHCP, are the 12 **Foreign Police Department** (*Oddelenie cudzineckej polície*, **OCP**)²⁹, which are the competent authorities to receive the applications for residence (whether temporary or permanent) of TCNs who are already legally residing in the Slovak Republic (by virtue of an entry visa, for example, or without a visa where it is not needed). If the TCN is residing abroad, the application will be filed with a **Slovak embassy or consulate** accredited for the State which has issued the travel document or at a Slovak embassy or consulate accredited for the State in which he/she has permanent residence; unless provided otherwise.³⁰

On the basis of a power of attorney dated 10 October 2005, several oral agreements and agreements between the Slovak Agency for the Development of Investment and Trade (*Slovenská agentúra pre rozvoj investícií a obchodu*, hereinafter “SARIO”), the Ministry of Economy of the Slovak Republic (*Ministerstvo hospodárstva Slovenskej republiky*, **Ministry of Economy**) and the Bureau of Border and Alien Police delegated the **power to assesses the evaluation of applications for permanent residence in the (economic) interests of the Slovak Republic³¹ to the SARIO**. The Agency is a contributory organization of the Ministry of Economy funded by the State budget.³² Therefore, SARIO receives and reviews the abovementioned applications and delivers opinions on this matter³³ to the relevant OCP and the Ministry of Economy³⁴.

²⁷ The Ministry of Interior of the Slovak Republic website, available at: www.minv.sk/?ministry-of-interior.

²⁸ The Bureau of Border and Alien Police website, available at: www.minv.sk/?bbap.

²⁹ Ministry of Interior official website, available at: www.minv.sk/?ocp-1.

³⁰ Article 31(1) of Act No. 404/2011 Coll. This means that, in certain circumstances, exemptions may apply if such exemption is stipulated by the law, for instance a TCN can ask the Ministry of Foreign Affairs to request a certain Embassy to accept the application.

³¹ Article 43(1)(e) of Act No. 404/2011 Coll.

³² Information gathered through consultation with national stakeholder (Ministry of Economy, competent authority, 27 March 2018).

³³ Article 33(2) of Act No. 404/2011 Coll.

³⁴ Information gathered through consultation with national stakeholder (SARIO, competent authority, 21 March 2018).

II. PROCEDURES, COMPETENT AUTHORITIES AND APPLICABLE CRITERIA

1 APPLICATION PHASE

1.1 PROCEDURES

Who can apply for a residence permit

Further to the desk research, including legislation and academic literature, and the stakeholder consultation carried out with the competent authorities, it can be concluded that there is no separate investors' residence scheme in Slovakia. As analysed in this report, third-country investors can apply for and access residence in the same terms as other third-country nationals through the ordinary procedure for foreign entrepreneurs regulated by the main immigration law, the Act on Residence of Foreigners.

Pursuant to the Act on Residence of Foreigners, a **third country national** may apply for **residence** only if he/she can **prove** that he/she has a **legal reason** of residence (general categories are for instance employment, business, family reunion, study, or public interest)³⁵.

Although there is no specific residence scheme for foreign investors under the Slovak legislation, the national legislation recognises **two main types of residence** suitable to foreign investors;

- a **temporary residence for purpose of business activities** in Slovakia (up to three years),³⁶ or
- a **permanent residence** for five years granted under condition that it is **in the interest of the Slovak Republic**.³⁷

The abovementioned residence types are generally available to any TCN who wishes to stay in Slovakia for a period exceeding 90 days and to undertake a business activity, or in the case that his/her residence is, for any other legal reason, in the interests of the Slovak Republic. Therefore, they are not specific programmes for foreign investors.

Procedural stages

Generally, TCNs have to apply for residence (whether temporary or permanent) approximately **four months before arrival**.³⁸ If the applicant has not yet entered the Slovak territory, the application has to be **submitted in person** at a **Slovak embassy or consulate** accredited for the State which has **issued the travel document** or at a Slovak embassy or consulate accredited for the State in which **he/she has permanent residence**; unless provided otherwise.³⁹ If the **applicant is already legally residing** in the

³⁵ Act No. 404/2011 Coll. recognises more than 30 legal grounds to apply for residence. The only legal reasons that apply to investors, however, those stated as examples in the main text.

³⁶ Article 22(2) of Act No. 404/2011 Coll.

³⁷ Article 43(1)(e) of Act No 404/2011 Coll.

³⁸ Act No 404/2011 Coll. clearly stipulates that the procedure lasts 90 days from the day of a receipt of the application but does not clearly state the time-frame within which the application has to be submitted; it only refers to the fact that the application is registered at the relevant OCP. Hence, no information is available on the time-frame to submit an application when the procedure starts if it was submitted from abroad. The Embassy receives the application and sends it to the Police once they have the opportunity (in practice the applicant can also pay for the international courier service and speed up delivery). The 90-day period to assess and decide on the application starts on the day that the application is received in Slovakia. After the application has been approved, TCNs must come to Slovakia not later than 180 days from the day when residence was granted. Therefore, for successful applicants, it takes four months before they get a confirmation on their granted residence, after which they shall collect their authorization to reside in the Slovak Republic from the Embassy.

³⁹ Article 31(1) of Act No. 404/2011 Coll. This means that, in certain circumstances, exemptions may apply if such exemption is stipulated by the law, for instance a TCN can ask the Ministry of Foreign Affairs to request a certain Embassy to accept the application.

Slovak Republic (by virtue of an entry visa, for example, or without a visa where it is not needed), the application can be submitted **in Slovakia** at the relevant **Foreign Police Department (OCP)** subordinated to the Bureau of Border and Alien Police.

The representative office of the Slovak Republic abroad (a **Slovak embassy or a consulate**) which receives the application for temporary or permanent residence, performs also a **personal interview** with the applicant for a purpose of carrying out a **preliminary assessment** of the application.⁴⁰ If the application is accepted, it is sent to the relevant OCP in Slovakia.

The competent Slovak authorities indicated above (the Slovak embassy or consulate or, when the applicant already legally resides in Slovakia, the relevant OCP pursuant to his/her future place of residence) receive the application. In any case OCPs⁴¹ register and review the application within the period prescribed by the law (a maximum of 90 days from the application's registration). However, this period is reduced to 30 days in a facilitated procedure when:

- In the case of the **temporary residence for business purposes**, when the applicant for temporary residence for business purposes intends to carry out an innovative project.⁴²
- In the case of the **permanent residence in the interests of the Slovak Republic**, if the TCN represents or works for a foreign investor in the Slovak Republic (a national of an OECD Member State), a TCN represents or works for a major foreign investor in the Slovak Republic, or a TCN represents or works for a so called "strategic service centre", but this type of residence is not covered by the scope of this Report.⁴³

The OCPs⁴⁴, together with the Ministry of Economy, assess the application and the supporting documentation including, inter alia:

- proof of the personal information provided by the applicant (e.g. ID, travel document),
- the business plan (or other documents related to purpose of stay),
- proof that the applicant has sufficient means of subsistence for the duration of the stay and sufficient financial means to carry out the business activity justifying the application for residence,
- proof of accommodation and
- of applicant's integrity, while evaluating also data and intelligence information about the applicant.

As explained above in Section I.2 of this Report, in assessing applications for permanent residence in the (economic) interest of the Slovak Republic, the OCPs and the Ministry of Economy seek the opinion of SARIO. For such purposes, SARIO also reviews the application.

Condition(s) for granting residence to investors

Both the Act on Residence of Foreigners and the Act on Slovak Citizenship clearly define criteria for granting residence and citizenship to foreigners who plan to reside on the Slovak territory for a clearly regulated legal purpose of stay. These Acts do not explicitly state that the acquisition of a real estate or an investment into government bonds is the basis for granting economic residence or citizenship.⁴⁵ The substantive conditions to be met in an application for a temporary residence for business purposes and for an application for a permanent residence in the interest of the Slovak Republic vary. These are described below. If such conditions are not met, the competent authority (Slovak Embassy or OCP,

⁴⁰ Article 31(2) and Article 44(2) of Act No. 404/2011 Coll.

⁴¹ This is due to the fact that the OCP is the competent authority to register and review the application independently of whether it has been filed from abroad or directly with the OCP. When the applicant files the application from abroad (at the Embassy or consulate), the Embassy or consulate has to transfer the application to the OCP.

⁴² Article 33(8)(g) of Act No. 404/2011 Coll.

⁴³ Ibid.

⁴⁴ There are 12 offices of the OCP in Slovakia. Ministry of Interior official website, available at: www.minv.sk/?ocp-1.

⁴⁵ When applying for a permanent residence in the interest of the Slovak Republic, TCN does not have to apply for a permanent residence for five years in person (Article 44(1) of Act No. 404/2011 Coll.).

respectively) will not register the application and, instead, issues a written confirmation (list of documents) of what needs to be submitted to amend the application.

Investment requirement

To apply for **temporary residence** no investment is necessary (only that the foreigner carries out business in the Slovak Republic as a natural person, or acts or will act on behalf of a business or cooperative and is not in an employment relationship)⁴⁶. The general requirements of the Commercial Code to set up a company apply.⁴⁷ The minimum start-up capital requirement is of EUR 2,500.⁴⁸

When the TCN applies for permanent residence (in the economic interests of the Slovak Republic), the investor qualifies as “**major investor**” in the terms defined in Section I of this Report. As explained, legal criteria for the assessment of an investment as “major” in relation to the residence permits for foreign investors are regulated by two main acts: Act on Measures Concerning Preparation of Major Investments (Act No. 175/1999) and Act on Regional Investment Aid (new Act 57/2018). However, as explained in Section I the concept of “major investor” is more focused on investment companies rather than on individual investors. The consulted representative of the Ministry of Economy indicated that an individual foreign investor may also obtain such certificate if he/she is a member of the statutory body of such undertaking or a company, or a person in direct management of the statutory body of this undertaking or a company.⁴⁹

According to the above Acts, investor is considered to be major (significant) when, among others, the following circumstances exist:

- if it received a Certificate of Major Investments (EUR 100 million of capital investments, is economically significant or at least 300 new jobs are created by its implementation or the Government decided that the investment is in the public interest),
- if the applicant was approved to receive regional investment aid under the Act on Regional Investment Aid (such criteria will be stipulated by the separate Regulation establishing the conditions for the granting of investment aid, the maximum aid level and the maximum amount of investment aid in the regions of the Slovak Republic)⁵⁰.

