

Amendments to the Foreign Nationals Act in the Republic of Bulgaria

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At the end of October 2013, the National Assembly voted the Amending and Supplementing Act to the Foreign Nationals in Republic of Bulgaria Act (FNRBA). The President vetoed the law and the veto was not overcome by Parliament, as a result of which the disputable provisions were re-introduced for a second reading in the plenary hall.

One of the most important changes accepted in December 2013 is the adoption of new subparagraph 7 in article 25, par.1 of the Foreign Nationals in Republic of Bulgaria Act, restoring the opportunity for a permanent residence permit to be issued to foreign nationals who have invested BGN 1,000,000 with a licensed Bulgarian credit institution on the basis of a fiduciary management contract for at least five years. The circumstances regarding the made investment shall be ascertained by the Bulgarian Investment Agency. There is a condition that for the same period the deposit shall not be used to secure loans from other financial institutions in Bulgaria. The reasons for this provision are the motives of the presidential veto of the initial bill. As well as the right to permanent residence, § 3 (2) creates the opportunity for the mentioned category of investors to be granted Bulgarian citizenship by naturalization under easier terms and conditions (no need to prove command of the Bulgarian language or to be divested of existing citizenship) a year after the acquisition of a permanent resident status and upon the increase of the investment under the same statutory terms and conditions to at least BGN 2 million or investment of not less than BGN 1,000,000 in the capital of a Bulgarian company, which performs priority investment project certified under the order of the Investment promotion act. The reasons of the bill sponsors underline that subparagraph 7 of Article 25(1) was initially introduced in 2009 and that there were no valid reasons for its repeal because the positive effect of its forecasts became tangible shortly after the entry into force of the amendments as the number of foreign nationals who invested in Bulgarian government securities, with Bulgarian credit institutions or in equity of Bulgarian companies increased substantially in comparison to previous years.

According to the amendment of Art. 25, par.1, subparagraph 2, the foreign nationals who married for more than five years to a foreign national permanently residing in the country on the ground of art. 25, par.1, subparagraphs 6, 7 or 8 shall be permitted to reside permanently without applying the requirement for a continuous five-year residence in Bulgaria.

The new provision of art. 25, par.1, subparagraph 17 creates a new grounds for obtaining permanent residence in Bulgaria for foreigners with granted continuance residence permit under Art. 24, par. 1, subparagraph 19 and 20 of the Act and who have supported the investment for 5 years.

In order to prevent circumvention of the law by foreigners who take advantage of the rights granted to them without supporting the made investment, the last version of Art. 40, par 1, subparagraph 1 of the Act expressly provides that the right of residence of a foreigner in the Republic of Bulgaria shall be withdrawn when the investment in relation to which the permanent

residence permit is issued is terminated or transferred to another person before the expiration of the statutory period, regardless of the grounds for termination or transfer.

The transitional and concluding provisions of the Act introduced amendments and supplements to the Bulgarian Citizenship Act by providing that as an exception to the general principle, the release of previous citizenship is not required with regard to the following categories of foreigners applying for Bulgarian citizenship

1. foreigners who are spouses of Bulgarian nationals;
2. nationals of a Member State of the European Union, of a state - party to the Agreement on the European Economic Area or of Swiss Confederation;
3. nationals of countries with which the Republic of Bulgaria has signed reciprocity agreements.

The accepted changes have for purpose to attract more investors and larger investments and hence to increase their absolute value. At the same time, the public interest is protected through the provided competences of the Bulgarian Investment Agency related to the issuance of certificates for investments and the monitoring whether the same is terminated or transferred.