

Legislative Amendments concerning the Residence of Managers of Trade Representations Registered with the Bulgarian Chamber of Commerce and Industry in Bulgaria

[Maria Endreva, Attorney-at-law](#)
[Lyuben Todev, Attorney-at-law](#)

The establishment of a trade representation in Bulgaria provides grounds to issue a long-term residence permit in accordance with Article 24(1)(6) of the Act on Foreign Nationals in the Republic of Bulgaria (the Foreign Nationals Act). It was a relatively simple procedure that was put in place to obtain such permit. The procedure facilitated the development of trade relations through a trade representation which had to be established under the Investment Promotion Act and registered with the Bulgarian Chamber of Commerce and Industry (BCCI).

The representation could be established by any foreign trader willing to develop trade relations with Bulgarian clients. The condition for such representation was that it could not engage in trade activities on its own.

The amendments adopted in December 2016 changed the arrangements for the issuance of residence permits. At present, the Foreign Nationals Act requires proof of the foreign trader's activity and taxpayer good standing and of the planned operations of the trade representation.

Those amendments were not incorporated in the Implementing Rules of the Foreign Nationals Act (the Implementing Rules) until June 2017. The applications for residence permits were examined in accordance with the old procedure and no additional documents were required other than those required for the registration of the trade representation with the BCCI and the BULSTAT Register. On 27 June 2017, the Implementing Rules were amended to introduce the requirement for the BCCI to verify the activity, clean tax record and the availability of an operational programme in the registration certificate of the trade representation. However, those amendments failed to specify the documents needed to prove those circumstances.

The BCCI has drawn up the list of documents used to prove that the prerequisites for issuing a residence permit to the manager of the trade representation are met.

1. Any of the following documents is to be submitted with regard to the foreign trader's activity:
 - a letter of reference by a servicing bank, whereby it is not sufficient to give confirmation that the bank has such a client but also to certify his activity for a period of no less than two years;

- a copy of the balance sheet and the income statement for the preceding year, bearing a true-to-the-original stamp and a notarized signature of the representative of the foreign trader, with a translation into the Bulgarian language;
 - a statement in the prescribed format on the activities performed by main economic indicators and financial results, which is to be signed by the legitimate representative of the foreign trader and then sealed and notarized;
 - a statement specifying the electronic address of a generally accessible database in the English language, which is maintained by the relevant authority in the country of the foreign trader's seat; the statement is to be signed by the legitimate representative of the foreign trader and notarized.
2. Any of the following documents is to be submitted to prove that the foreign trader has fulfilled his tax obligations:
- a certificate of taxpayer good standing issued by the competent authority in the country of the foreign trader's seat, which is to be verified and a legalized translation into the Bulgarian language attached;
 - a notarized statement by the legitimate representative of the foreign trader, specifying the electronic address of a generally accessible database in the English language, which is maintained by the relevant authority in the country of the foreign trader's seat and from which this circumstance can be verified.
3. All of the following documents are required to prove the representation's planned activities:
- justification of the need to open a trade representation (specifying the objectives and tasks of the representation) with the foreign trader's seal affixed and a notarized signature of the legitimate representative of the foreign trader, and a translation into the Bulgarian language attached;
 - annual work programmes (for the current and the following calendar years) on the attainment of the objectives and the implementation of the activities assigned to the trade representation in Bulgaria with a notarized signature of the foreign person's legitimate representative, justifying the need for the implementation of the programme by the trade representative and a translation into the Bulgarian language attached;
 - a copy of a lease agreement (in the Bulgarian language or, if the agreement is given in a foreign language, translated into Bulgarian) for a period of no less than

one year or a copy of a document on the ownership rights to a property to be used as the office of the trade representation and to ensure conditions for the normal operation of the trade representative, certified as a true copy of the original by the foreign person's legitimate representative. The address of the office set out in the lease agreement has to be identical to the address registered with the BCCI.

Upon the submission of the documents to prove all these circumstances, the BCCI issues a certificate of the registration of the trade representation, certifying the activity and taxpayer good standing, as well as the existence of planned activities of the trade representation. The BCCI continues to issue also ordinary registration certificates in case they are needed for other purposes.

These amendments generate a number of practicability problems, for instance, where the foreign person's legitimate representative is not his trade representative. In such cases, the documents have to be certified abroad and it should be established which authorities perform functions similar to the notarial functions under the laws of Bulgaria. The certifications done by these authorities are official documents in themselves and these have to be certified (with an apostille or consular certification) and legalized in Bulgaria. All this takes time and resources. Another problem relates to the certificate on the absence of tax obligations since the tax authorities issue such documents only in relation to periods in the past and the procedure is typically very slow.

Currently, further amendments to the Implementing Rules are drafted and the bill of 15 August 2017 proposed by the Council of Ministers envisages simplification of the procedure for the issuance of residence permits by eliminating the requirement for a certificate on the BULSTAT registration to be submitted. The proposed amendments will facilitate trade representatives in obtaining residence permits but they will fail to resolve the problems outlined above.