Condition(s) for temporary residence for business purposes

Apart from the investment requirement, the **applicant for temporary residence for business purposes** must:

- Hold a **valid passport**,
- Pay the **non-refundable administrative fee** (EUR 232)⁵¹
- Provide the documents listed below which shall not be older than **90 days** from the date the documents were issued, **duly verified (either by attaching an Apostille clause or super-legalisation) and translated to Slovak by a court appointed translator**⁵²:

- a) **Document confirming the authorisation to pursue business in Slovakia**⁵³ in the form of:
 - A **business plan** along with expected **expenses** related to the commencement of business or

⁴⁶ Article 22(1)(a) of Act No. 404/2011 Coll.

⁴⁷ Act No. 513/1991 on the Commercial Code (*Zákon č. 513/1991 Zb. Obchodný zákonník*) available at <http://www.zakonypreludi.sk/zz/1991-513>.

⁴⁸ World Bank website, ‘Doing business’ available at <http://www.doingbusiness.org/data/exploreconomies/slovakia>.

⁴⁹ Information gathered through consultation with national stakeholder (Ministry of Economy, competent authority, 27 March 2018).

⁵⁰ The stage of the procedure to approve the Regulation can be consulted at <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2018/181>.

⁵¹ Item 24, letter a) point 1 of Act No. 145/1995 Coll. of 22 June 1995 on Administrative Fees as amended (*Zákon č. 145/1995 Z.z. o správnych poplatkoch v znení neskorších predpisov*), published in the Collection of Laws no. 49/1995 on 17 July 1995, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/1995/145/20180301

⁵² Article 32(2) of Act No. 404/2011 Coll.

⁵³ Article 32(5)(a) of Act No. 404/2011 Coll.

- an extract from the Slovak **Trade Register** (*Živnostenský register*)⁵⁴, or
 - The **Articles of Incorporation** signed by all the founders (the signatures of the founders must be authenticated),
 - A **Foundation Agreement** or a **Foundation Deed**, where the applicant is listed as an authorised representative,
 - An extract from the **Slovak Commercial Register** *yr* (*Obchodný register SR*)⁵⁵ and an officially authenticated record documenting that the applicant has become an authorised representative,
 - **Other documents** proving business activities in Slovakia (e.g. extract from the Register of Self-employed Farmers, or a license to exercise private medical or attorney practice),
- b) Document confirming that the applicant has a **clean criminal record**, by submitting a **Clean Criminal Record Certificate**:
- from the country of origin, and
 - from the countries where TCN has resided in the last three years for more than 90 days during six consecutive months.^[1]^[SEP]
- c) Document proving that the applicant has secured an **accommodation in Slovakia** for the **whole period of the stay**:
- the **title deed** or the extract from the title deed of the Real Estate Register (*kataster nehnuteľností*) issued on the name of the third country national,
 - the **lease contract** concluded with a real estate owner or user and extract from the title deed or other document proving the entitlement to use the real estate, or
 - a **confirmation of the accommodation facility** (e.g. a hotel) on the provision of accommodation,
 - the **statutory declaration of the natural person or legal entity providing the accommodation** to the foreigner in the territory of the Slovak Republic and the extract from the title deed or the document proving the entitlement to use the real estate,
- d) Document proving that the applicant has **sufficient financial resources** for the whole duration of their intended residence (in the amount of statutory life minimum for each month of the stay)⁵⁶,
- e) Document proving that the applicant has sufficient financial resources for conducting the intended business activities (20-times the statutory life minimum⁵⁷ in case of a sole trader (EUR 3 961,80), 100-times the statutory life minimum in the case of an executive of a business company (EUR 19 809); or 40-times the subsistence minimum if the TCN who is an executive of a business company submitted a business plan for the implementation of an innovative project (this is usually documented by a business bank account balance confirmation). This does not apply when it concerns a TCN who acts or will act on behalf of a major foreign investor.

The OCPs are obliged to **consult with the Ministry of Economy** during the assessment of a business plan submitted by a TCN and to request their opinion **as to whether the business activity is beneficial to the economic interests of the Slovak Republic**.⁵⁸ There are **no guidelines** as to what is considered “beneficial”, and **every application is reviewed individually**.⁵⁹

⁵⁴ The difference between the Trade Register and the Commercial Register is that while in the latter trade licenses are registered, in the former companies are.

⁵⁵ Registration in the Slovak Business Register is not required for natural persons who are residents in an EU / OECD member states according to Article 2 par. 6 of Act No. 530/2003 Coll. of 28 October 2003, Commercial Register Act, as amended (*Zákon č. 530/2003 Coll. o obchodnom registri a o zmene a doplnení niektorých zákonov*), published in the Collection of Laws No. 219/2003 on 12 December 2003, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/2003/530/20180101.

⁵⁶ Article 32(6)(a) of Act No. 404/2011 Coll.

⁵⁷ EUR 178,92 according to Article 2 of Act No. 601/2003 Coll. on subsistence minimum and on amendment of certain laws as amended (*Zákon č. 601/2003 Z.z. o životnom minime a o zmene a doplnení niektorých zákonov*), published in the Collection of Laws No.601/2003 of 28 October 2003, available at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2003/601/>.

⁵⁸ Article 33(2) of Act No. 404/2011 Coll.

⁵⁹ Information gathered through consultation with national stakeholder (Ministry of Economy, competent authority, 27 March 2018).

Conditions for permanent residence in the interest of the Slovak Republic

As the applicant for temporary residence, the applicant for **permanent residence in the interest of the Slovak Republic**⁶⁰ must, apart from the investment requirement:

- Hold a **valid passport**,
- Prove the payment of the **non-refundable administrative fee** (EUR 165,50)⁶¹ and
- Provide the documents listed below which must **not be older than 90 days since they were issued, duly verified (either by attaching an Apostille clause or super-legalization) and translated to Slovak by a court appointed translator**⁶²:
 - a) **Document confirming the purpose of stay**: a **certificate** issued by the **Ministry of Economy**⁶³,
 - b) Document confirming that the applicant has a clean criminal record, by submitting a **Clean Criminal Record Certificate**:
 - from the country of origin and
 - from all the countries where the TCN has resided in the last three years before the application for more than 90 days during 6 consecutive months.
 - c) Document proving that the applicant has secured an **accommodation in Slovakia** covering the whole period of the stay:
 - the **title deed** or the extract from the title deed of the Real Estate Register (*Kataster nehnuteľnosti*) issued on the name of the third country national,
 - the **lease contract** concluded with a real estate owner or user and extract from the title deed or other document proving the entitlement to use the real estate, or
 - a **confirmation of the accommodation facility** (e.g. a hotel) on the provision of accommodation,
 - a **statutory declaration of the natural person or legal entity providing the accommodation to the foreigner** in the territory of the Slovak Republic and the extract from the title deed or the document proving the entitlement to use the real estate.⁶⁴
 - d) Document proving that the applicant has sufficient financial resources for the whole duration of the intended residence (in the amount of 12 times statutory life minimum)⁶⁵:
 - For instance, by providing a bank statement on the final account balance of the account held in the name of the TCN.⁶⁶

Application fee

Whether the application is for temporary or for permanent residence, the fee is **non-refundable**. The fees vary depending on the permit applied for:

- Application fee for **temporary residence for business purposes**: **EUR 232**⁶⁷.
- Application fee for permanent residence in the interest of the Slovak Republic: **EUR 165,50**⁶⁸.

⁶⁰ Article 43(1)(e) of Act No. 404/2011 Coll.

⁶¹ Item 24, letter c) of Act No. 145/1995 Coll. of 22 June 1995 on Administrative Fees as amended (*Zákon č. 145/1995 Z.z. o správnych poplatkoch v znení neskorších predpisov*), published in the Collection of Laws no. 49/1995 on 17 July 1995, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/1995/145/20180301

⁶² Article 45(3) of Act No. 404/2011 Coll.

⁶³ Article 45(5) second sentence of Act No. 404/2011 Coll. This provision does not stipulate the content of the Certificate nor is this content regulated by any other instrument. Further to the desk research and stakeholder consultation carried out by the national expert, the Certificate merely states that the purpose of stay “is in the interest of the Slovak Republic”.

⁶⁴ Article 122 of Act No. 404/2011 Coll.

⁶⁵ Article 45(7)(a) of Act No. 404/2011 Coll.

⁶⁶ Article 45(6) of Act No. 404/2011 Coll.

⁶⁷ Item 24, letter a) point 1 of Act No. 145/1995 Coll. of 22 June 1995 on Administrative Fees as amended (*Zákon č. 145/1995 Z.z. o správnych poplatkoch v znení neskorších predpisov*), published in the Collection of Laws no. 49/1995 on 17 July 1995, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/1995/145/20180301

⁶⁸ Item 24, letter c) of Act No. 145/1995 Coll. of 22 June 1995 on Administrative Fees as amended (*Zákon č. 145/1995 Z.z. o správnych poplatkoch v znení neskorších predpisov*), published in the Collection of Laws no. 49/1995 on 17 July 1995, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/1995/145/20180301

Reasons for turning-down applications

The OCPs will refuse the application for **temporary or permanent residence** if:⁶⁹

- a) the TCN is a **persona non-grata**⁷⁰;
- b) it is reasonable to suspect that a TCN during his/her stay may **threaten the security of the State, the public order or public health**,
- c) a TCN does **not qualify** for temporary/permanent residence, according to assessment of the OCPs in the process of reviewing the application,
- d) a TCN has entered into a **marriage of convenience**, and, in the case of permanent residence, the marriage was not concluded according to a special regulation
- e) a TCN **presented false or misleading information** or presented false or **altered documents** or a document **of another person**,
- f) the **details in the travel document do not correspond to the facts**,
- g) the granting of a temporary residence **is not in the public interest**,
or
(...)⁷¹
- o) further to an **opinion of the Slovak Intelligence Service and the Military Intelligence opposing** the granting of temporary/permanent residence.⁷²

A **specific reason to refuse an application for temporary residence** is that it is obvious that the **accommodation** on the territory of the Slovak Republic **does not meet** the **minimum requirements** under the special regulation on safety and hygiene of accommodation.⁷³

Legal remedy(ies) in case of refusal

The proceedings before the OCPs have an administrative character, therefore, Act No. 71/1967 Coll. (Administrative Procedure Code) applies.⁷⁴ **A negative decision of the OCPs may be appealed⁷⁵ within 15 days from the date of notification of the decision.**⁷⁶ Every decision must contain the verdict, its reasoning and instructions on the appeal.⁷⁷

The decision on the appeal specifies whether the decision is final or whether it can be appealed,

⁶⁹ Article 33(6) of Act No. 404/2011 Coll.

