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THE LEGAL REGIME OF BRINGING SKILLED LABOUR FROM OUTSIDE THE EU

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The Problem

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- Finding skilled labour is the biggest business environment challenge in Bulgaria;
- More than 40% of companies in Bulgaria have their growth plans on hold due to the lack of qualified personnel (cf. Colliers study from 2017).

The Solution

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The legal regime of bringing labour from outside the EU: A good solution that just got better

Background

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- EU's Global Approach to Migration and Mobility: Directive 2009/50/EC;
- Bulgaria's Law on Labour Mobility and Labour Migration from 2016;
- The Blue Card regime – relatively new but already improved with the latest amendments adopted on 28th of February 2018 significantly liberalizing the regime.

"The people who are crazy enough to think they can change the world are the ones who do."

Steve Jobs

What is it?

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- **“Blue card”** (cf. the Law on Foreigners in the Republic of Bulgaria) is an authorization bearing the term *EU blue card* and entitling its holder to reside and work within the territory of a Member State of the EU for the purposes of highly qualified employment;
- **“Highly qualified employment”** means employment of an individual with specific competency proved with a higher education diploma or a certificate issued by a competent authority and evidencing the successful completion of a course of study of at least three years at a higher education institution recognized by the State where it is situated.

Eligibility for Obtaining a Blue Card

- Any profession is now eligible (up to the latest amendments there was a list of eligible professions – mainly software developers but also certain types of engineers;
- Two main conditions to apply for a Blue Card:
 - ✓ Equal treatment of third-country nationals and Bulgarian citizens as to labour conditions;
 - ✓ The third-country national to have the necessary qualification for the job (i.e., to have an acquired qualification in a higher educational institution).
- Requirements for the employment contract of the Blue Card applicant:
 - ✓ The contract should be for a period of more than 12 months;
 - ✓ The maximum term of the contract should be 4 years (was 1 year before amendments to the law at the end of 2017);
 - ✓ The remuneration should be at least 1,5 higher than the remuneration for the respective profession.

"It always seems impossible until it's done."

Nelson Mandela

Application Procedure | 1

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Work Permit Application:

- application to the Employment Agency for work permit of the employee to be filed by the employer together with accompanying documents evidencing the employee's qualification and experience;
- employment market research no longer required;
- terms of employment and remuneration need to be at least equal to those of Bulgarian citizens employed at the same position;
- application fee reduced from EUR 200 to EUR 50.

Application Procedure | 2

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Entry Visa Requirements:

- Application for a Blue Card can be filed after a Visa D has been obtained; OR
- The employee can apply for a Blue Card on the grounds of a 1-year extended residence permit (previously visa D was required in all cases);
- Certain categories of third-country nationals residing in Bulgaria on specific grounds cannot apply for a Blue Card:
 - i. Researchers under an exchange agreement with an organization based in Bulgaria and included on the list of research organizations under council Directive 2005/71 EC;
 - ii. Seasonal workers who reside for a term lower than 90 days;
 - iii. Seasonal workers allowed to work under the Law on Labour Migration and Labour Mobility for a period between 90 days and 9 months;
 - iv. Family members of Bulgarian citizens residing in Bulgaria ;
 - v. Intracorporate transfer employees.

Application Procedure | 3

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Blue Card Application:

- Application to the relevant migration office, including a health insurance;
- the issued work permit is sent directly by the Employment Agency to the migration authorities;
- when all documents are filed, the decision (together with the residence permit) is issued within 15 calendar days.

Change of Employer

- During the first 2 years, the Blue Card employee has to work only on the territory of Bulgaria and in accordance with the employment terms of the initial Blue Card application (specifically, the initial maximum 4-year period cannot be exceeded);
- Changing employer is now possible:
 - ✓ During the first 2 years, changing employer is possible but with the written consent of the Employment Agency;
 - ✓ the contract with the new employer is limited to the maximum 4-year period of the initial Blue Card;
 - ✓ the new employer files all documents required as if he were the initial employer;
 - ✓ After the first 2 years, the Blue Card holder can change employer freely but the new employer has to file the necessary documents with the migration office as Change of Employer if for a first Blue Card (a new maximum 4-year period is possible).

Unemployment

- Unemployment does not automatically result in withdrawal of the Blue Card; BUT
- Unemployment should not occur more than once for the period of validity of the Blue Card;
- In case of unemployment, the Blue Card holder is entitled to look for a new job following the rules applicable to the change of employer;
- the Employment Agency acts in some cases as employment intermediary;
- the unemployment should not exceed 3 months.

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Steve Jobs

Family Reunification

- Right to a family reunification: family members can obtain residence permit for the period of validity of the Blue Card;
- Family members can apply for residence permit only on the basis of a visa D (issued on a fast-track 1-week period instead of the regular 2-month period);
- Once in Bulgaria, the family members submit once again the Visa D application documents (health insurance; housing and sufficient financial resources) to the migration office;
- family members have the right to work in Bulgaria on the grounds of a work permit.

Employment in Bulgaria of Holders of Blue Cards Issued in Another Member of the EU

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- Holders of Blue Cards issued in another member State can move to Bulgaria after having resided in that Member state for at least 18 months;
- Application to the Bulgarian migration office to be submitted within 1 month from entry in Bulgaria;
- Family members already residing in the other Member State can move with the Blue Card Holder to Bulgaria;
- In case of expiration of the initial Blue Card, a temporary residence permit is granted pending the issuance of a Bulgarian Blue Card.

Long-term residence permit after a 5-year residence in Bulgaria

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- Long term residence status is granted after five years of residence in Bulgaria;
- The residence does not have to be continuous but the following conditions should be met cumulatively:
 - ✓ the periods of absence from the EU should not exceed 12 consecutive months within the period of five years; AND
 - ✓ the total absence should not exceed 18 months.

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Bilateral Employment Migration Agreements with Non-EU Countries

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- The first agreement was signed with Armenia on the 12th of February 2018 – an option for Bulgarian employers to hire Armenian employees for 1-year term with possible extension for up to 3 years;
- Upcoming signing of similar agreements with Ukraine and Moldova.

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A row of six classical columns with Corinthian capitals, arranged in a slightly staggered line against a light, overcast sky. The columns are made of a light-colored stone or marble, showing some weathering and texture. The capitals are ornate, featuring acanthus leaves and scrolls. The overall composition is clean and architectural.

Thank You

Ivan Punev