

The Bulgarian legal framework for issuance of Startup Visa is completed

As of the end of February 2021 in the Foreigners in the Republic of Bulgaria Act was provided an option for issuance of Startup Visas for **foreigners, who actually participate in the realization of high-tech or innovative projects**. More than 18 months later the by-law legislative framework for issuance of such visas and subsequent residence permits is in place – Ordinance for the terms and procedure for issuance, extension and revoking of certificate for high-tech and/or innovative project, called Startup Visa was adopted by the Council of Ministers on 08.10.2022, promulgated on 14.10.2022 and is currently in force.

The ordinance finally determines the requirements to start such a procedure, but also raises a number of questions. As first, there is confusion as to the meaning of the term “visa” – since in the context of the ordinance, the startup visa is the high-tech or innovative project itself. On the other hand, the application form implies, that the certificate for such a project, to be issued by the Ministry of innovations and growth, is also called a startup visa.

In every case it should be accepted that the certificate is a prerequisite for issuance of a long-term visa and a subsequent residence permit under art. 24o of the Foreigners in the Republic of Bulgaria Act. Respectively, the standard documents should be attached to the visa application – criminal record check, evidence for provided accommodation and funds for residence, medical insurance.

For the issuance of a certificate with a validity of 1 year the applicant must file an electronic application to the Ministry of Innovation of Growth, whereas the mandatory attachments are business plan and presentation of the project, as well as a bank document or equivalent, proving that the applicant has at least 3 minimum wages for Bulgaria at his disposal for a period of at least 30 days before the application. The practical problem arises since it is unspecified whether the document must be issued by a Bulgarian bank, as is the practice of the migration authorities, as well as what an equivalent document could be.

Additionally, at least a part of the following documents should be attached to the application:

- document for a valid patent for invention or registration of a utility model for the territory of the EU, the US or other countries of the Organization for Economic Cooperation and Development, with regard to the project;
- investment contract with a specialized international fund for share and risk investment for no less than 100 000 BGN, as well as a recommendation from the respective fund for the contribution of the applicant to the project;
- contract or letter of intent for investment from a fund for share or risk investment in the

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Republic of Bulgaria for no less than 100 000 BGN;

- Seal of Excellence for the project under the Horizont 2020 or Horizont Europe programs;
- evidence that the project has received an award at a specialized competition in the field of innovation and entrepreneurship, organized by the European Commission or the European Space Agency;
- evidence for at least two published scientific papers in the upper quartiles Q1 or Q2 in the international databases Scopus or Web of Science;
- document for completed educational level;
- information for actual sales, related to the activity, product or service, proven with contracts, evidence for expenses and bank statements for at least 100 000 BGN for the last 2 years;
- letters of intent or partnership contracts with Bulgarian partners.

Which of these documents should be presented would depend on the project.

A certificate shall be issued within a term of 30 days, insofar there are no problems to be corrected, whereas for approval shall be required at least 8 points for the scoring of the project. The scoring criteria are the following:

- 3 points shall be awarded for each of the following criteria: proving the available funds for the duration of the stay for the applicant; comprehensiveness of the financial prognoses;
- 1 point shall be awarded for each of the following criteria: available client's network; available of provided funding; available patent or registered utility mode;
- 5 points shall be awarded for the business plan in accordance with its comprehensiveness and economic justification.

The criteria for awarding points are generally formulated, which implies that they would have to be clarified and extended with internal acts of the Ministry of Investment and Growth. Nevertheless a conclusion is possible that not all elements are mandatory, whereas the accent falls on the business plan, which must include at least some innovative or high-tech element.

The certificate can be extended with additional 2 years, whereas the extension gives rise to a number of other practical problems. As first, the terms for extension start shortly before the expiry of the certificate – which will be a hindrance for observing the procedure for renewal of residence permit and implies the ordinance was not coordinated with the Ministry of Internal Affairs. As second, the extension will be allowed if the foreigner has become the owner of at

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least 50% of the capital of a Bulgarian company with subject of activity identical to the activity for which the certificate is issued, but it is not clarified whether it can be granted only once. Therefore it is unclear whether the maximum possible term of residence is limited to a total of 3 years or can be extended further.

The above indicates that until the ordinance is amended and clarified, the practical decisions of the Ministry of Innovation and Growth will be crucial.