⁷⁰ A persona non grata is defined by article 2 par. 8 of Act No. 404/2011 Coll. as a foreigner on whom a ban on entry was imposed, who was expelled, who was given a notification for the purpose of entry refusal or if so provided by a special regulation.

⁷¹ The other letters of this provision are not relevant to this study as they refer to other types of residence beyond the scope of this study.

⁷² According to Article 33 paragraph 6 letter o) of Act No. 404/2011 Coll. every application for a temporary residence must undergo a security screening. The OCPs, according to Article 125 paragraph 6 of Act No. 404/2011 Coll., request the opinion referred to during the assessment of the application for temporary residence and the application for the permanent residence of a TCN (who is older than 14 years). Such opinion contains either a consent or a disagreement and it has to be processed and sent within fifteen days from delivery of the request for an opinion. The Slovak Intelligence Service and Military Intelligence in the opinion according to the previous sentence take into account the interests of the state in the scope of its competence. According to Article 48(2)(h) of Act No. 404/2011 Coll. also every application for a permanent residence must undergo a security screening. The OCPs according to Article 125 par. 6 of Act No. 404/2011 Coll. must request the opinion of the Slovak Intelligence Service and the Military Intelligence during the assessment of the application for the permanent residence.

⁷³ Article 62 letter f) of Act No. 355/2007 Coll. on the Protection, Promotion and Development of Public Health and on Amendments to Certain Acts and Article 8 par. 1 of the Decree of the Ministry of Health of the Slovak Republic No. 259/2008 Coll. on the details of the requirements for indoor climate environment and the minimum requirements for a lower standard apartments and accommodation facilities.

⁷⁴ Act No. 71/1967 Coll. of 29 June 1967, Administrative Procedure Code, (*Zákon č. 71/1967 Z.z. Správny poriadok*), published in Collection of laws on 13 July 1967, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/1967/71/.

⁷⁵ Article 53 of Act No. 71/1967 Coll.

⁷⁶ Article 54(2) of Act No. 71/1967.

⁷⁷ Article 47(1) of Act No. 71/1967 Coll.

and, in such case, **in what period, to which authority and where to lodge an appeal**.⁷⁸ Such decision also includes an indication whether the decision can be reviewed by the court.⁷⁹ It is usually inserted at the end of the decision.

The appeal must be addressed to the relevant OCP, which issued the decision refusing the application for granting or renewing the residence permit.⁸⁰ If this department rejects the appeal, it will **forward it within 30 days to the superior authority** (competent Foreign Police directorate) which will decide on the appeal.⁸¹

The decision cannot be contested by both sides, i.e. the unsuccessful applicant as well as any other person contesting a successful application. Only the unsuccessful applicant may appeal.

1.2 COMPETENT AUTHORITIES AND NON-PUBLIC BODIES

As explained above in Section I.2 of this report, the competent authorities in the area of investors' residence are **Bureau of Border and Alien Police** of the Presidium of the Police Force (UHCP) and the **Ministry of Economy**.

The **Ministry of Economy**, particularly the Department of Business Environment (*Oddelenie podnikateľského prostredia*), in cooperation with the **SARIO agency**, **issues statements and certificates** as part of the procedure to verify the applications for residence (whether temporary or permanent)⁸². Requests to consult with the Ministry of Economy are usually submitted directly by the officers of the local OCPs or the Ministry of Interior.

To consider an **application** for a temporary residence or permanent residence of a **TCN who is older than 14 years of age** the OCPs always requests a **statement** of the **Slovak Intelligence Service** which must send its position to the OCPs **within ten days** from the date of receipt of the request.⁸³

The authorities cited above cooperate in line with the law and **requests between OCP and SARIO are exchanged only in writing**.⁸⁴

No non-public bodies are involved in processing the residence applications.

1.3 MONITORING OF THE PROCEEDINGS AND THE AUTHORITIES INVOLVED

There is neither a scheme nor a quota system to limit the number of residences granted. Slovak law does not set out any cap nor does it establish a special **system of scrutiny** by the National Council of the Slovak Republic or other bodies. Annual reports of the Bureau of Border and Alien Police (*ročienky UHCP*) are publicly available at the official website of the Ministry of Interior⁸⁵. However, UHCP annual reports do not provide detailed information on residence granted to foreign investors.

⁷⁸ Article 47(4) of Act No. 71/1967 Coll.

⁷⁹ Article 47(4) of Act No. 71/1967 Coll.

⁸⁰ Article 54(1) of Act No. 71/1967 Coll.

⁸¹ Article 57(2) of Act No. 71/1967 Coll.

⁸² Ministry of Economy website, available at: www.economy.gov.sk/en/ministry/about-ministry.

⁸³ Article 125 of Act No. 404/2011 Coll.

⁸⁴ Information gathered through consultation with national stakeholder (SARIO, competent authority, 21 March 2018). According to the stakeholder, permanent residence by virtue of the economic interest can be granted within 30 days from the application but usually the "opinion" on what the decision should be is submitted with the application (requested by the applicant before the procedure).

⁸⁵ The Bureau of Border and Alien Police website, available at: www.minv.sk/?rocnky

SARIO also issues public annual reports but it does not contain information relevant to the monitoring or scrutiny of the residence application procedure.⁸⁶

OCPs do not present annual reports but according to the general provision of Article 1 par. 2 of Act No. 171/1993 Coll. on Police Force⁸⁷ the Police Service is controlled by the National Council of the Slovak Republic and the Government.⁸⁸

1.4 INFORMATION ON APPLICATIONS

The Slovak law does **not** contain any **obligation to disclose information about successful applicants** nor is this information published in practice⁸⁹. There is also no legal obligation of competent bodies to process such data in their information systems.⁹⁰ Any such obligation could also contradict the Slovak laws on personal data protection.⁹¹

The Table below provides statistical data on the **applications for permanent residence in the interest of the Slovak Republic received between 2012-2017**, as well as on those that were successful and those that were turned down. There is no disaggregated data on **temporary residence** applications.

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	22	/	22	0	IS ECU ⁹² - UHCP
2013	21	/	21	0	IS ECU - UHCP
2014	27	/	27	0	IS ECU - UHCP
2015	17	/	17	0	IS ECU - UHCP
2016	39	/	38	1	IS ECU - UHCP
2017	74	/	73	1	IS ECU - UHCP

1.5 INFORMATION ON APPLICATIONS BY FAMILY MEMBERS

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

The Act on Residence of Foreigners distinguishes between main applicants and their dependants. Depending on the legal status of the “sponsor” (investor), a family member may apply either for **temporary residence** for a purpose of a family reunification or for any of the three types of **permanent residence** (permanent residence for five years, permanent residence of unlimited duration and long-term residence). While the spouse of a TCN may only apply directly for temporary residence for the purpose of family reunification, children, in some cases, may be granted permanent residence directly.

⁸⁶ SARIO website, ‘Annual Reports’, available at <http://www.sario.sk/en/home/marketing-pr/annual-reports>.

⁸⁷ Act No. 171/1993 Coll. of 6 July 1993 on the Police Force as amended (*Zákon č. 171/1993 Z.z. o policajnom zbore v znení neskorších predpisov*), published in the Collection of Laws no. 46/1993 Coll. on 6 August 1993, available at: <https://www.slovlex.sk/pravne-predpisy/SK/ZZ/1993/171/>

⁸⁸ Article 6(1) of Act on Police Force.

⁸⁹ Information gathered through consultation with national stakeholder (director of the Department of citizenship at the Ministry of Interior, competent authority, 15 March 2018).

⁹⁰ Information gathered through consultation with national stakeholder (UHCP - Ministry of Interior, competent authority, 15 March 2018).

⁹¹ Information gathered through consultation with national stakeholder (director of the Department of citizenship at the Ministry of Interior, competent authority, 15 March 2018).

⁹² Data from the information system on the registration of foreigners who were granted residence in the Slovak Republic (hereinafter only as IS ECU).

The **temporary residence for the purpose of family reunification** will be granted by the OCPs, unless there are grounds for rejection of the application⁹³, to a TCN who is:

- (a) a family member of a TCN with a temporary or permanent residence,
- (b) a relative of a recognized refugee in the ascending line younger than 18, or
- (c) dependent person according to the international treaty.⁹⁴

As a family member of a third-country national under Article 27 par. 1 letter a) is considered:

- a spouse, if the spouse is at least 18 years old,
- an unmarried child under 18 of a third country national, and his/her spouse,
- his/her unmarried child under 18,
- an unmarried child under 18 of his/her spouse,
- his/her *unprovided* single child older than 18 years of age or *unprovided* single child older than 18 years of age of his/her spouse who cannot take care of him/herself due to long term unfavourable health condition,
- his/her parent or a parent of his/her spouse who is dependent on his/her care and lacks appropriate family support in the country of origin.⁹⁵

The application for a **temporary residence for a purpose of family reunification** must be accompanied by a **valid passport, proof of payment of the non-refundable administrative fee** (EUR 132,50)⁹⁶ and the documents listed below must not be older than 90 days from the day they were issued, duly **verified** (by virtue of an Apostille or super-legalisation) **and translated to Slovak** by a **court appointed translator**⁹⁷:

- a) Document confirming the **family relationship**, birth or marriage certificate,
- b) Document confirming that the applicant has a clean criminal record, by submitting a **Clean Criminal Record Certificate**:
 - from the country of origin and
 - from the countries where the TCN has resided in the last three years before the application for more than 90 days during 6 consecutive months.^[SEP]
- c) Document proving that the applicant has secured an **accommodation in Slovakia** for the whole period of the stay:
 - the **title deed** or the extract from the title deed of the Real Estate Register (*kataster nehnuteľnosti*) issued on the name of the third country national,
 - the **lease contract** concluded with a real estate owner or user and extract from the title deed or other document proving the entitlement to use the real estate, or
 - a **confirmation of the accommodation facility** on the provision of accommodation,
 - a **statutory declaration of the natural person or legal entity** providing the accommodation to the foreigner in the territory of the Slovak Republic and the extract from the title deed or the document proving the entitlement to use the real estate.
- d) Document proving that the applicant has **sufficient financial means of subsistence for the whole duration of the stay** (in the amount of statutory life minimum for each month of the stay and half of this sum for one child)⁹⁸.

