

Track Changes

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April 2019

BREXIT - AMENDMENTS TO THE BULGARIAN IMMIGRATION LAW

As part of the Bulgarian government's measures to prepare for Brexit, a Bill for amendment to the Foreigners in the Republic of Bulgaria Act ("the Bill") was adopted by the Bulgarian Parliament on 12 April 2019 and published in the State Gazette on 23 April 2019. The Bill addresses post-Brexit rights of UK nationals in Bulgaria. In the same Bill the Bulgarian government introduced changes to residence regimes currently in place to address the growing needs of business for qualified employees. Improvements to the procedures for obtaining residence rights by family members and minors are also included. Thus, the Bill will affect several groups of individuals:

- UK citizens living and working in Bulgaria after Brexit;
- managers of Bulgarian representative offices of all foreign companies registered with the Bulgarian Chamber of Commerce and Industry;
- non-EU citizens working in Bulgaria under the EU Blue Card regime;
- EU and non-EU citizens seeking to reunify their families in Bulgaria;
- foreign minors.

'HARD BREXIT' CHANGES

The Bill introduces a new transitional residence regime for UK citizens in the event the UK leaves the EU without a withdrawal agreement. The residence rights of UK citizens residing legally in Bulgaria as of the day following the Brexit date - either within the initial statutory 90-day period of permitted stay or based on an obtained residence permit - will remain unchanged post-Brexit. However, these individuals will have to apply for a new residence permit before the Bulgarian migration authorities before 31 December 2020. An extended deadline until 29 March 2022 applies to UK citizens who are members of Bulgarian citizens' families (i.e., spouses, children or parents). The Bill does not specify, however, whether employed UK citizens will continue working in Bulgaria under the conditions of free movement or will need to obtain work permits from or register with the Bulgarian employment authorities. It is expected that the Bulgarian Employment Agency will publish guidance on this subject soon after the Bill amendments enter into force.

UK citizens coming to Bulgaria for the first time post-Brexit will have a third-country citizen status and will be entitled to reside legally in Bulgaria based on a long term visa (visa D)

and subject to obtaining a residence permit. A work permit will be required should the UK national be employed in Bulgaria. Work permits can vary depending on the type of employment (e.g. a single permit for work and residence, EU Blue card, secondment, intra-group transfer, self-employment) and will be issued by the Bulgarian Employment Agency upon request by the host employer.

Residence permits will be issued to UK citizens coming to Bulgaria as employees based on a Bulgarian work permit. In case the UK national holds a management position (GM or CEO) of a Bulgarian subsidiary of a foreign company or is a managing director of a representative office of a foreign company registered with the Bulgarian Chamber of Commerce and Industry (BCCI), their residence permit will be issued based on proof of their relationship with the Bulgarian company/rep office.

Residence permits to UK nationals coming to Bulgaria post-Brexit without a work permit, or without being engaged in commercial activities, can be issued on other grounds, such as marriage to a Bulgarian national, certain family relationships with Bulgarian citizens, receipt of pension support in Bulgaria, full time university studies, etc.).

OTHER AMENDMENTS

- Residence of managers of Bulgarian representative offices

The new Bill introduces additional changes to the regime for residence permits to be issued to managers of Bulgarian representative offices of foreign companies. Residence permits on these grounds in the future may only be provided for up to three foreign managers of a respective Bulgarian rep office. So far, the number of non-EU citizens that can be registered as managers of the Bulgarian representative office of a foreign company was not limited. Although this residence permit procedure has been regarded as rather burdensome compared to other residence permits, such as the rules applicable to non-EU citizens being managers of Bulgarian subsidiaries of foreign companies, it was used as a ground to reside legally in Bulgaria without actual relations to the rep office activities in Bulgaria.

- Residence of EU Blue Card holders switching work

Further, the new rules are looking to increase the efficiency of the immigration procedures for non-EU citizens working in Bulgaria with an EU Blue Card in case they switch to another Bulgarian employer. So far, if EU Blue Card highly skilled worker were to enter into a new employment agreement, he/she had to apply for a new residence permit. This required presenting an extensive volume of documentation evidencing their eligibility for such permit (criminal background certificate, documents for possession of funds, evidence of accommodation in Bulgaria, etc.). The new rules require only a simple application form.

- Residence of non-EU family members

Certain changes to the Bulgarian immigration procedures have also been adopted to address marriages of convenience as a channel for irregular migration. The reunification of EU-citizens with their non-EU family members under the new Bill may be rejected by the Bulgarian migration authorities if there is sufficient evidence to assume that the marriage or unmarried cohabitation used as a basis for reunification has been contracted merely to circumvent the EU free movement rules.

- Residence of foreign minors

The Bill also deals with the conditions for obtaining Bulgarian residency for foreign children under 18 years. As a general rule, obtaining such residence requires both parents' consent. In case of refusal/absence of such consent by one of the parents, under the new rules the court will be competent to decide and grant the missing consent if this is considered to be in the child's best interest.

NEXT STEPS

The above legislative changes will enter into force three days after publishing of the Bill in the State Gazette which occurred on 23 April 2019, with the exception of the transitional rules for UK citizens which will enter into force as of the day following the Brexit date. We will keep you updated on any new developments.

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