Permanent residence relevant for this research may be granted to a foreign national who are:

- a single child younger than 18 years under the custody of a foreigner, who is a spouse of a Slovak citizen with permanent residence in the SR;
- a single child younger than 18 years of age, whose parent is a foreigner with permanent residence

⁹³ Article 33(6) of Act No. 404/2011 Coll.

⁹⁴ Article 27(1) of Act No. 404/2011 Coll.

⁹⁵ Article 27(2) of Act No. 404/2011 Coll.

⁹⁶ Item 24, letter a) point 5 of Act No. 145/1995 Coll. of 22 June 1995 on Administrative Fees as amended (*Zákon č. 145/1995 Z.z. o správnych poplatkoch v znení neskorších predpisov*), published in the Collection of Laws no. 49/1995 on 17 July 1995, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/1995/145/20180301

⁹⁷ Article 32(2) of Act No. 404/2011 Coll.

⁹⁸ Article 32(6)(a) of Act No. 404/2011 Coll.

for five years or a single child younger than 18 years of age under the custody of a foreigner with permanent residence for five years;

- a dependent child older than 18 years of age, not able to take care of himself/herself due to a long-term unfavourable health condition, whose parent is a foreigner with permanent residence
- a single child younger than 18 years of age, under the custody of one of his/her parents and who is an applicant for the permanent residence for the purpose of family reunion, can be granted permanent residence only if a written consent has been given also by the other parent who has not been granted the custody of this child but is entitled to meet the child.
- a spouse of a TCN who was granted a temporary residence in Slovakia for 5 years before the application for permanent residence was submitted.

The **application for a permanent residence** of an investors' family member⁹⁹ must be accompanied by a valid passport, the proof of payment of the non-refundable administrative fee (EUR 165,50)¹⁰⁰ and the documents listed below not later than 90 days from the date of the submission of the application, duly verified and translated to Slovak by a court appointed translator¹⁰¹:

- a) Document confirming the **purpose of stay**
- b) Document confirming clean criminal record, by submitting a **Clean Criminal Record Certificate** issued by:
 - the country of origin and
 - all the countries where the TCN has resided in the last three years before the submission for more than 90 days during six consecutive months.
- c) Document proving that the applicant has secured an **accommodation in Slovakia** for the whole period of the stay:
 - the **title deed** or the extract from the title deed of the Real Estate Register (*Kataster nehnuteľnosti*) issued on the name of the third country national,
 - the **lease contract** concluded with a real estate owner or user and extract from the title deed or other document proving the entitlement to use the real estate, or
 - a **confirmation of the accommodation facility** on the provision of accommodation,
 - a **statutory declaration of the natural person or legal entity providing the accommodation** to the foreigner in the territory of the Slovak Republic and the extract from the title deed or the document proving the entitlement to use the real estate.¹⁰²
- d) Document proving that the applicant has **sufficient financial means of subsistence** for the whole duration of the stay (in the amount of 12 times statutory life minimum and half of the sum for a child)¹⁰³.

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

According to the information provided by the Ministry of Interior¹⁰⁴ **statistical data on applications is not available for family members.** The Slovak law does not contain any obligation to disclose information about successful applicants nor is this information published in practice¹⁰⁵. There is also no legal obligation of competent bodies to process such data in their information systems.¹⁰⁶

⁹⁹ Article 43(1)(e) of Act No. 404/2011 Coll.

¹⁰⁰ Item 24, letter c) of Act No. 145/1995 Coll. of 22 June 1995 on Administrative Fees as amended (*Zákon č. 145/1995 Z.z. o správnych poplatkoch v znení neskorších predpisov*), published in the Collection of Laws no. 49/1995 on 17 July 1995, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/1995/145/20180301

¹⁰¹ Article 45(3) of Act No. 404/2011 Coll.

¹⁰² Article 122 of Act No. 404/2011 Coll.

¹⁰³ Article 45(7)(a) of Act No. 404/2011 Coll.

¹⁰⁴ Information gathered through consultation with national stakeholder (UHCP - Ministry of Interior, competent authority, 15 March 2018).

¹⁰⁵ Information gathered through consultation with national stakeholder (director of the Department of citizenship at the Ministry of Interior, competent authority, 15 March 2018).

¹⁰⁶ Information gathered through consultation with national stakeholder (UHCP - Ministry of Interior, competent authority, 15 March 2018).

2 TYPE OF INVESTMENT¹⁰⁷

No investment requirement is applicable to temporary residence¹⁰⁸. The table below reflects the criteria and procedure on “major investment” applicable to permanent residence in the (economic) interests of the Slovak Republic.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
Making a “major investment” (applicable to permanent residence)	<p>The following three criteria have to be met to consider that the investment is a major investment and so a Certificate of Major Investments is issued:¹⁰⁹</p> <p>a) the funds necessary for the development of the establishment achieve not less than EUR 100 million of capital investments,</p> <p>b) is economically significant or at least 300 new jobs are created by its implementation, and</p> <p>c) the Slovak Government decides that the implementation of the project would be in the public interest.</p> <p>The consulted competent authority indicated that an investment is considered to be major when,</p>	<p>SARIO (Investment Department), in coordination with the Ministry of Economy (Department of Business Environment), verifies and monitors that the requirements for an investment to constitute a “major investment” have been met¹¹⁴. However, it is not clear how the verification is carried out or how do these authorities coordinate. According to consultation with the competent authority¹¹⁵ the significance of the investment is assessed individually on a case-by-case basis.</p> <p>In reviewing the application for temporary residence for a purpose of business and supporting documents, the OCPs request an opinion¹¹⁶ from the Ministry of Economy (through SARIO) on whether the business activity of the foreign investor will:</p> <ul style="list-style-type: none"> ■ Contribute to the economic interests of the Slovak Republic or 	<p>SARIO is the competent authority to verify and monitor that the investment meets the legal requirements.</p> <p>Regarding the investment aids under Act No. 57/2018 Coll. the Ministry of Economy assesses the regional contribution investment plan and issues an independent expert opinion provided the recipient meets the conditions for investment aid¹²².</p>

¹⁰⁷ 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.

¹⁰⁸ Article 22(1)(a) of Act No. 404/2011 Coll.

¹⁰⁹ Article 1 par. 1 of Act No. 175/1999 Coll.

¹¹⁴ Information gathered through consultation with the national stakeholder (Ministry of Economy, competent authority, 29 May 2018).

¹¹⁵ Information gathered through consultation with the national stakeholder (Ministry of Economy, competent authority, 27 March 2018).

¹¹⁶ Article 32(5)(a) of Act No. 404/2011 Coll.

¹²² Article 15(1) of Act No. 57/2018 Coll.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
	<p>among others, the following circumstances concur:¹¹⁰</p> <ul style="list-style-type: none"> ■ if it received a Certificate of Major Investments (see criteria above to issue Certificate) ■ if the applicant was approved to receive regional investment aid under Act No. 57/2018 Coll. on Regional Investment Aid (which cancelled and replaced Act no. 561/2007 Coll., on Investment Aid, as amended with effect from 1 April 2018)¹¹¹. <p>Act No. 57/2018 Coll. was adopted on 6 February 2018 and entered into force on 1 April 2018 however the rules to implement it have not yet entered into force thus making the amendment unenforceable. To implement it, Decree No. 187/2018 Coll. of the Ministry of Economy of the Slovak Republic was adopted on 11 June 2018, but it will not enter into force until 1 July 2018. The Decree regulates the content and details</p>	<ul style="list-style-type: none"> ■ Contribute to the economic interests of the Slovak Republic and the presented business plan will serve to implement an innovative project.¹¹⁷ <p>The opinion of SARIO (regarding the investment) is issued strictly and in principle only for entities that can prove that its issuance is in the economic interest of the Slovak Republic and, therefore, only in the case of a major investment (see second column for criteria to consider an investment major). For an individual natural person requesting a positive opinion from SARIO, and thus a residence permit, it is also a requirement that he/she is a member of the statutory body of such a person or a person under the direct supervision of a statutory body. To avoid doubts and given the existing legislative framework, SARIO currently does not issue this opinion for the family members of the above-mentioned foreigners.¹¹⁸</p> <p>According to consultation with SARIO,¹¹⁹ further evidence has to be presented to prove that the investment requirements are fulfilled and that other criteria are met, for instance:</p>	

¹¹⁰ Information gathered through consultation with the national stakeholder (Ministry of Economy, competent authority, 27 March 2018).

¹¹¹ Criteria for granting regional investment aid differ according to sectors of economy or areas where they are located. All criteria are stipulated in a new Act No. 57/2018 Coll.

¹¹⁷ Article 33(2) of Act No. 404/2011 Coll.

¹¹⁸ Information gathered through consultation with the national stakeholder (Ministry of Economy, competent authority, 27 March 2018).

¹¹⁹ Information gathered through consultation with national stakeholder (SARIO Agency, subordinated to the Ministry of Economy, competent authority, 21 March 2018). According to the stakeholder interviewed, there are no guidelines on how to assess the impact, but there is a group of “experts” who attend a working group to assess the application individually case by case. The expert also tried to obtain this information from the Investment Department of SARIO but they were not responsive to the request for information. According to the national expert, it seems the process is not too transparent. The national expert cannot provide further information on the quality of the assessment.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
	<p>of the application for an investment aid, the content of the acceptance of investment aid offer and its annexes, the content of the various reports submitted under this Act including their annexes, and the content of the information board pursuant to this Act. In addition, the Regulation to implement Act 57/2018 (LP/2018/181) is still being debated by the Ministry of Economy.¹¹² It is foreseen that it will be approved and published soon. The Regulation will establish the conditions for the granting of investment aid, the maximum aid intensity and the maximum amount of investment aid in the regions of the Slovak Republic.</p> <p>Pursuant to the new Act No. 57/2018 Coll. the government must establish by regulation financial thresholds¹¹³:</p> <p>a) the minimum amount of the value of the acquired tangible and intangible fixed assets,</p>	<p>that a certain number of employees have been hired to carry out the foreign investor's business activity,¹²⁰ the impact of the investment activity on a certain Slovak region, taking into account also the structure of the labour market in the certain region.</p> <p>Regarding the investment aid under Act No. 57/2018 Coll. inspection bodies (according to the type of investment) are authorised to carry out checks if all the conditions and duties stipulated by Act No. 57/2018 Coll. are complied with. They take into account the decision on granting of investment aid and contracts concluded between the beneficiary and the investment aid provider¹²¹. Checks can be done any time during the implementation of the investment plan, while the beneficiary's obligations relating to the provision of investment aid continues.</p>	

¹¹² The stage of the procedure to approve the Regulation can be consulted at <https://www.slov-lex.sk/legislativne-procesy/SK/LP/2018/181>.

¹¹³ Such regulation was not adopted yet despite the fact that it is an obligation of the Ministry to prepare all the regulations together with the law (in force from 1 April 2018).

¹²⁰ The national expert has asked for a clarification but no answer has been provided. In the national expert's opinion this provision should apply: Article 1 par. 1 of Act No. 175/1999 Coll.:

- a) the funds necessary for the development of the establishment achieve not less than EUR 100 million of capital investments,
- b) the business activity is economically significant or at least 300 new jobs are created by its implementation, and
- c) the Slovak Government (hereinafter referred to only as the "Government") decides that the implementation of the project would be in the public interest.

¹²¹ Article 27(4) of Act No. 57/2018 Coll.

Type of investment required	Applicability of financial threshold	Procedure to verify the fulfilment of the investment criterion	Competent authorities and non-public bodies
	<ul style="list-style-type: none"> b) the minimum amount of the share of new machinery and equipment c) the minimum number of new jobs created pursuant to this Act d) the minimum average monthly wage according to this Act e) the maximum share of purchased machinery and equipment f) priority areas in industrial production, technology centres and business services centres g) values for the investment plan realized in certain areas described by this Act, h) the maximum intensity of the investment aid and the maximum amount of the investment aid according to the type of the aid and the unemployment rate in the districts by region of the Slovak Republic. Etc. 		

3 RESIDENCE PHASE

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
<p>Temporary residence for business purposes¹²³ granted by the relevant Foreign Police Department (OCP) pursuant to a place of future stay to a foreigner who:</p> <p>a) is conducting business or will be conducting business in the Slovak Republic territory as a natural person; or</p> <p>b) is acting or will be acting on behalf of a trading company or cooperative and he/she is not employed.</p> <p>Duration of the temporary residence:¹²⁴ A police department grants temporary residence for the purpose of business for</p>	<p>The foreign investor applying for temporary residence in the Slovak Republic must, together with the application, submit a document proving that he/she has secured an accommodation for the whole duration of the stay. This is checked by the OCP in the verification procedure of the application.</p> <p>The document confirming the provision of accommodation may not be older than 90 days from the day it was issued¹²⁵ Such documentation must consist in¹²⁶:</p> <p>a) the title deed or the extract from the title deed of the Real Estate Register issued on the name of the third country national,</p> <p>b) the lease contract concluded with a real estate owner or user and extract from the title deed or other document proving the entitlement to use the real estate, or</p> <p>c) a confirmation of the accommodation facility on the provision of accommodation,</p> <p>d) a statutory declaration of the natural person or legal entity providing the accommodation to the foreigner in the territory of the Slovak Republic and the extract from the title deed or the</p>	<p>OCPs are authorized to check the fulfilment of the residence conditions and compliance with the obligations of the TCN imposed by Act on Residence of Foreigners¹³⁰</p> <p>In the exercise of the above checks the OCPs are authorized to enter the business premises, workplace or study premises and any accommodation facilities; however, this does not apply if the inviolability of such premises is guaranteed by a special regulation (for instance at university campus).¹³¹</p>	<p>Temporary residence for a business purposes can be renewed up to three years.</p> <p>At the application of a TCN, the OCP grant long-term residence (for an indefinite period) to a TCN who has been granted residence for at least five years.</p> <p>The general procedure (see Section II.1.1 of this Report) applies in both cases.</p>

¹²³ Article 22 of the Act No. 404/2011 Coll.

¹²⁴ Article 22(2) of Act No. 404/2011 Coll.

¹²⁵ Article 32(2)(e) of Act No. 404/2011 Coll.

¹²⁶ Article 122 of Act No. 404/2011 Coll.

¹³⁰ Article 75(1)(a) of Act No. 404/2011 Coll.

¹³¹ Article 75(2)(a) of Act No. 404/2011 Coll.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
<p>the assumed time period of business, however, maximum for three years. In practice, it is issued for two years.</p>	<p>document proving the entitlement to use the real estate.</p> <p>All signatures on the contracts and declarations must be notarised¹²⁷.</p> <p>All the conditions of the Act on Residence of Foreigners must be met throughout the whole period of the stay. The frequency of the checks depends on the decision of the particular OCP.</p> <p>According to the new provision of Act on Residence of Foreigners effective from 1 May 2018, a TCN who has been granted a temporary residence is obliged to stay in the territory of the Slovak Republic for more than half of the time period granted for a temporary stay in one calendar year.¹²⁸ Failure to do so may result in a withdrawal of the residence¹²⁹. This entails that the physical presence of the applicant during the period for which residence has been granted is required.</p>		
<p>Permanent residence in the interest of the Slovak Republic¹³²</p>	<p>The foreign investor applying for permanent residence in the interest of the Slovak Republic must, together with the application, submit a document proving that he/she has secured an accommodation for the whole duration of</p>		<p>There are two options regarding renewal:¹³⁶</p> <ul style="list-style-type: none"> ■ <u>After 4 years</u> of the first "permanent residence for five years" being issued, a new application for

¹²⁷ Article 126(5) of Act No. 404/2011 Coll.

¹²⁸ Article 111(1)(u) of Act No. 404/2011 Coll.

¹²⁹ Article 36(1)(d) of Act No. 404/2011 Coll. Legislation change entered into effect on 1 May 2018.

¹³² Article 43(1)(e) of Act No. 404/2011 Coll.

¹³⁶ It should be clarified that under Slovak legislation there are three categories of permanent residence: (1) permanent residence for five years; (2) permanent residence for an unlimited period of time; and (3) long-term residence.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
	<p>the stay. Such documentation may consist in:</p> <ul style="list-style-type: none"> e) the title deed or the extract from the title deed of the Real Estate Register issued on the name of the third country national, f) the lease contract concluded with a real estate owner or user and extract from the title deed or other document proving the entitlement to use the real estate, or g) a confirmation of the accommodation facility on the provision of accommodation, h) a statutory declaration of the natural person or legal entity providing the accommodation to the foreigner in the territory of the Slovak Republic and the extract from the title deed or the document proving the entitlement to use the real estate. <p>All signatures on the contracts and declarations must be notarised¹³³.</p> <p>The OCP will review and verify this documentation within 90 days from the date when the application was filed. However, this term is reduced to 30 days when the TCN works or represents a major foreign investor.</p> <p>After the application has been approved and, thus, the TCN has been granted permanent residence, the TCN is not obliged to stay in the Slovak territory.</p>		<p>permanent residence for an unlimited period of time can be submitted.</p> <ul style="list-style-type: none"> ■ -After 5 years of the first permanent residence permit being issued, a new application for long-term residence can be submitted.¹³⁷ <p>For a “renewal” of a “permanent residence for 5 years” in the interest of the Slovak Republic (in fact a new type of permanent residence is granted, it is not only prolongation)¹³⁸ generally the same conditions apply.</p> <p>For the renewal of the permanent residence after 4 years, the TCN has to submit a</p> <ul style="list-style-type: none"> a) Document confirming clean criminal record, by submitting a Clean Criminal Record Certificate from the country of origin and from all the countries where the TCN has resided in the last three years for more than 90 days during six consecutive months.

¹³³ Article 126(5) of Act No. 404/2011 Coll.

¹³⁷ Provision of Article 52(1)(a) of Act No. 404/2011 Coll. allows to apply for long-term residence after 5 years of any authorized stay.

¹³⁸ Article 43(1)(e) of Act No. 404/2011 Coll.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
	<p>However, the TCN is obliged to notify the relevant OCP in writing in those cases where he/she will stay away from the territory of the Slovak Republic continuously for more than 180 days.¹³⁴ If the TCN fails to inform about it, the relevant OCP of his place of stay may impose a fine of up to 300 EUR¹³⁵.</p>		<p>b) Document proving that the applicant has secured an accommodation for the whole duration of the stay: it is not always required but OCP may ask for it on its own discretion.¹³⁹</p> <p>c) Document proving sufficient financial means of subsistence for the whole duration of the stay (in the amount of 12 times statutory life minimum)¹⁴⁰:</p> <p>However, the OCP may require also an affidavit that the reasons for granting permanent residence still exist.¹⁴¹</p> <p>Documents submitted together with the application for a long-term residence (after 5 years of a permanent residence) ¹⁴²:</p> <p>1) Document proving fixed and regular income for the applicant and his/her family members, to avoid</p>

¹³⁴ Article 111(1)(a) of Act No. 404/2011 Coll.

¹³⁵ Article 118(1)(c) and par. 6 letter b) of Act No. 404/2011 Coll. Legislation change entered into effect on 1 May 2018. Before this legal change, the TCN risked losing his/her residence.

¹³⁹ Article 122 of Act No. 404/2011 Coll. This provision does not specify the cases where the OCP may request this document.

¹⁴⁰ Article 45(7)(a) of Act No. 404/2011 Coll.

¹⁴¹ The OCP may require so based on its own discretion.

¹⁴² Article 53(3) of Act No. 404/2011 Coll.

Residence permit	Procedure	Competent authorities and non-public bodies	Renewal of the residence permit
			<p>being a burden for the Slovak social security system,</p> <p>2) Document proving health insurance in Slovakia,</p> <p>3) Document proving accommodation (only in case of an applicant, whose long-term residence was cancelled or expired due to legally stipulated reasons).</p>

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
<p>Regarding the applicant: In all types of residence (whether temporary or permanent) Slovak law foresees prior checks for a clean criminal record (Article 121 par. 1 of Act on Residence of Foreigners) both in the country of origin and in Slovakia.</p> <p>If an applicant lived abroad, a clean criminal record certificate is also requested from the country in which the third-country national has been</p>	<p>Integrity must be proven prior to arrival, after the application for residence has been submitted, during the procedure before the OCP. Furthermore, all the conditions including integrity must be valid throughout the whole period of stay.</p> <p>There is no information available on the frequency of such checks in practice (after the residence was granted), it depends on the need for verification of</p>	<p>The competent authority to carry out the due diligence and security checks are the OCPs. The OCPs send request to the Slovak Criminal Records Register organized and managed by the General Prosecutor's Office of the Slovak Republic¹⁵⁰ and ask for cooperation anytime they need to check the clean criminal record of a TCN in Slovakia¹⁵¹. The OCPs also request the opinion of the Slovak Intelligence Service and Military Intelligence Service during the process of reviewing the applications.¹⁵²</p>	<p>No such data were collected during consultations with competent authorities.</p> <p>However, in the past, media brought attention to several cases of corruption or fraud, usually about foreign drug lords who were granted</p>

¹⁵⁰ Article 1(5) of Act No. 330/2007 Coll. on Criminal Records Register.

¹⁵¹ Act No. 330/2007 Coll. of 20 July 2007 on Criminal Records Register as amended (*Zákon č. 330/2007 Z. z. o registri trestov v znení neskorších predpisov*), published in the Collection of laws on 26 July 2007, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/2007/330/20151101.html.

¹⁵² Article 125(6) of Act No. 404/2011 Coll. entered into effect on 1 May 2018.

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
<p>resident for more than 90 days during the last three years for six consecutive months. If such certificate or extract is not issued in that State, it may be replaced by an equivalent document issued by the competent judicial or administrative authority of the country of origin or may be replaced by an affidavit made by a third-country national before a competent judicial or administrative authority, or a notary of the country of origin or last residence. The certificate must prove good integrity in all the territory of the State that issued this document, otherwise the police department does not accept such evidence.</p> <p>During the application procedure, the OCP is also obliged to request the Office of a General Prosecutor for an extract from the Slovak Criminal Registry regarding the applicant¹⁴³.</p>	<p>the current status. However, the integrity of the applicant has to be checked prior to granting the residence against every relevant database: a) in the country of applicant's origin, b) in the country of previous residence and c) in Slovak Criminal Records Register.¹⁴⁴</p> <p>Moreover, according to Act No. 330/2007 Coll. OCPs can request the General Prosecutor Office for TCN's Slovak for an extract from Criminal Records Register anytime in order to perform the tasks of protection and security of the state according to special laws.¹⁴⁵</p> <p>The OCPs in reviewing the application for a temporary residence takes into account the "public interest", particularly in terms of security, the economic interests of the Slovak Republic, the contribution of the TCN's entrepreneurial activity to the economy of the Slovak Republic and the protection of public health,¹⁴⁶ The OCPs also request the opinion of the Slovak Intelligence Service and Military</p>	<p>There is no scrutiny mechanism or reporting obligations in place except for general internal reporting mechanisms in the Police Force.</p>	<p>permanent residence and/or citizenship.¹⁵³</p>

¹⁴³ Article 121(3) of Act No. 404/2011 Coll.

¹⁴⁴ Information based on the law and the legal practice experience of the national expert.

¹⁴⁵ Act No. 330/2007 Coll. of 20 July 2007 on Criminal Records Register as amended (*Zákon č. 330/2007 Z. z. o registri trestov v znení neskorších predpisov*), published in the Collection of laws on 26 July 2007, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/2007/330/20151101.html.

¹⁴⁶ Article 33(1)(a) of Act No. 404/2011 Coll.

¹⁵³ The Slovak Spectator: <https://spectator.sme.sk/c/20051212/slovakia-suspends-serbian-drug-lords-slovak-passport.html> (last date of access: 12 April 2018), The Slovak Centre London: www.slovenskecentrum.sk/en/news/read/5258/kalinak-saric-lied-falsified-documents-to-get-slovak-citizenship (last date of access: 12 April 2018), Radio B92, Belgrade: www.b92.net/eng/news/crimes.php?yyyy=2014&mm=06&dd=26&nav_id=90787 (last date of access: 12 April 2018).

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
	<p>Intelligence Service during the process of reviewing the applications.¹⁴⁷</p> <p>Criteria for turning down the application cover also integrity and security considerations. A TCN who commits an act which is qualified as intentionally committed offence in the Slovak Republic and he /she is finally convicted and the period of time from the date of punishment required for the conviction to be annulled in the Slovak Republic has not expired¹⁴⁸ will not be deemed to qualify as a candidate for the purposes of this Act,¹⁴⁹ and his/her application is rejected.</p>		
<p>Regarding the funds used to make the investment¹⁵⁴</p>	<p>Checks on the origin of funds have to be carried out in accordance with the Slovak legislation on anti-money laundering in cooperation with the Police Presidium (UHCP). Such checks may include, for example, examining bank statements or balance sheets¹⁵⁵.</p>	<p>According to the competent authority expert, the responsible authority is the Police Presidium (UHCP) with its special units.¹⁵⁶</p> <p>In particular, the Financial Intelligence Unit of National Criminal Agency of Police Force Presidium (hereinafter referred to as "FSJ") is competent. Its main activities include prevention and detection of money laundering and terrorist financing. The FSJ has duties in the area of processing of unusual</p>	

¹⁴⁷ Article 125(6) of Act No. 404/2011 Coll. entered into effect on 1 May 2018.

¹⁴⁸ Art. 92 of Act No. 300/2005 Coll. of 20 May 2005, the Criminal Code as amended (*Zákon č. 300/2005 Z.z. Trestný zákon v znení neskorších predpisov*), published in the Collection of laws on 2 July 2005, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/2005/300/.

¹⁴⁹ Article 121(4) of Act No. 404/2011 Coll.

¹⁵⁴ Act No. 297/2008 Coll. of 2 July 2008 on the prevention of money laundering and terrorist financing and on changes and amendments of some other acts (*Zákon č. 297/2008 Z. z. o ochrane pred legalizáciou príjmov z trestnej činnosti a o ochrane pred financovaním terorizmu a o zmene a doplnení niektorých zákonov*), published in the Collection of laws on 1 August 2008, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/2008/297/20180315.html.

¹⁵⁵ Information gathered through consultation with the national stakeholder (Ministry of Economy, competent authority, 29 May 2018).

¹⁵⁶ Ibid.

Due diligence and security considerations	Procedure to verify due diligence and security considerations	Competent authorities and non-public bodies	Ex-post checks
		transaction reports, in the area of supervision of obliged entities, international cooperation, financial and property verification, or analytical activities.	

III. RIGHTS GRANTED BY THE PERMITS

1 RIGHTS GRANTED TO INVESTORS

As it has been said, there is no special residence scheme for foreign investors in Slovakia. However, generally - anyone who is granted **permanent residence** enjoys almost the same level of rights as the Slovak national, except for rights reserved to citizens (some political or voting rights). Permanent residence holders have the **same legal status as citizens of Slovakia** in employment relations and in the area of social security.

TCNs who are **permanent residents** are entitled to all the fundamental rights under the Chapter II of the Slovak Constitution¹⁵⁷. These include the right to non-discrimination which applies in, inter alia, the areas of: work, education, healthcare, association and assembly, due process, participation in society, standard of living. TCNs with a permanent residence on the territory of the Slovak Republic have the right to vote and be elected in the self-administration bodies of municipalities and self-administration bodies of superior territorial units.

TCNs who are granted **temporary residence** are limited in rights such as the free change of employer or access the labour market freely without prior consent of state authorities and they are not entitled to some of the social security benefits. The entitlement to social support depends on many different circumstances and factors, as well as on the assessment of TCN's individual situation (including type of residence, period of payment of contributions to the social security system, amount of payments, etc.). Some allowances or social benefits are tied to permanent residence, such as childbirth allowance, or parental benefit.

Right to work, including the right to be self-employed

The right to work and employment always depends on the type of residence. The Act on Residence of Foreigners specifies for each type of residence whether a combination of their legal purposes is possible. The Act on Residence of Foreigners specifies for each type of residence whether the holder is allowed to work and in which conditions (e.g. whether he/she can be self-employed). Temporary residence for a purpose of business does not allow a TCN to enter the employment¹⁵⁸, but a holder of a permanent residence may enter the labour market freely without any previous approval of authorities¹⁵⁹.

Right to equal conditions for the provision of healthcare as Slovak citizens

TCNs who are **permanent residents** are entitled to public health insurance and enjoy the same right to provision of healthcare as Slovak Citizens. TCNs who are granted **temporary residence** can access the public health insurance if they are employed or self-employed in Slovakia.

¹⁵⁷ Act No. 460/1992 Coll. of 1 September 1992, Constitution of the Slovak Republic (*Zákon č. 460/1992 Zb. Ústava Slovenskej republiky*), published in the Collection of Laws on 1 October 1992, available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/1992/460/20141201.html (Slovak Constitution).

¹⁵⁸ Article 20(2) of Act No. 404/2011 Coll.

¹⁵⁹ Article 23a(1)(a) of Act No. 5/2004 Coll. of 4 December 2003 on Employment Services as amended (*Zákon č. 5/2004 Z.z. o službách zamestnanosti a o zmene a doplnení niektorých zákonov*), published in Collection of laws on 13 January 2004 available at: www.slov-lex.sk/pravne-predpisy/SK/ZZ/2004/5/20180401.

Right to be active in the business

In Slovakia, **the investor has the right and the obligation to be active in the business.**¹⁶⁰ The right to a free choice of profession and to training for it, as well as the right to engage in entrepreneurial or other gainful activity is embedded in the Slovak Constitution.

2 RIGHTS GRANTED TO THE INVESTORS' FAMILY MEMBERS

The Slovak Constitution in Chapter II establishes the fundamental rights to which citizens and permanent residents including their family members are entitled. For example:

- Right to work
- Right to education
- Right to access the healthcare system
- Right of association
- Right to judicial and other legal protection

Some of the above rights can be limited in accordance with separate laws to those TCNs who are granted a temporary residence for purpose of family reunification.

Family members are allowed to apply for a residence depending on what type of residence or legal status is granted to their “sponsor” (in this case, the foreign investor). According to the Act on Residence of Foreigners, they can either obtain a temporary residence for purpose of family reunification (with a limited right to access the labour market) or permanent residence.

Generally, family members are granted the same level of rights (mentioned in point 1 above) and status as to the “sponsor of their stay”. Certain rights even remain following the death of a “sponsor” of their stay. In exceptional circumstances, the OCP can determine that the residence remains valid after separation or death. A family member, TCN who was granted a **temporary residence for the purpose of family reunification** may carry out **business activities**.

3 OTHER BENEFITS

Any investment incentives may only be provided upon previous approval by the Slovak Government according to Act No. 57/2018 Coll. on Regional Investment Aid (which cancelled and replaced Act No. 561/2007 Coll. of 29 October 2007 on Investment Aid with effect from 1 April 2018). The Act on Regional Investment Aid sets out the general conditions for granting **investment aid for regional development**. As explained above in this Report, such aids are relevant to the establishment of the notion of major investor.

The investment aid is generally approved if the financial limits for the amount of investment costs or other criteria are met. The main conditions for the provision of investment aid are e.g. procurement of tangible and intangible assets, implementation of an investment plan in one place, or the condition of paying higher than the average wages in a given region (in case of a technological centres), etc.

It also takes into account the location (preferred regions with high unemployment), the type of

¹⁶⁰ Articles 42(1), 43(1)(e) of Act No. 404/2011 Coll. Article 8a par. 3 of Act No. 40/1993 Coll. on Slovak Citizenship of 19 January 1993 (*Zakon Národnej Rady Slovenskej Republiky z 19. januára 1993 o štátnom občianstve Slovenskej republiky*) published in the Collection of Laws No. 40/1993 on 15 February 1993, available at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1993/40/> (last amended in July 2015) (Act on Slovak Citizenship).

investment (preference is given to projects with high added value, projects that include research and development, or sectors where there has not been much investment so far). Account is taken of the investor's commitment to cooperate, for example, with schools, self-government, etc., environmental aspects and political risk (i.e. from which country the investor comes from).

Depending on the type of investment aid granted, **the competent authority varies**. The table below shows the competent authority per type of investment aid:

Type of investment aid to support the initial investment ¹⁶¹	Competent authority ¹⁶²
a subsidy for the acquisition of long term material assets and long term immaterial assets	Ministry of Economy (or Transport if the investment is for a tourism industry)
an income tax relief under a separate regulation	Ministry of Finance
a contribution for the creation of new jobs under a separate regulation	Ministry of Labour
transfer of immovable property or exchange of immovable property at a price lower than a general asset value, whereby provisions of a separate regulation do not apply	An owner or administrator of the immovable property or the Slovak Land Fund or the municipality, higher territorial unit or an organization established by those bodies

The applicant must submit an investment plan covering the aspects enumerated in the law to apply for investment aid.¹⁶³ Articles 10 - 13 of Act No. 57/2018 Coll. provide the requirements to be met by the application pursuant to the type of investment. If the applicant complies with these conditions, the relevant Ministry pursuant to the type of investment (see above) will submit a proposal for the granting of investment aid for approval by the Government.

Mostly financial aid is given to investors in industrial production, technology centres or business services centres¹⁶⁴, in the form of a **tax relief or subsidies for the purchase of tangible assets**¹⁶⁵.

The obligations of the beneficiary are specified in article 22 of the Act on Regional Investment Aid (for instance a period during which it is necessary to keep the acquired assets or newly created jobs or duty to comply with certain accounting method).

¹⁶¹ Article 2(2) of Act No. 57/2018 Coll.

¹⁶² Article 3 of Act No. 57/2018 Coll.

¹⁶³ Article 14 of Act No. 57/2018 Coll.

¹⁶⁴ Article 2(1) of Act No. 57/2018 Coll.

¹⁶⁵ Article 2(1)(a) of Act No. 561/2007 Coll.

IV. INTERACTION BETWEEN RESIDENCE AND CITIZENSHIP SCHEMES

The acquisition of citizenship by **naturalisation** is governed by Act No. 40/1993 Coll. on Citizenship of the Slovak Republic¹⁶⁶ (hereinafter as “*Act No. 40/1993 Coll.*” or “*Act on Slovak Citizenship*”). This Act regulates the conditions for the acquisition and granting of citizenship of the Slovak Republic, the conditions of certification and loss of citizenship. The amendment of this Act, effective from 1 October 2007, substantially changed and tightened conditions for the acquisition of citizenship by naturalisation which could also reflect in the reduction of the number of citizenships granted from 2007¹⁶⁷.

Slovak citizenship can be granted through a **general naturalisation procedure** (where the ‘genuine link’ of the applicant with Slovakia has to be proven) or through a discretionary procedure when the TCN has significantly contributed to the benefit of the Slovak Republic in the area of **economy**, without complying to the main condition of the required total length of the stay¹⁶⁸.

Foreign investors may, thus, access the Slovak citizenship in two different premises:

- Investors who have **temporary residence for business purposes**, after five years, may apply for permanent residence. After they obtain permanent residence they can access to naturalization as explained in the bullet point below.
- **Major investors** who are directly granted a **permanent residence** in the interest of the Slovak Republic access the **Slovak citizenship more directly** (i.e. without 5 years of waiting to become eligible) either in a **general or in a facilitated (discretionary) procedure** (when they have contributed to the economy of Slovakia, without having to wait for three more years until they complete the total of eight years of continuous residence as required by the law in the general procedure)¹⁶⁹.

The general and discretionary procedures are explained below.

General naturalization procedure

Every **application** for a Slovak citizenship can be **submitted in Slovakia at a District office in the seat of the Region (eight offices) or abroad at a Consular office/Diplomatic mission** of the Slovak Republic.¹⁷⁰ After the registration, the applicant must pass the exam of a Slovak language and knowledge of Slovak history and politics and the file with application and all the relevant documents is sent to the **Ministry of Interior (Department of Citizenship** of the Public Administration Section at the Ministry of Interior, hereinafter only as a “Department of Citizenship”).

A foreigner who wishes to apply for a Slovak citizenship generally must:

- a) have a **continuous permanent residence** in the Slovak Republic for at least **eight years** immediately preceding the application for a citizenship,
- b) demonstrate **integrity** to the extent defined by Act (clear criminal record by providing an extract of the Criminal Registry issued by the country of origin, fulfilment of all obligations arising from the legal system of Slovakia (for example, the residence of foreign nationals, the employment of foreign nationals, taxes, health insurance, social security insurance, etc., no court decision of expulsion, not under criminal prosecution or extradition proceedings or

¹⁶⁶ Act No. 40/1993 Coll. on Slovak Citizenship of 19 January 1993 (*Zakon Národnej Rady Slovenskej Republiky z 19. januára 1993 o štátnom občianstve Slovenskej republiky*) published in the Collection of Laws No. 40/1993 on 15 February 1993, available at <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/1993/40/> (last amended in July 2015) (Act on Slovak Citizenship).

¹⁶⁷ According to data obtained from the Ministry of Interior.

¹⁶⁸ Article 7(2)(b) of Act on Slovak Citizenship.

¹⁶⁹ According to the Ministry of Interior, the fact that a TCN has been granted permanent residence in the interest of the Slovak Republic does not mean that they can access directly the discretionary naturalization procedure.

¹⁷⁰ Article 8(1) of Act on Slovak Citizenship.

- proceedings of the administrative expulsion or proceedings of the asylum removal or proceedings of the European arrest warrant),
- c) demonstrate **knowledge** of Slovak **language** and **general knowledge** of the Slovak Republic,
- d) submit a number of necessary documents according to the relevant provisions of Act on Slovak Citizenship.

The following **documents** must be submitted with the **Citizenship application**:¹⁷¹

- brief Curriculum Vitae, signed by the applicant,
- valid ID or a passport,
- a birth certificate, if the country of the applicant's origin issues such document,
- document proving the applicant's marital status, as for instance a marriage certificate, a divorce certificate or a death certificate of a deceased spouse, if the applicant is married, divorced or widowed,
- document proving the applicant's residence in the territory of the Slovak Republic, or document confirming his/her last permanent residence in Slovakia, or an affidavit about such residence in case of a former Slovak citizen,
- document proving clear criminal record not older than 6 months, i.e. an extract from the Criminal Registry, from the country which he/she is or was a citizen of and from the country where he/she resided in the last 15 years before submitting the application for Slovak citizenship or other document proving clear criminal record issued by competent authorities of such states,
- certificate of release from state bond of the former Czechoslovak Republic, the Czechoslovak Socialist Republic, the Slovak Socialist Republic or the Slovak Republic, or a naturalization certificate, or a confirmation of gaining a foreign citizenship, if the applicant is a former citizen,
- certificate of a Slovak National Living Abroad, if the applicant has been granted such status,
- the Applicant's Questionnaire: An applicant who has reached at least 14 years of age must complete "A questionnaire of an applicant for Slovak citizenship" when filing the application.

The following documents must also be submitted together with every application (including application in a discretionary procedure as it is described below):¹⁷²

- 1) certificate from tax and customs authorities and municipality on payment of taxes and fees,
- 2) extract from the commercial register or extract from the trade register,
- 3) employer confirmation about the employment and copy of the work contract (if applicable),
- 4) certificates issued by all health insurance companies operating in Slovakia about the payments of the premium for public health insurance (*confirmation that the applicant does not have unpaid premium*) and the duration of the insurance,
- 5) employer certificate on payment of income tax and on payment of insurance premiums to public health insurance, social insurance and old-age benefit insurance (if applicable),
- 6) confirmation of studies,
- 7) certificate on receipt of old-age benefits,
- 8) confirmation from a job seekers registry (if applicable),
- 9) certificate on a source of income sufficient to financially cover the costs of the applicant's stay and his/her relatives in the territory of Slovakia if he/she is voluntarily unemployed.

Any of above documents which are irrelevant in applicant's case can be **replaced by an affidavit**.¹⁷³

¹⁷¹ Article 8(3) of Act on Slovak Citizenship. These documents are the same for the discretionary procedure.

¹⁷² Article 8(3)(i) of Act on Slovak Citizenship. These documents are the same for the discretionary procedure.

¹⁷³ Article 8(3)(i) the last sentence, of Act on Slovak Citizenship.

The Ministry of the Interior **decides** on every application for granting Slovak citizenship within a **period of 24 months** from its filing¹⁷⁴ (which is one of the longest in the EU).

As indicated above, according to the Act on Slovak Citizenship **a foreigner may generally apply for a citizenship after eight years of continuous lawful permanent residence in Slovakia.**¹⁷⁵ However, some exemptions apply:

- Foreigners who married a Slovak national may apply after 5 years of permanent residence¹⁷⁶
- Foreigners who were granted asylum may apply after 4 years of permanent residence in the Slovak Republic¹⁷⁷
- A foreigner may also apply for citizenship if he/she has a continuous lawful temporary or tolerated residence for at least 10 years¹⁷⁸ and he/she was already granted permanent residence;
- The so called “Slovak living abroad” (a foreigner who can prove his/her Slovak ancestry), may apply for a citizenship if he/she has a lawful residence at least 3 years¹⁷⁹

Discretionary procedure

Despite the fact that there is no separate or officially announced program of granting foreign investors a Slovak citizenship, there is a legal possibility to do so in on an individual basis, in a **facilitated procedure** pursuant to Article 7(2)(b) of Act on Slovak Citizenship where citizenship is granted directly by the Minister of the Interior him/herself.

According to this provision, Slovak citizenship can be granted to **a foreigner who has significantly contributed to the benefit of the Slovak Republic in the area of economy (...) or if it is for another reason in the interest of the Slovak Republic.** In this case applicant is **exempt from the condition of a continuous permanent residence in the Slovak Republic for at least eight years** and also from the condition **to speak or understand Slovak.**

However, the process for obtaining Slovak citizenship in the interest of the Slovak Republic is not automatic. The applicant has to provide all the documents required for the general citizenship procedure (as described in the above) but the conditions to pass the test of the Slovak language and knowledge of Slovak history and politics are waived. Any other exceptions from the general conditions must also be justified by the concerned State authority under Article 8a(3), last sentence of Act.

Theoretically a TCN with any type of residence (temporary, permanent or tolerated) could apply for a Slovak citizenship pursuant to Article 7(2)(b) immediately after arrival, but according to the consultation with the Ministry of Economy, this Ministry must also justify an exemption from the condition to be a permanent resident in Slovakia - in their opinion permanent residence is an important prerequisite¹⁸⁰. Therefore, a foreign investor can apply for Slovak citizenship under Article 7(2)(b) of Act on Slovak Citizenship once he/she was granted a permanent residence (either after 5 years of a temporary residence for business purposes or a permanent residence in the interest of the Slovak Republic).

Generally, every **application** for a Slovak citizenship can be **submitted in Slovakia at a District office in the seat of the Region (eight offices) or abroad at a Consular office/Diplomatic mission** of the Slovak Republic.¹⁸¹ After the registration the file with application and all the relevant documents is sent

¹⁷⁴ Article 8a(7) of Act on Slovak Citizenship.

¹⁷⁵ Article 7(1)(a) of Act on Slovak Citizenship.

¹⁷⁶ Article 7(2)(a) of Act on Slovak Citizenship.

¹⁷⁷ Article 7(2)(e) of Act on Slovak Citizenship.

¹⁷⁸ Article 7(2)(g) of Act on Slovak Citizenship.

¹⁷⁹ Article 7(3) of Act on Slovak Citizenship.

¹⁸⁰ Information gathered through consultation with national stakeholder (Ministry of Economy, competent authority, 27 March 2018) (sent by official letter).

¹⁸¹ Article 8(1) of Act on Slovak Citizenship.

to the **Ministry of Interior**.¹⁸² The Ministry of Interior (Department of Citizenship) is obliged to prepare and send the application for Slovak citizenship under Article 7(2)(b) of the Act on Slovak Citizenship directly to the **Minister** of Interior of the Slovak Republic (**office of the Minister**), who decides in accordance with the conditions stated in this Act.¹⁸³

Such application is **also reviewed by the Ministry of Economy** on the basis of the data available in the Economic Operators' Registers (FINSTAT, SIMS and other) and financial statements. The Ministry primarily reviews the indicators as assets, turnover, production and their condition for the previous three calendar years, also data such as added value, wage costs and others are taken into account to reflect the viability and sustainability of existing business.¹⁸⁴

When it comes to numbers, **data on naturalised foreigners** are not regularly processed by the relevant institutions in the Slovak republic, because “nationality” or a “migrant background” is not subject to statistical records, except in “ad hoc modules” of the Statistical office and census (the latest in 2011). Also, **data on TCNs who obtained Slovak citizenship on the basis of the public interest are not processed, officially published, monitored or evaluated**. However, the Department of Citizenship of the Public Administration Section at the Ministry of Interior provided the data inserted in the Table below.¹⁸⁵ In total six foreign investors were granted citizenship according to Article 7(2)(b) of Act on Slovak Citizenship in the period 2012-2017.

Year	Number/Percentage of TCNs who obtained citizenship on the basis of investors' residence permit	Source
2012	0	The Ministry of Interior
2013	1	The Ministry of Interior
2014	0	The Ministry of Interior
2015	2	The Ministry of Interior
2016	1	The Ministry of Interior
2017	2	The Ministry of Interior

¹⁸² Article 8(1) of Act on Slovak Citizenship.

¹⁸³ Article 8(1) of Act on Slovak Citizenship.

¹⁸⁴ Information gathered through consultation with national stakeholder (Ministry of Economy, competent authority, 27 March 2018).

¹⁸⁵ Information gathered through consultation with the national stakeholder (Ministry of Interior, Department of Citizenship, competent authority, 15 March 2018).

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

There is no special investors' residence scheme in Slovakia. As analysed in this report, third-country investors can apply for and access residence in the same terms as other third-country nationals through the ordinary procedure for foreign entrepreneurs regulated by the main immigration law, the Act on Residence of Foreigners. Foreign investors can either apply for a temporary residence for a purpose of business or apply directly for a permanent residence in the interest of Slovak Republic, which creates also an easier path to the EU (Slovak) citizenship.

The Slovak law (or internal rules of competent authorities) does **not** establish a **mechanism to monitor** the economic impact and financial revenues of investors who have been granted residence.¹⁸⁶ There is **no publicly available information** that would allow a determination of whether the abovementioned residence scheme has met the expectations for which it was created. No mechanisms of evaluation / or assessment were adopted despite positive opinions of the interviewed stakeholders that such mechanism would be a valuable tool.¹⁸⁷

There are also **no statistics** on the impact that investors' residences have had in the Slovak economy. However, according to the opinion of the European Economic and Social Committee, Slovakia is among few European countries where migrant entrepreneurs (including major foreign investors) seem to create more jobs than native entrepreneurs.¹⁸⁸

Clear legal criteria for the assessment of the investment activities in relation to the residence permits for foreign investors (partially) exist, however legal instruments are focused on investment companies rather than on immigration incentives for individual investors. Moreover, since the processes leading to the *permanent residence in the interest of the Slovak Republic* or *Slovak citizenship granted to foreigners who are contributing to the Slovak Republic in the economic area* are not transparent enough, the existing residence scheme cannot constitute a motivation for a potential investor from abroad and may facilitate institutional corruption.

¹⁸⁶ Information gathered through consultation with the national stakeholder (Ministry of Economy, SARIO subordinate authority, 21 March 2018).

¹⁸⁷ Ibid.

¹⁸⁸ European Economic and Social Committee, SOC/449, "The contribution of migrant entrepreneurs to the economy", 18 September 2012, available at: www.eesc.europa.eu/en/our-work/opinions-information-reports/opinions/contribution-migrant-entrepreneurs-economy (last date of access: 14 April 2018).

VI. OTHER COMMENTS

The country expert indicated that in obtaining information certain difficulties were encountered. The Ministry of Economy could not provide a personal interview during the research but data was facilitated by virtue of the freedom of information request and additional telephone consultation.¹⁸⁹ In addition, SARIO, the special investment department responsible for the application assessments, attached to the aforementioned Ministry, did not reply to the requests for information. Only the general officer responsible for the administration of applications agreed to an interview.

Apart from the recent amendments mentioned in this Report,¹⁹⁰ the competent authorities and the research have not identified other **planned legislative developments**.

¹⁸⁹Information gathered through consultation with the national stakeholder (Ministry of Economy, competent authority, 27 March 2018 and 29 May 2018).

¹⁹⁰ Amendment to the Act on Residence of Foreigners of 1 May 2018 and new Act 57/2018.